

SANGAMON COUNTY, ILLINOIS

ORDINANCE
NUMBER 15-34

**AN ORDINANCE PERTAINING TO NUISANCE VEGETATION, RUBBISH AND
PESTS AND AMENDING THE VILLAGE OF CHATHAM CODE OF ORDINANCES**

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MATT MAU
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Village Trustees

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Sorling Northrup – 1 N. Old State Capitol Plaza, Suite 200, Springfield, IL 62705

ORDINANCE NO. 15-34

AN ORDINANCE PERTAINING TO NUISANCE VEGETATION, RUBBISH AND PESTS AND AMENDING THE VILLAGE OF CHATHAM CODE OF ORDINANCES

WHEREAS, the Village of Chatham (“Village”) is an Illinois Municipal Corporation existing and operating under the Illinois Municipal Code and the laws of the State of Illinois; and

WHEREAS, 65 ILCS 5/11-20-7 provides that the corporate authorities of each municipality may provide for the removal of nuisance greenery from private property after reasonable notice; and

WHEREAS, 65 ILCS 5/11-20-7 provides that the municipality may collect the reasonable removal costs; and

WHEREAS, the President and Board of Trustees of the Village have determined it to be in the best interest of the Village to revise its current nuisance vegetation ordinance to provide clearer guidance to both the Village and its citizens.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Chatham, Sangamon County, Illinois, as follows:

Section 1. Recitals. The foregoing recitals shall be and are hereby incorporated into and made a part of this Ordinance as if fully set forth in this Section 1.

Section 2. Revision to Code of Ordinances Sections 93.20 - 93.26 of the Code of Ordinances. Sections 93.20 through 93.26 of the Village of Chatham Code of Ordinances are repealed and replaced with the following new Sections 93.20 through 93.26:

NUISANCE VEGETATION, RUBBISH AND PESTS

93.20 DEFINITIONS

As used in this Chapter, the following terms have the following definitions.

A. NUISANCE VEGETATION: “Nuisance Vegetation” includes:

1. Trees, shrubs, bushes, weeds (as defined herein) or plants permitted to grow on premises in a Village roadway or roadway right-of-way, or adjacent to any street or alley or other public way in a manner as to obstruct the view and endanger traffic conditions.

2. Weeds (as defined herein), and dead or dying trees or bushes, stumps and roots, on land within the Village.

3. Elm trees infected with Dutch elm disease or ash trees infected with the emerald ash borer.

B, PESTS: Undesirable arthropods (including certain insects, spiders, mites, ticks, and related organisms), wood infesting organisms, rats, mice, and other obnoxious undesirable animals, but does not include a feral cat, a "companion animal" as that term is defined in the Humane Care for Animals Act (510 ILCS 70/), "animals" as that term is defined in the Illinois Diseased Animals Act (510 ILCS 50/), or animals protected by the Wildlife Code (520 ILCS 5/).

C. RUBBISH: Any unsightly material, waste products, refuse, debris, trash or waste lumber deposited, left, piled or scattered that may become a breeding place for insects, rodents or vermin or that may give off unpleasant odors or create a health or fire hazard where located.

D. WEEDS: An annual or perennial herbaceous plant of volunteer growth, not cultivated or useful for human food or enjoyment and shall include but not be limited to the following: jimson, burdock, ragweed, thistles of all kinds, cocklebur, barberry (tall, common or other horticultural varieties), poison ivy, yellow dock, Indian mallow, sweet clover, wild mustard (including black mustard and yellow mustard), May weed, lambs' quarters, pig weed, beggar ticks, wild lettuce, shepherds purse, smart weed, sow-thistle, tumbleweed, milk weed, dandelions, etc., any plant that, when in blossom, gives off an unpleasant or obnoxious odor or pollen irritating to human tissue and any plant growth that may conceal rubbish, debris or filthy deposits or constitute a fire hazard when dry, and grass that is more than twelve inches (12") in height, random growth or volunteer growth of bushes or brush that may conceal rubbish, debris or filthy deposits or constitute a fire hazard when dry or any plant that causes or adds its influence in bringing on hay fever or other similar or noxious plant, and all plants fitting within the term "weeds" as used in the Illinois Municipal Code.

93.21 NUISANCES DECLARED

Nuisance Vegetation, Rubbish, Weeds and Pests as defined in Section 93.20 are hereby declared to be nuisances.

93.22 REMOVAL OF NUISANCE VEGETATION , PESTS AND RUBBISH BY OWNER AND OCCUPANTS OF LAND:

A. Failure To Obey Notice, Removal By Village; Costs: In all cases where the owner, occupant or lessee of real estate on which there is rubbish, pests or nuisance vegetation, shall (i) fail to cut or remove nuisance vegetation; (ii) fail to remove rubbish or (iii) fail to prevent or exterminate pests after ten (10) calendar days' notice in writing mailed to him or her by certified mail, return receipt requested, at his or her last known address ascertainable by the Village, notifying him or her to (i) cut or remove nuisance vegetation; (ii) remove rubbish or (iii) to prevent or exterminate pests, then the Enforcement Officer may cause the nuisance vegetation to be cut, trimmed or removed, or the rubbish removed or pests exterminated or removed and the entire expense thereof shall be chargeable to both the person who owns and the one who controls such real estate, to be collected by suit or otherwise, in addition to the penalty prescribed in this Chapter. The ten (10) days above referred to shall begin from date of such mailing. In the alternative to mailing the notice, the notice may be hand-delivered by a Village police officer, and the 10 days will begin to run from the date of hand delivery.

B. Failure To Pay; Penalty: Any person, liable hereunder for payment of the foregoing expense to the Village, shall pay the full amount of said charge within ten (10) days after date of mailing statement to owner, occupant or lessee at his last known address or said charge shall be delinquent. Failure to pay the charge within the time specified shall thereafter subject the violator to a penalty of ten percent (10%) of the unpaid amount of said delinquent charge or ten dollars (\$10.00), whichever is greater, which shall be collected as part of said delinquent charge.

C. Removal: Nuisance Vegetation, when cut down, shall be removed from the lot or disposed of in such manner as not to create a nuisance or hazard.

93.23 REMOVAL OF NUISANCE VEGETATION, RUBBISH AND PESTS BY VILLAGE:

A. If the person served with notice fails or refuses to remedy the violation, the violation may be removed or remedied by private contractors hired by the Village, or, at the discretion of the Enforcement Officer after consultation with the Mayor, by Village personnel.

B. Charge: The Village hereby establishes a charge, payable by the owner and/or person that controls the property (jointly and severally) to the Village, of one hundred dollars (\$100.00) per hour or greater if actual costs of the use of Village employees, equipment and fuel for removal of rubbish, pests and nuisance vegetation exceeds \$100.00 per hour. The corporate authorities of the Village hereby find that said charge is fair and reasonable to recompense the Village for its expenses. In the event the Enforcement Officer contracts with a third party for the removal of rubbish or nuisance vegetation, the charge to the owner, occupant or lessee shall be the Village's out-of-pocket expenses, plus a twenty five dollar (\$25.00) service charge for administering the contract, which the corporate authorities find to be fair and reasonable to recompense the Village.

C. Lien: In the event that the Village sends a bill pursuant to Section 93.23B to the owner, his agent, legal representative, or occupant in legal possession or control of the premises and the nuisance vegetation, pest or rubbish removal expense remains unpaid for more than ten

(10) days after said service is performed and expense incurred by the Village, said unpaid charge shall constitute a lien upon the real estate, and the Village Clerk or other designee shall file a notice of lien in the office of the Recorder of Deeds of Sangamon County and mail a copy of the lien to the last ascertainable owner of record in compliance with all applicable laws and ordinances. Upon payment of all costs, expenses, charges and penalties, the lien created under this Section shall be released by the Village, which release shall be filed of record in the same manner as filing notice of the lien, pursuant to law, the expense of said filing to be paid by the violator. The following procedure shall apply:

1. Notice of Lien. The Village or the person performing the service by authority of the Village, in its, his or her own name, may file a notice of lien in the office of the recorder of deeds in the county in which the real estate is located. The notice of lien shall be filed within one year after the cost and expense is incurred. If, for any one property, the Village engaged in any nuisance abatement activity described in Section 93.23 on more than one occasion during the course of one year, then the Village may combine any or all of the costs of those activities into a single notice of lien.

The notice of lien shall consist of a sworn statement setting forth:

- a. A description of the real estate that sufficiently describes the parcel;
- b. The amount of the cost and expense incurred or payable for the activities; and
- c. The date or dates when such cost and expense was incurred by the Village or someone working on behalf of the Village.

After recording, the notice of lien shall be sent by certified mail to the property owner, his agent or legal representative or occupant in legal possession or control of the premises and, if different, to the person who received the tax bill for the preceding year.

2. Release of Lien. Upon payment of the cost after the notice of lien has been filed as provided herein, the lien shall be released by the Village or person in whose name the lien has been filed, and the release shall be recorded of record in the same manner as recording the notice of lien.

3. Foreclosure of Lien. Subsequent to the filing of the above-described lien, the Village may cause to be filed a complaint for foreclosure of such lien, or upon becoming a defendant in a pending

lawsuit affecting the premises or real estate, by answer to the complaint or in the nature of an intervening petition or cross-complaint the village may proceed in its corporate name to foreclose such lien. An action to foreclose a lien under this Section must be commenced within two years after the date of filing notice of lien. The property subject to a lien arising under this article shall be sold for nonpayment of the same, and the proceeds of such sale shall be applied to pay the monies owing the Village.

D. Suit: In addition to any other action authorized by this Chapter or by the Illinois Municipal Code, the Village may, to the extent permitted by law, bring suit to foreclose the lien and to sue the owner or lessee or occupant of the real estate or their agent, in a civil action to recover the money due for services rendered, plus all expenses and reasonable attorney fees to be fixed by the court. Any such judgment shall be enforced in accordance with law. In addition to the charges due, the Village is entitled to collect the costs of filing notice of lien, foreclosing said lien and litigation costs, together with all office and legal expense incurred in connection with the collection of the amount due.

93.24 ENFORCEMENT OFFICER

Enforcement of this Article shall be by the Code Enforcement Officer of the Village.

93.25 LEGAL AND EQUITABLE REMEDIES:

In addition to the penalties and liens prescribed herein, the Village may avail itself of all legal and equitable remedies permitted by the Illinois Municipal Code and other statutes of the State to abate a nuisance, including, but not limited to, seeking preliminary and permanent injunctive relief.

93.26 NOTICE FORM:

Notice to a violator may be, but is not required to be, in the form of Attachment A to this Chapter.

SECTION 3: Revision to Section 93.99 of the Code of Ordinances. Section

93.99 of the Code of Ordinances of the Village of Chatham is amended to state as follows:

93.99: PENALTY:

Any person who shall violate any provisions of this Chapter shall, on conviction thereof, be punished by a fine not less than one hundred dollars (\$100.00) nor to exceed seven hundred fifty dollars (\$750.00) for each violation. Each day during which a violation continues beyond the specified time for correction shall constitute a separate punishable offense.

ATTACHMENT A

**VILLAGE OF CHATHAM, ILLINOIS
NOTICE OF NUISANCE VEGETATION, RUBBISH OR PEST VIOLATION**

To: _____

(Insert names and addresses of property owners and occupants)

PLEASE TAKE NOTICE that you have permitted [rubbish] [nuisance vegetation] [pests] [weeds] to exist on the following property owned or occupied or otherwise controlled by you within the corporate limits of the Village of Chatham, in violation of Chapter 93 of the Code of Ordinances of the Village of Chatham.

The address of the property is _____,
Chatham, Illinois .

The conditions constituting the violation are generally described as follows:

You are hereby ordered to remove such [rubbish] [nuisance vegetation] [pests] [weeds] within 10 calendar days of the date of this Notice.

Chapter 93 of the Code of Ordinances provides that any person violating its provisions is subject to a fine of not less than \$100.00 nor more than \$750.00 for each day a violation is allowed to continue. If the Village must prosecute you, either in its Code Hearing Department or in the Circuit Court, for the violations described above, it will seek fines beginning from the date of this Notice. Chapter 93 of the Code of Ordinances also provides that if you fail to remove rubbish, nuisance vegetation or pests, the Village may do so, or may hire someone to do so, and may place a lien on the premises described in this Notice if you fail to pay for the work. If the Village itself performs the work, it will charge a minimum of \$100.00 per hour for the work.

Definitions of “nuisance vegetation”, “rubbish” and “pests”, and “weeds” from Section 93.20 of the Code of Ordinances are found on the reverse side of this form.

This Notice is dated this ____ day of _____, 20__ .

Enforcement officer

A. NUISANCE VEGETATION: "Nuisance Vegetation" includes:

1. Trees, shrubs, bushes, weeds (as defined herein) or plants permitted to grow on premises in a Village roadway or roadway right-of-way, or adjacent to any street or alley or other public way in a manner as to obstruct the view and endanger traffic conditions.
2. Weeds (as defined herein), and dead or dying trees or bushes, stumps and roots, on land within the Village.
3. Elm trees infected with Dutch elm disease or ash trees infected with the emerald ash borer.
4. Trees, shrubs, bushes or other vegetation planted in a Village roadway or roadway right-of-way in violation of Section 93.27 of this Chapter.

B. PESTS: undesirable arthropods (including certain insects, spiders, mites, ticks, and related organisms), wood infesting organisms, rats, mice, and other obnoxious undesirable animals, but does not include a feral cat, a "companion animal" as that term is defined in the Humane Care for Animals Act (510 ILCS 70/), "animals" as that term is defined in the Illinois Diseased Animals Act (510 ILCS 50/), or animals protected by the Wildlife Code (520 ILCS 5/).

C. RUBBISH: Any unsightly material, waste products, refuse, debris, trash or waste lumber deposited, left, piled or scattered that may become a breeding place for insects, rodents or vermin or that may give off unpleasant odors or create a health or fire hazard where located.

D. WEEDS: An annual or perennial herbaceous plant of volunteer growth, not cultivated or useful for human food or enjoyment and shall include but not be limited to the following: jimson, burdock, ragweed, thistles of all kinds, cocklebur, barberry (tall, common or other horticultural varieties), poison ivy, yellow dock, Indian mallow, sweet clover, wild mustard (including black mustard and yellow mustard), May weed, lambs' quarters, pig weed, beggar ticks, wild lettuce, shepherds purse, smart weed, sow-thistle, tumbleweed, milk weed, dandelions, etc., any plant that, when in blossom, gives off an unpleasant or obnoxious odor or pollen irritating to human tissue and any plant growth that may conceal rubbish, debris or filthy deposits or constitute a fire hazard when dry, and grass that is more than twelve inches (12") in height, random growth or volunteer growth of bushes or brush that may conceal rubbish, debris or filthy deposits or constitute a fire hazard when dry or any plant that causes or adds its influence in bringing on hay fever or other similar or noxious plant, and all plants fitting within the term "weeds" as used in the Illinois Municipal Code.

Attachment A to Chapter 93 (Back)

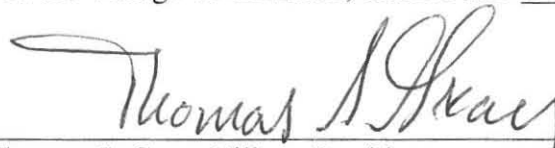
SECTION 4: This Ordinance is effective upon its passage and publication. The Clerk shall publish this Ordinance in pamphlet form, and shall see to its inclusion in the next update of the Village Code of Ordinances.

PASSED this 11 day of AUGUST, 2015.

	YES	NO	ABSENT	PRESENT
KEN BOYLE, JR.	✓			
MARK CLAYTON	✓			
DAVID KIMSEY	✓			
NINA LINDHORST	✓			
MATT MAU			✓	
JOE SCHATTEMAN	✓			
THOMAS S. GRAY	NA			
TOTAL	5		1	


 Pat Schad, Village Clerk

APPROVED by the President of the Village of Chatham, Illinois this 11 day of AUGUST, 2015.


 Thomas S. Gray, Village President

Attest:

 Pat Schad, Village Clerk