

Charter Township of Orion

Ordinance No. 151

Phragmites Control

Adopted August 3, 2015

AN ORDINANCE TO PROVIDE PROCEDURES TO ADDRESS PHRAGMITES INFESTATIONS ON ALL PROPERTIES WITHIN THE TOWNSHIP.**Article 1 – Title**

This Ordinance shall be known as the Charter Township of Orion Phragmites Ordinance.

Article 2 – Purpose of Ordinance

Phragmites is an invasive species, commonly known as Phragmites australis, whose spread is not halted by traditional legal boundaries between parcels. If left unchecked, Phragmites stands can become very large and dense, creating a serious fire hazard, encroaching on waterways, making beaches inaccessible, and reducing visual quality for the community which can lead to a decline in property values. Although Phragmites seeds can cause a small amount of spread, most reproduction is accomplished through runners growing within the ground. A single stand of Phragmites can spread 30-50 feet per year through these rhizomes. In addition, the spread of Phragmites can drive out native plant species and destroy native wildlife habitat beneficial for birds and amphibians.

The purpose of this Ordinance is to provide procedures to address Phragmites infestations on all properties within the Township.

The Township may also rely on other Township Ordinances for the control of Phragmites. These ordinances include the following:

- Ordinance 78: Zoning Ordinance
- Ordinance 107: Wetlands Protection
- Ordinance 139: Stormwater Management & Soil Erosion & Sedimentation

Article 3 – Definitions

As used in this Ordinance:

“Property Owner” means a piece of property owned by an individual, firm, corporation, association, partnership, limited liability company, or other legal entity.

“Phragmites” or **“Phragmites Plant”** means the invasive plant species with the scientific name Phragmites australis, also known as the common reed, which is a large perennial grass native to wetland sites throughout temperate regions of the world.

“Phragmites Infestation” means the presence of one or more seed heads in a Phragmites plant.

“Phragmites Treatment” means the application of necessary herbicide chemicals by a certified supplier authorized under a permit issued by the Michigan Department of Environmental Quality (“MDEQ”).

“Township Board” means the Charter Township of Orion Township Board.

“Treatment” means any and all effective methods of eradicating and/or preventing the spread of Phragmites, including but not limited to the application of chemical herbicides.

Article 4 – Process for Phragmites Treatment and Removal

On an annual basis or as otherwise requested by the Township Board, an ad hoc committee of volunteers appointed by the Township Board, will undertake a mapping of properties within the Township for the purpose of identifying all parcels on which a Phragmites infestation is present. Properties included in the mapping process will not be limited by type of ownership. When necessary, a report will be submitted to the Township’s Director of Operations.

1. At the recommendation of the ad hoc committee and at the discretion of the Township's Director of Operations, a description of the properties identified as having a Phragmites infestation may be brought before the Township Board to approve notice being sent to each property owner.
2. If the Township Board approves for notices to be sent out to property owners, the Director of Operations will ensure that the notices are sent in a timely manner. The notice may include educational information regarding a Phragmites infestation, as well as information regarding the voluntary Phragmites treatment process under the Township's Michigan Department of Environmental Quality's ("MDEQ") required permit, with participation requiring that a state certified contractor be engaged to perform the work. The notice will also include a due date for a property owner to elect to voluntarily participate in Phragmites treatment.
3. Any fees for Phragmites treatment conducted under the Township's permit shall be paid to the Charter Township of Orion, which will handle all supplier payments.

The Township shall maintain all treatment records required to be submitted to the MDEQ annually.

Article 5 – Application to MDEQ for Phragmites Treatment Permit; Permit Fee

The Township's Director of Operations or his designee may apply annually to the MDEQ for a permit authorizing Phragmites treatment on the parcels upon which a Phragmites infestation is discovered. Pursuant to the notice provisions provided above, any permit fee shall be paid for as determined by the Township Board.

Article 6 – Property Conditions Where Treatment May be Mandated

The Director of Operations shall determine whether any properties have a Phragmites infestation that qualifies as a hazardous condition, which is defined as follows:

1. Hazardous fire conditions or the potential to create a hazardous fire condition due to the unchecked growth of Phragmites.
2. Conditions where the unchecked growth of Phragmites has blocked sight visibility at roadway, safety path or driveway intersections and impedes the safe movement of cars and/or pedestrians.
3. Ecological impacts associated loss of habitat, impaired water quality and or impacts which disrupt stormwater management and drainage.

Upon a determination that a property has Phragmites infestation that qualifies as a hazardous condition, the Director of Operations, may provide written notice to the property owner indicating that, due to a present hazardous condition, Phragmites treatment may be mandated at the property owner's cost. This notice will also provide notice of a public hearing in front of the Orion Township Board of Trustees, with the time and date of the hearing, at which time the property owner may contest the treatment mandate. Notice shall be sent no less than fifteen (15) days before the hearing. The notice shall also describe methods of treating Phragmites.

Following the public hearing, the Orion Township Board of Trustees shall determine whether the condition of the property qualifies as a hazardous condition mandating treatment. The Township Board shall provide notice of its determination. If the Township Board determines that treatment must be mandated, the property owner shall either contact the Director of Operations to schedule treatment or contact the MDEQ to obtain an individual permit required to treat Phragmites. Failure to do so within the time specified by the Township Board, may result in the Township performing Phragmites treatment and assessing the treatment costs to the property owner.

Article 7 – Severability

If any Section, subsection, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion of this Ordinance, and such holding shall not affect the validity of the remaining portions of this Ordinance.

Article 8 – Effective Date

This Ordinance shall be published in full in a newspaper of general circulation in the Charter Township of Orion qualified under State law to publish legal notices. Other than Article 6, this Ordinance shall become effective upon publication, as provided by law. Article 6 shall become effective and enforceable on January 1, 2016.