

**WEED ORDINANCE
TOWNSHIP OF FRANKENLUST, MICHIGAN
ord. no. 4A eff. March 19, 2011**

An Ordinance to secure the public health, safety and welfare of the residents and property owners of Frankenlust Township by the control and regulation of certain weeds and growth in subdivided lands and upon any lands along improved streets within the township, to permit the township to have a lien for expenses incurred in controlling and eradicating such weeds; to provide penalties for violation of the ordinance and to repeal all ordinance or parts of ordinances in conflict with it.

THE TOWNSHIP OF FRANKENLUST, BAY COUNTY, MICHIGAN ORDAINS:

Sec. 1. TITLE.

This Ordinance shall be known and cited as the Frankenlust Township Weed Ordinance.

Sec. 2. DEFINITIONS.

- A. For the purpose of this ordinance, “weeds” shall include any wind born seeds such as, Canada thistle (*circium arvense*), dodders (any species of *Cuscuta*), mustards (charlock, black mustard and Indian mustard, species of *Brassica* or *Sinapis*), wild carrot (*Daucus carota*), perennial sowthistle (*sonchus arvensis*), hoary alyssum (*berteroa incana*), ragweed (*ambrosia elatior* 1), also creeping weeds such as, bindweed (*convolvuluv arvensis*), poison ivy (*rhus toxicodendron*), poison sumac (*tosicodendron vernix*), and grasses in excess of 10" in height or in spread.
(amended by ord. 4B eff. May 16, 2012)

- B. Natural Landscaping means the use of native and/or cultivated plants in an attempt to restore or reconstruct the landscape to look and function as it does in a natural state. Natural landscaping applies to a wide array of landscaping techniques that help retain or recreate natural landscape features including wetlands, woodlands, prairies, meadows, recreational pastures, rain gardens, filter strips, greenways, buffers, vegetated swales, etc.
(amended by ord. 4B eff. May 16, 2012)

- C. For purposes of this ordinance, the below-listed terms have the meanings stated:

1. Beneficial Landscaping: Using different landscaping techniques to achieve all kinds of benefits (e.g., decrease of maintenance costs, reduction of stormwater runoff, beautification of the landscape, preservation of endangered species, etc.).
2. Biodiversity: A measurement of the number of species and the variety of life and its processes in an area.
3. Bioengineering: The use of vegetation for civil engineering purposes like slope stabilization, water erosion control, shoreline protection, barriers for noise reduction, etc.
4. Bioinfiltration Systems are shallow, landscaped depressions used to promote absorption and infiltration of stormwater runoff.
5. Buffer/Buffer Strip: A management area closest to a sensitive environmental site (e.g., wetland, waterbody, etc.) to minimize the negative impacts from adjacent land uses (like erosion, filter runoff pollutants, disturbances of wildlife) affecting the sensitive environmental site.
6. Ecosystem: A community of plants and animals interacting with each other and in their physical/chemical environment.
7. Farm: "Land, plants, animals, buildings, structure, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products" as per the Michigan Right-to-Farm Act at MCL 286.472(a).
8. Farm operation: "the operation and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products, and includes, but is not limited to:
 - (i) Marketing produce at roadside stands or farm markets.
 - (ii) The generation of noise, odors, dust, fumes, and other associated conditions.
 - (iii) The operation of machinery and equipment necessary

for a farm including, but not limited to, irrigation and drainage systems and pumps and on-farm grain dryers, and the movement of vehicles, machinery, equipment, and farm products and associated inputs necessary for farm operations on the roadway as authorized by the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to 257.923 of the Michigan Compiled Laws.

- (iv) Field preparation and ground and aerial seeding and spraying.
- (v) The application of chemical fertilizers or organic materials, conditioners, liming materials, or pesticides.
- (vi) Use of alternative pest management techniques.
- (vii) The fencing, feeding, watering, sheltering, transportation, treatment, use, handling and care of farm animals.
- (viii) The management, storage, transport, utilization, and application of farm by-products, including manure or agricultural wastes.
- (ix) The conversion from a farm operation activity to other farm operation activities.
- (x) The employment and use of labor.
- (xi) "Farm product" means those plants and animals useful to human beings produced by agriculture and includes, but is not limited to, forages and sod crops, grains and feed crops, field crops, dairy and dairy products, poultry and poultry products, cervidae, livestock, including breeding and grazing, equine, fish, and other aquacultural products, bees and bee products, berries, herbs, fruits, vegetables, flowers, seeds, grasses, nursery stock, trees and tree products, mushrooms, and other similar products, or any other product which incorporates the use of food, feed, fiber, or fur, as determined by the Michigan commission of agriculture" as per the Michigan Right-to-Farm Act at MCL 286.472.

9. Filter Strips: Vegetated areas that are designed to receive runoff from adjacent impervious surfaces. They work by slowing runoff speed, trapping sediment and other pollutants, and providing some absorption.
10. Forest: Plant communities which exist along floodplains or on the eastern side of rivers where they were protected from

fires. They are dominated by trees that are intolerant of fire and can grow in poorly drained soils, although bur oak trees can be a part of this community.

11. Forb: Any herbaceous plant that is not a grass.
12. Greenway: A greenway is a corridor of open land that provides one or more of the following benefits: (1) protection and management of natural and cultural resources; (2) provision of recreational opportunities; and (3) enhancement of the quality of life and the aesthetic appeal of neighborhoods and communities.
13. Habitat: The physical, chemical, and biological environment in which an organism lives.
14. Herbaceous Plant: Any plant that is not woody.
15. Meadow: Plant communities comprised mostly of grasses and forbs.
16. Naturalized Area: Vegetated acreage allowed to return to a natural state through the regeneration of woody and herbaceous vegetation by a process called "succession".
17. Natural Landscaping: Landscaping in a way that tries to capture the character and spirit of nature in a designed landscape by arranging plants in a community context similar to their arrangement in nature. May be planted exclusively with native and/or incorporate cultivated plants.
18. Noxious Weed: Any plant which is determined by the Michigan Department of Agriculture to be injurious to public health, crops, livestock, land or other property.
19. Perennial Plant: A plant which lives for more than two years.
20. Prairie: A plant community dominated by a diversity of perennial herbaceous plants growing between a majority of grasses. Prairie communities are categorized by soil conditions into dry (sandy or shallow hilltop soils), mesic (medium wetness) and wet prairies (poorly drained soils).

21. Prescribed Burn: Controlled application of fire to naturally occurring vegetative fuels under specific environmental conditions and following appropriate precautionary measures, which causes the fire to be confined to a predetermined area and accomplish the planned land management objectives.
22. Rain Garden: A planted depression that allows rainwater runoff to be absorbed. This reduces rain runoff by allowing storm water to soak into the ground (as opposed to flowing into storm drains and surface waters which causes erosion, water pollution, flooding, and diminished groundwater) returning water to natural aquifers. Primary elements of rain gardens include, but are not limited to, subsurface gravel and other soils conducive to drainage, absorbent soil and organic planting mixes, appropriate native and domestic plants, and organic mulches.
23. Recreational Pastures: Enclosed tracts of land with vegetation (native or cultivated species) consisting mainly of grasses, with an interspersed of legumes and other forbs. Recreational pastures are managed through practices of seeding, irrigation, fertilization, mowing and noxious weed control. They are used for grazing of domesticated livestock and are not associated with a farm or farm operation as defined in the Michigan Right-to-Farm Act 93 of 1981.
24. Setback: Area between intensive development (i.e., structures) and a protected area (e.g., waterbody or wetland).
25. Succession: The orderly process of one plant community gradually or rapidly replacing another. It can result from the developmental changes in the ecosystem itself or from disturbances such as wind, fire, volcanic activity, insects, and disease or through a change in practice or discontinued use.
26. Sustainable Landscape: A sustainable and productive ecosystem that conserves the physical and biological processes of that landscape. Managed sustainable landscapes, designed or naturally evolved, support ecological and environmental balance and natural succession, maintain hydrological function, plant and animal diversity and biomass, soil integrity, and contribute to human wellness. Sustainable landscapes minimize the necessity of site disturbances and

work within the existing site elements to the greater extent possible. Sustainable sites, designed or conserved, must work within the framework of climate conditions unique to its geographical setting.

27. Swale: A broad, vegetated channel used for the movement and temporary storage of runoff. Swales also can move a portion of the runoff into the ground and filter out runoff pollutants. Drainage swales that are planted with vegetation are commonly called bioswales.
(amended by ord. 4B eff. May 16, 2012)

Sec. 3. REGULATIONS.

- A. It shall be the duty of each owner, possessor, or occupant of any land upon which weeds are defined in this ordinance, are growing, either:
1. Within platted subdivision in which buildings have been erected upon 60 percent or more of the lots; or,
 2. On parcels of land along improved streets in common usage within the township to destroy those weeds to the depth of 165 feet or the depth of the lot whichever is lesser, before they reach a seed bearing state and to prevent them from perpetuating themselves and from becoming a detriment to public health.
- B. Nothing in this ordinance shall apply to: weeds in fields devoted to growing any small grain crops such as wheat, oats, barley, or rye crops; weeds in fields devoted to growing crops such as corn, beans, soy beans and sugar beets; naturalized areas; planted flowers, garden plants (including decorative grasses); trees; planted shrubs; and, approved natural landscapes.
(amended by ord. 4B eff. May 16, 2012)
- B. An owner, possessor, or occupant of land in Frankenlust Township may apply for approval of a natural landscape permit.
1. An application for a natural landscape permit shall be on a form approved by the township board. The application shall be submitted along with a permit approval fee set by resolution of the township board from time-to-time and a Natural Landscape Management Plan.

2. The application and Natural Landscape Management Plan shall be submitted for consideration by the Frankenlust Township Natural Landscape Committee. The committee shall consider:
 - a). the effect of the natural landscape on neighboring properties;
 - b). whether the natural landscape will blend into the neighborhood;
 - c). the effect of the natural landscape on traffic movement on adjacent roadways; and,
 - d). drainage effects.The committee may approve, approve with conditions, or deny issuance of a Natural Landscape permit. Conditions imposed shall be limited to those related to the above standards. Any person aggrieved by a decision of the committee may appeal the decision to the Frankenlust Township Zoning Board of Appeals within 21 days of approval of the meeting minutes of the committee.
3. The Frankenlust Township Natural Landscape Committee shall consist of three members. The first member shall be the township Noxious Weeds Commissioner. The other two members shall be nominated by the township supervisor and approved by the township board.
4. All decisions made by the Frankenlust Township Natural Landscape Committee shall be made at an open meeting complying with the requirements of *1976 P.A. 267, the Open Meetings Act*. The township shall give written notice of consideration of a particular application to all owners, possessors, or occupants of contiguous property and property directly across the street from the subject property by first class mail at least 15 calendar days before the meeting to consider the application. The notice shall contain a brief statement of the purpose of the meeting, the name and address of the applicant, the address of the site under consideration for issuance of a natural landscape permit and the time, date and place of the meeting.
5. A Natural Landscape Management Plan shall be in writing. It shall include:
 - a. a legal description of the subject property;
 - b. a site plan not exceeding one inch equals 200 feet

which shows:

- 1). the date the site plan was prepared and the signature of the preparer;
 - 2). property lines and dimensions;
 - 3). dimensions of all existing and proposed structures including setbacks, locations and heights;
 - 4). any off-site structures located within 50 feet of the subject site boundaries;
 - 5). the location and the pavement and right-of-way width of all on-site, or adjoining streets and alleys whether existing, or proposed;
 - 6). the location and width of any driveways and curbcuts;
 - 7). the location of any parking areas;
 - 8). the location and dimensions of areas to be naturally landscaped along with setbacks from property lines, roadways, alleys, site structures and off-site structures within 50 feet of site property lines; and,
 - 9). existing and proposed final site contours;
- c. a statement of purpose for the area;
 - d. a description and list of the vegetation types and plant succession involved in an existing or planned naturalized area as well as the suppliers of all plants and seed;
 - e. the specific management and maintenance techniques to be employed; and,
 - f. a schedule and timetable of the work to be completed.
6. Natural landscapes shall comply with the following regulations:
- a. plants chosen for natural landscaping shall not be in violation of any federal, state, or local law;
 - b. on residential properties less than two acres in size, natural landscape areas shall not cover more than 25% of property area;
 - c. the area of rain gardens shall be limited to no more than 30% of the impervious surface of the property;
 - d. in required setback areas, vegetation shall be cut and maintained at a height not greater than 10 inches to a depth of 165 feet, or the depth of the lot, whichever is lesser; setbacks shall be as follows:
 - 1). not less than 50 feet from any buildings on, or contiguous to, the subject site;

- 2). not less than 10 feet for property under two acres in size and not less than 15 feet for property over two acres in size from improved streets; and,
- 3). not less than 10 feet for property under two acres in size and not less than 15 feet for property over two acres in size from contiguous property lines.

Cutting of setback areas shall be done as often as necessary to comply with this ordinance.

Setbacks are not required where visual screening consisting of hedges, evergreen trees, solid fences, walls, or other means approved by the Natural Landscape Committee is established. Screening shall be at least six feet in height and provide a minimum of 80% visual screening within five years of the Natural Landscape Permit approval date. The property owner shall comply with applicable setback requirements until visual screening height and minimum screening requirements are met unless these requirements are waived by the Natural Landscape Committee as part of the permit approval.

e. All plants comprising natural screening shall be kept in living condition.

7. Natural Landscape Permits can be revoked by the Frankenlust Township Natural Landscape Committee following 15 days' written notice to the property owner in cases where the landscape is not maintained, plants are allowed to die, there is one or more violations of this ordinance, or there is a failure to comply with an approved Natural Landscape Plan or condition imposed in the grant of plan approval. A party aggrieved by the committee's decision whether to revoke permit approval may appeal the decision to the Frankenlust Township Zoning Board of Appeals within 21 days of approval of the meeting minutes of the committee.

(amended by ord. 4B eff. May 16, 2012)

Sec. 4. NOTICE.

The township shall notify by certified mail and return receipt requested, the Owner, possessor or occupant of any land on which noxious weeds are found growing, which notice shall contain a method of treating and eradicating such noxious weeds and a summary of the provision of Section 3, 5, 6 and 7 of this Ordinance. Instead of the notice required by the preceding sentence, the township shall publish a notice in a newspaper of general circulation in the township during the month of March that weeds not cut by May 1, of that year

may be cut by the township and the owner of the property charged with the cost. The publication shall also contain all other information required of the notice provided for the section. The township may cut weeds as many times as is necessary and charge the cost of the property owner.

Sec. 5. CUTTING WEEDS.

In the event the owner, possessor or occupant of any land on which weeds are found growing has failed after 10 days notice as provided in Section 4, above, to destroy such weeds or cause the same to be destroyed, an agent authorized by the Township Board may enter upon the land or lots and destroy by cutting with or without mechanical equipment which will not damage the property or an adjacent sidewalk, any such weeds, and all expenses incurred in such destruction shall be paid by the owner of such land or lots.

Sec. 6. LIEN.

The township shall have a lien upon such land or lots for cutting weeds and if not paid by the time township taxes are levied upon the tax roll, such expense shall be added to the tax roll and collected in the same manner that township taxes are collected under the general laws of the State of Michigan providing for the enforcement of tax liens.

Sec. 7. PENALTIES.

Any person, firm or corporation who violates any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than \$100.00 which fine, when collected, shall become a part of the "Weed Control Fund" of Frankenlust Township. Each day that a violation shall continue shall constitute a separate offense. The foregoing penalty shall be in addition to the other rights of the township to proceed at law or equity with other appropriate and proper remedies.

Sec. 8. VALIDITY.

Should any section, clause or provision of this ordinance be declared by the courts to be invalid, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid

Sec. 9. EFFECTIVE DATE.

This ordinance shall be published in the Bay City Democrat on the 17th day of February, 2011. It shall become effective after 30 days following publication.

Ordinance No. 4 and all ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed.