

ARTICLE I. IN GENERAL

Secs. 78-1—78-30. Reserved.

ARTICLE II. TREES**Sec. 78-31. Definitions.**

The following definitions shall apply in the interpretation of this article:

Prohibited species means the species of poplar (*Populus* sp.), willow (*Salix* sp.), and box elder (*Acer negundo*).

Street means all of the land lying between property lines on either side of all streets, highways, and boulevards in the village.

(Code 1975, § 3.11)

Cross reference—Definitions generally, § 1-2.

Sec. 78-32. Permits for planting, care, removal.

The village manager shall have control over all trees located within the street rights-of-way and parks in the village and the planting, care, and removal thereof, subject to the regulations contained in this article. The owner of land abutting on any street may, upon obtaining prior written permission of the village manager, prune, spray, plant, or remove trees or shrubs in that part of the street abutting his land not used for public travel; but no person shall otherwise prune, spray, plant, or remove any tree or shrub in any street or park. Every such permit shall specify the extent of the authorization and the conditions to which it is subject. (Code 1975, § 3.12)

Sec. 78-33. Removal of dead, diseased, and prohibited trees.

All dead trees and trees afflicted with any fatal or communicable disease shall be removed by the village manager, and he may remove any tree of a prohibited species. The village manager is authorized to remove any tree growing within any street, park, or public place when such tree interferes with fire hydrants, sewer and water mains, visibility of street intersections, traffic control devices, or construction within street rights-of-way. (Code 1975, § 3.13)

Sec. 78-34. Planting locations and distances.

No tree of any prohibited species shall be planted in any street or park; nor shall any such tree be planted on any private property within 50 feet of any street or sidewalk right-of-way or any sewer or sewer extension. Shade trees planted in any street right-of-way shall be spaced not less than 40 feet apart. The owner of a single lot may, in order to provide a shade or

ornamental tree in front of his lot, secure permission to plant a tree closer than 40 feet from an existing tree; but in no case shall such planting be within 30 feet of any existing tree, within the right-of-way.

(Code 1975, § 3.14)

Sec. 78-35. Private trees; diseases and infestations.

(a) When the village manager shall discover that any tree growing on private property within the village is afflicted with any dangerous insect infestation or infectious tree disease, he shall forthwith serve a written notice upon the owner or his agent, or the occupant of the property, describing the tree, its location, and the nature of the infestation or tree disease and ordering the owner, agent, or occupant to take such measures as may be reasonably necessary to cure such infestation or disease and to prevent the spreading thereof, specifying the measures required to be taken. Such order may require the pruning, spraying, or destruction of trees as may be reasonably necessary. Every such notice shall be complied with within five days after service thereof upon the owner, agent, or occupant of the property on which the afflicted tree is located, or within such additional time as may be stipulated in such notice.

(b) In case the owner, agent, or occupant of the property shall feel himself aggrieved at an order of the village manager requiring the treatment or destruction of any tree, he may, within 48 hours, make an appeal to the village council by communication filed with the village clerk. The council shall hear such appeal at its next regular meeting, unless another time shall be set, and shall determine the matter under such expert advice as may be necessary.

(c) In case the owner, agent, or occupant of the property refuses to carry out the order of the village manager within the time limited, or in case of an appeal, within five days after the council shall have affirmed such order, the village manager shall carry out the pruning, spraying, or destruction of the trees as deemed necessary by him and shall bill the owner, agent, or occupant of the property for the cost thereof. If the property owner fails to pay the bill within the specified 30-day period, the village clerk shall forward the cost to the village assessor. The village assessor shall then add an additional ten percent to the cost and place the total amount as an assessment upon the property. The assessment shall be subject to lien and collection procedures contained in sections 54-13 through 54-21. The village manager may, without serving the notice, when the owner or occupant of any private property shall consent thereto and pay the reasonable cost thereof, cause trees growing on private property to be sprayed when he deems such spraying necessary.

(d) The village manager, and his assistants and employees, shall have authority to enter upon private premises for the purpose of examining any trees, shrubs, plants, or vines for the presence of destructive insects or plant disease.

(Code 1975, §§ 3.15—3.18)

Secs. 78-36—78-70. Reserved.

ARTICLE III. NOXIOUS WEEDS AND VEGETATION***Sec. 78-71. Definitions.**

For the purpose of this article, the term "noxious weeds and vegetation" means and includes Canada thistles, dodders, mustards, wild carrots, bindweeds, perennial sow thistles, ragweed, poison ivy, poison sumac, grass more than ten inches in height on average, dead bushes, dead trees and stumps, and bushes and trees infested with dangerous insects or infectious diseases. Designated natural areas, native dune vegetation and bona fide, maintained wildflower plantings shall not be considered to contain noxious weeds and vegetation.

Sec. 78-72. Legislative determination; purpose of article.

It is hereby determined that noxious weeds and vegetation growing, lying or located on private land in the village affect and are detrimental to the health, comfort, convenience, safety, welfare and prosperity of the residents of the village. The necessity, in the public interest, for the provisions and prohibitions contained in this article is declared a matter of legislation determination and public policy and it is declared that such provisions and prohibitions are enacted in pursuance of and for the purpose of securing and promoting the health, comfort, convenience, safety, welfare and prosperity of the village and its inhabitants.

Sec. 78-73. Declared nuisance.

All noxious weeds and vegetation growing, lying, or located on any land within the village are hereby declared to be a public nuisance.

Sec. 78-74. Designation and general duties of commissioner of noxious weeds and vegetation.

The village manager or designee shall serve as the commissioner of noxious weeds and vegetation and shall superintend the control and eradication of noxious weeds and vegetation.

Sec. 78-75. Notice to destroy and remove; publication.

(a) The village shall publish in a newspaper of general circulation in the village during the month of March a notice that noxious weeds and vegetation not cut during the growing season, namely April 15—October 15 of the given year, may be cut by the village beginning on May 1 of the given year, and the owner of the property charged with the cost thereof. The publication shall contain the following additional information:

- (1) That noxious weeds, grass more than eight inches in height, dead bushes, dead trees and stumps and bushes and trees infested with dangerous insects or infectious diseases must be cut and removed from property during the growing season, namely April 15—October 15 of the given year.

*State law reference—Control and eradication of noxious weeds, MCL 247.61 et seq.

- (2) That if the owner, agent or occupant refuses to destroy the noxious weeds and vegetation, the village or its contractor may, after May 1 of the given year, enter upon the land and destroy them and remove them.
- (3) That, if unpaid, the cost of removal shall be assessed as a lien against the land, which shall be enforced in the manner of enforcement of tax liens.
- (4) That any owner who refuses to destroy and remove noxious weeds and vegetation shall also be responsible for a municipal civil infraction.

(b) As an alternative to the publication of notice as described in subsection (a) of this section, the commissioner of noxious weeds and vegetation may issue a written notice via certified mail, return receipt requested, to the owner, agent or occupant of any property within the village upon which noxious weeds and vegetation are found growing stating the information set forth in subsections (a)(1)—(a)(4) and establishing a time within which to remove the noxious weeds and vegetation.

Sec. 78-76. Duty of property owner to destroy and remove.

It shall be the duty of every owner, or his authorized agent, of any lands in the village to cut down or cause to be cut down, pulled out, destroyed and removed all noxious weeds and vegetation growing, lying or located on such lands, so as to prevent the same from perpetuating themselves or spreading infectious diseases, or becoming a detriment to public health, during the growing season as often as may be necessary to prevent them from blooming, reaching a seed-bearing stage, spreading infectious diseases or obtaining a height greater than that allowed by this chapter. If such owner, or his authorized agent, shall fail to do so, after notice as provided in section 78-54, he shall be in violation of this section.

Sec. 78-77. Village exempt from action of trespass for entering private land to destroy and remove.

The village or its contractor shall not be liable in any action of trespass for entering upon private lands for the purpose of cutting down, destroying, or removing noxious weeds or vegetation.

Sec. 78-78. Penalty for failure to destroy and remove.

Any owner of any private lands, or his authorized agent, who shall fail or refuse to destroy and remove any noxious weeds or vegetation provided in this article shall be responsible for a municipal civil infraction punishable in accordance with section 1-7 and subject to payment of a civil fine, plus costs and other sanctions, for each infraction or repeat offense as provided in section 1-7(c).

State law reference—Control and eradication of noxious weeds, MCL 247.61 et seq.