

## WHY WISCONSIN NEEDS A NEW NOXIOUS WEED LAW<sup>1</sup>

At both the national and state level, concern is growing about non-native species that threaten the stability of native or more desirable plant communities. The terms used to describe such species are "invasive exotics" and "invasive plant species." You and I know them as noxious weeds. The issue was brought front and center in early 1999 when President Clinton signed an Executive Order that created a National Invasive Species Council with the charge to address any and all issues concerning invasive species. Key goals and words in the Order are coordination, planning, ecosystem-based, recommendations for international cooperation, maintenance of native species, monitoring impacts from invasive species and establishment of a coordinated and up-to-date information-sharing system. Once the Council and its advisory board are "up and running," we fully expect that it will not only be visible but more importantly, productive. Wisconsin will be much better positioned to participate in the national noxious weed efforts if we create a new, much more comprehensive program. However, this is only one reason to move in this direction.

### The Wisconsin situation

Wisconsin has had a noxious weed law on the books for many years. Three species are listed as noxious weeds statewide: Canada thistle (*Cirsium arvense*), leafy spurge (*Euphorbia esula*) and field bindweed (*Convolvulus arvensis*). In addition, municipalities and counties can declare other species within their boundaries as noxious. Any person having any of these noxious weeds on their property is to destroy them by killing the above ground portion of the plant and preventing them from maturing to the flower stage. Municipalities are to appoint a weed commissioner who is responsible for enforcing the law. Residents are given five days written notice to remove their noxious weeds. If they neglect to do so, the weed commissioner can destroy the weeds and charge the costs of the work to their property tax bill. Public land managers are to destroy noxious weeds on properties under their control. Highway maintenance patrolmen are responsible for noxious weed containment on federal, state and county highways.

The current law has had some positive effects. In particular it has brought awareness to the issue of invasive weeds and has been a useful tool to educate citizens about preventive practices and integrated management concepts. Some communities have developed systems to control these weeds. Many highway departments and landowners have been especially vigilant about trying to control Canada thistle and leafy spurge is now getting similar attention in some areas.

So why do we need to replace the current law? Very simply, the old law has not worked and the list of the law's shortcomings that follow far exceeds the benefits mentioned above.

- None of the three designated noxious weeds have been eradicated, and for at least two of them, populations have increased despite extensive long-term control efforts. It is unrealistic to expect that widespread weeds that are very difficult to control can be eradicated, or even contained.
- There are no standards for local additions to or enforcement of the law, resulting in inconsistent enforcement and local noxious weed declarations
- Many municipal weed ordinances have been written that confuse the issue of grass cutting heights or aesthetics with noxious weeds. Some are written such that any vegetation over a

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certain height (generally eight inches) must be cut. Many unintentionally preclude the use of native or ornamental grasses, wildflowers and forbs.

- No state agency has been given any authority or responsibility in any aspect of this law. Therefore, statutory revisions (through both houses of the state legislature) are required to add or subtract weeds to or from the state list.
- Currently we have no method to determine which municipalities have appointed weed commissioners and no means of communicating with or providing those that have with training opportunities.

Additional problems with the existing noxious weed law are that no base funding or state-funded staff time have been appropriated to implement it. Nor is there any statewide effort dedicated to weed prevention, management or education.

### **Activities to Date**

A group of 18 people (called the Weed Law Technical Advisory Committee) representing a wide range of interests and organizations was identified in the fall of 1998 and met regularly during 1999. Many ideas and opinions were presented and developed into draft proposals that were reviewed and edited several times. Structures and strategies used in other states' successful invasive weed programs were used as idea sources and for inspiration. In September 1999, the draft proposal was made available for public review and comment. The responses received have been reviewed and many of the concerns and suggestions will be discussed and incorporated into the proposal. A public forum will be held in late February to receive ideas and address concerns and answer questions people have about the proposed invasive plant program.

### **Key Aspects of the Noxious Weed Proposal**

The goal of the current effort is to: Protect the agricultural and natural resources of the state from invasive, noxious weeds for the mutual benefit of citizens and the environment by emphasizing education, prevention and cooperation between landowners and governmental agencies. Specific objectives are to:

- replace the out-of-date and dysfunctional weed laws (Wis. Statutes 66.96 and 66.955) with a program that addresses invasive plants
- provide funding and staffing to allow a state weed program to work
- educate citizens about the significance of the problem and instill ownership for taking action
- develop invasive plant identification and management guidelines
- develop a review process to designate plants to the appropriate noxious weed category
- establish the authority and mechanisms to enforce the rules

**Noxious weed categories.** One of the most needed changes in the current law is to have flexibility in how invasive species need to be handled. It makes no sense to have a widely distributed weed like Canada thistle designated a noxious weed as defined under the present law. The new proposal would create multiple categories of invasive plants. Current thinking has lead us to propose the following categories.

1. **Statewide Prohibited Noxious Weeds.** The intent of this category is to prevent further infestations of those plants which are known to be extremely invasive in similar latitudes or environments to Wisconsin, and for which it is feasible to prevent or stop the spread in the state. These species either are not yet established in Wisconsin, or have only localized infestations. For



example, purple loosestrife (*Lythrum salicaria*) could have fallen into this category about 25 years ago. Landowners and land managers must control existing populations. Where short-term eradication is impossible, local, county or state weed officials will cooperate with the landowner or land manager to develop a vegetation management plan which addresses containing the species and long term eradication of the prohibited noxious weed. Wherever necessary, municipal, county and state weed officials will provide technical assistance to help land owners and managers deal with these species on their properties. These plants, their seeds or other propagules may not be sold, offered for sale, distributed, planted, cultivated, transported or be found as contaminants in seed, nursery stock, forage or equipment within or coming into Wisconsin. Hopefully financial assistance will be available at the state level to eradicate these species. Possible examples: yellow starthistle (*Centaurea solstitialis*) and Japanese stilt grass (*Microstegium vimineum*).

## 2. Local Noxious Weeds.

- a. **Locally Prohibited Noxious Weeds.** This category gives municipalities and counties the right to prevent infestations of noxious weeds into areas where the species are not yet prevalent and where it may be possible to contain their spread or eradicate them. A county or municipality may list any weed as locally prohibited. The Noxious Weed Council may encourage known invasive species to be declared "locally prohibited" but the decision is made at the local level. All restrictions listed above for statewide prohibited noxious weeds apply to locally prohibited species. Possible examples: garlic mustard (*Alliaria petiolata*) and leafy spurge (*Euphorbia esula*).
  - b. **Locally Contained Noxious Weeds.** This category allows municipalities and counties to require efforts to contain existing or expanding infestations of known noxious weeds. Local weed ordinances may mandate the prevention of seed development or vegetative spread. Possible examples: Canada thistle (*Cirsium arvense*), common ragweed (*Ambrosia artemisiifolia*).
3. **Statewide Restricted Noxious Weeds.** The intent of this category is to prevent the importation of known invasive species into Wisconsin and to prevent further spread or introduction of these invasive plants beyond their current areas of infestation. This category replaces the current nuisance weed law which prohibits the sale, distribution and planting of purple loosestrife and multiflora rose in the state. In cooperation with the nursery and associated industries, time lines will be developed for removing statewide restricted species found in commercial trade. The distribution of statewide restricted plants is too widespread to mandate eradication but control efforts are recommended for these species where they occur. Possible examples: oriental bittersweet (*Celastrus orbiculatus*), purple loosestrife, multiflora rose (*Rosa multiflora*) and Eurasian water milfoil (*Myriophyllum spicatum*).
  4. **Voluntary Management.** Land owners and managers will be encouraged to voluntarily cooperate to contain existing infestations, to prevent introduction into areas not currently infested, and to inform the public about the threats caused by species in this category. These plants are currently too widespread and abundant in some areas of the state to realistically expect eradication or statewide control. The primary emphasis will be to educate the public to be able to identify and control these species. Possible examples: wild parsnip (*Pastinaca sativa*) and spotted knapweed (*Centaurea maculosa*).

5. **Watch.** Weeds in this category are known or suspected to be invasive in similar latitudes or environments elsewhere in North America, or in localized areas in Wisconsin. We have insufficient information to determine if they should be listed as noxious weeds in Wisconsin. Thus, their rate and areas of spread must be monitored by surveys and other techniques. These species are targets for research to learn more of their biology and ecology. There are no legal restrictions for plants in this category. Its primary purpose is to alert the Noxious Weed Council of potential threatening species and to help prioritize research needs. Possible examples: porcelain berry (*Ampelopsis brevipedunculata*) and diffuse knapweed (*Centaurea diffusa*).

**Noxious Weed Council.** At present there is no group designated to monitor the status of invasive plants in Wisconsin. The new proposal includes the creation of a Noxious Weed Council whose primary purpose is to develop and analyze the scientific findings, economic impacts and other criteria to evaluate which species should be added to or removed from any of the designated weed categories. Council members will be jointly appointed by the Secretaries of the DNR and DATCP, based on recommendations from the organizations involved. All Council members will be knowledgeable about weed issues and/or plant species.

It is important that the Noxious Weed Council have a balanced representation of all major parties affected by the designation of noxious weeds. The following composition is recommended:

- **Voting Members** will be selected to represent the nursery industry, the seed industry, arborists, landscape contractors and landscape architects, the restoration/native landscaping community, the agricultural community, the lakes' associations, counties and municipalities, environmental and conservation organizations, public lands, large private landowners (utilities, industrial, forests, etc.) and small private landowners.
- **Non-voting advisory members** will be appointed from the DATCP, the DNR, the UW system, aquatic/wetland plant management groups, federal agencies, and tribes. The role of non-voting members is to assist in the development of scientific findings, economic impacts and other criteria related to designating a species to the appropriate noxious weed category; share information on the species of concern; and represent their agency.

**The State Noxious Weed List Designation and Revision Process.** Another critical change needed in the current law is to have the ability to routinely modify the designated species in each category. The new program proposes the following procedure.

1.) **The review process.** The Noxious Weed Council will meet at least annually to consider changing species designated to any of the noxious weed categories. For each species proposed to be moved/added to or removed from the "prohibited" or "restricted" noxious weed categories, a member of the Council or an outside expert will be assigned the task of writing a "draft scientific findings" for the species in question. These findings will provide the background information that can be found about the species including distribution, abundance, habitats invaded, rates and methods of invasion, economic importance and potential impact of listing, delisting and changing weed categories, health concerns, control methods and additional references. Findings can also be developed for species proposed for the "locally contained," "voluntary management" or "watch" lists, but they are not mandatory.

2.) **Adding or removing weeds in any category.** A petition may be submitted to the Noxious Weed Council by any three residents of the state to have one or more species added to or removed



from any of the designated weed categories. The petition must include the following:

- scientific and common names of the plant
- current known status and distribution of the plant in Wisconsin
- known or suspected ecological, economic or health impacts of the plant
- potential economic impacts of adding, removing or changing a plant's designated category
- other information that may assist the Council in its evaluation of the plant, including but not limited to: bibliographic references to the species, names of persons familiar with the plant, and impacts and status of the plant elsewhere in North America.

**Rule making authority.** The DNR and DATCP are jointly granted rule-making authority to appoint and oversee the Noxious Weed Council. The DATCP is granted rule-making authority to maintain and revise a noxious weed list based on the Council's actions and to enforce these rules. DNR is granted rule-making authority to manage aquatic and terrestrial weeds, to conduct research, monitoring, prevention and control policies, to develop cooperative ventures and conduct education regarding invasive plant management. The UW Cooperative Extension Division is granted authority to develop and implement invasive plant training for municipal weed commissioners and county weed inspectors and to coordinate the development and implementation of a statewide invasive plant education program.

**Staffing needs.** Several people will be employed or appointed to carry out the objectives of the noxious weed program. The proposal currently includes the following personnel.

**Weed Commissioner.** The local official appointed to enforce the local, county and state weed laws.

**Weed Coordinator.** A person in the DNR who coordinates statewide efforts on weed inventory, prevention, research and education.

**Weed Education Coordinator.** A person in the University of Wisconsin Cooperative Extension Service who is responsible for training county Weed Inspectors and municipal Weed Commissioners and for coordinating statewide efforts on invasive plant education.

**Weed Inspector.** The county official appointed to assist, train and oversee local weed commissioners.

**Weed Program Manager.** A person in the DATCP who coordinates statewide efforts on weed prevention, control, research and enforcement.

**Staff members and their duties.** Three people will provide staff support to the Council, in addition to their other duties, to carry out the mission and objectives of the state noxious weed program:

1. **Weed Program Manager** in the DATCP. A statewide Weed Program Manager will focus on enforcement of statewide noxious weed regulations and assist counties and municipalities in local enforcement issues. As the DATCP staff person to the Noxious Weed Council, this position will be responsible for developing administrative rules and policies regarding designated noxious weeds in DATCP, including the listing of such weeds. The Weed Program Manager will maintain a list of registered local county and municipal weed contact persons and will also monitor invasions of new agricultural weeds and develop a database on the distributions of significant agricultural weeds.

2. **A Weed Coordinator** in the DNR will focus on prevention, containment and management of ecologically invasive plants. The coordinator will gather and disseminate information about these species, their distribution, ecology and means of spread, as well as all currently known

control methods. The coordinator will develop and maintain a database on the distribution of these species and coordinate efforts to monitor and contain new invasions. This person will coordinate the development and implementation of the statewide Ecologically Invasive Species Management Plan. The coordinator will also work closely with the weed educator to develop and implement education and outreach efforts. As the DNR staff person to the Noxious Weed Council, this person will be responsible for writing all administrative rules and policies regarding noxious weeds in the DNR.

**3.A Weed Educator** in UW Extension will develop and implement a statewide Invasive Plant Education Plan in cooperation with interested parties throughout the state. The plan is to encompass the need to inform the public about the scope of the issue; means of weed identification, detection and prevention; control methods; regulations; and empowering citizens to take action. The plan will be updated at least every five years. The educator will work extensively with cooperators and volunteers to implement this program. This person will develop and distribute educational materials and work with the media to get statewide distribution of information on invasive plants. The educator is also responsible for training local and municipal weed officials. The weed educator is the UWEX staff person to the Noxious Weed Council and will serve as a liaison between the Council and faculty, staff and students in the University system and other agencies.

At the **local level**, counties will designate and register a county weed contact person and appoint a County Weed Inspector to enforce county weed ordinances. Local municipalities will designate and register a municipal weed contact person and appoint a municipal weed commissioner to enforce local weed ordinances.

**Timetable.** The Technical Advisory Committee plans to obtain legislative approval of the new noxious weed program as part of the state's biennial budget process. If we are successful, the new program should be launched sometime after July 1, 2001. Nothing is life is certain and this is particularly true in the realm of politics. Nevertheless, the groundwork is laid and there are reasons to be cautiously optimistic at this point. If we fail to reach all the objectives, we should at least succeed in having the issue of invasive plants receive long overdue attention.

**Comments/Input welcomed.** There is ample time to voice your support, concerns, fears, and ideas regarding the plan to recreate a noxious weed law in Wisconsin. Contact either of the authors of this paper or check the DNR web site at this URL: [www.dnr.state.wi.us/org/land/er](http://www.dnr.state.wi.us/org/land/er). There you will find the full draft of the current version of the proposal, an executive summary and a comment sheet. We will announce the details of the public forum planned for late February as soon as they are finalized. We welcome your participation in the process.

### Summary

If change is a characteristic of modern day life, the current Wisconsin noxious weed law is no longer close to being modern. The law has not changed since it was created decades ago. As a consequence, rather than try to change our present law, it is much wiser to start anew to create a fresh and dynamic noxious weed program. This paper reviews the key elements of a plan to do just that. The important changes we hope the new program accomplishes are to 1) create multiple categories of noxious weeds rather than one, 2) develop a mechanism whereby species can be added, removed or moved within the categories each year, 3) emphasize education and voluntary efforts as critical components in the effort to prevent, contain, and control noxious weeds, and 4) establish three funded



positions and a Noxious Weed Council to carry out the objectives of the program. The road to success is rocky and perhaps filled with land mines. Our current efforts are to diffuse potential land mines by meeting and working with any impacted parties early on to address their concerns. The process is moving forward and we hope to report on a fruitful outcome at this conference in two years!

### **Acknowledgments**

The contributions of the Noxious Weed Technical Advisory Committee are gratefully acknowledged. The names and affiliations of the TAC members are as follows.

Kelly Kearns (Team Leader), DNR Bureau of Endangered Resources  
Dan Wilson (Facilitator), UW Extension Washington Co.  
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Chris Boerboom, UW Madison, Agronomy Dept.  
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Gregory Long, Wis. Nurseryman's Association and Wis. Landscape Federation  
Scott Loomans, Legislative Aide to Rep. DuWayne Johnsrud  
Dennis Lund, representing the Wis. Farm Bureau.  
Susan Murray, Wis. Chapter of American Society of Landscape Architects  
Eugene Roark, Wis. Woodland Owners Association, The Nature Conservancy  
John Shipley, Municipal Weed Commissioner, Sun Prairie  
Richard Stadelman, Wis. Towns Association  
Dick Stark, DOT, Bureau of Highway Operations  
Jack Trautman, Wis. Landscape Contractor's Association  
Don Vorpahl, Wild One's Natural Landscaping  
Laurie Weiss, UW Extension Milwaukee Co. Commercial Horticulture Agent  
Mike Yanny, Wis. Nurseryman's Association

- (a) Any city, village, town or county may, by ordinance, authorize a law enforcement officer, at the time of issuing a citation for a violation of s. 346.94 (16) or a local ordinance in strict conformity with s. 346.94 (16) or any other local ordinance prohibiting excessive noise, to impound any radio, electric sound amplification device or other sound-producing device used in the commission of the violation if the person charged with such violation is the owner of the radio, electric sound amplification device or other sound-producing device and has 2 or more prior convictions within a 3-year period of s. 346.94 (16) or a local ordinance in strict conformity with s. 346.94 (16) or any other local ordinance prohibiting excessive noise. The ordinance may provide for impoundment of a vehicle for not more than 5 working days to permit the city, village, town or county or its authorized agent to remove the radio, electric sound amplification device or other sound-producing device if the vehicle is owned by the person charged with the violation and the sound-producing device may not be easily removed from the vehicle. Upon removal of the sound-producing device, an impounded vehicle shall be returned to its rightful owner.
- (b) The ordinance under par. (a) may provide for recovery by the city, village, town or county of the cost of impounding the sound-producing device and, if a vehicle is impounded, the cost of impounding the vehicle and removing the sound-producing device. The ordinance under par. (a) shall provide that, upon disposition of the forfeiture action for the violation of s. 346.94 (16) or a local ordinance in strict conformity with s. 346.94 (16) or any other local ordinance prohibiting excessive noise and payment of any forfeiture imposed, the sound-producing device shall be returned to its rightful owner.
- (c) The city, village, town or county may dispose of any impounded sound-producing device or, following the procedure for an abandoned vehicle under s. 342.40, any impounded vehicle which has remained unclaimed for a period of 90 days after disposition of the forfeiture action.
- (d) This subsection does not apply to a radio, electric sound amplification device or other sound-producing device on a motorcycle.

(2)

- (a) Notwithstanding sub. (1m), any city, village, town or county may, by ordinance, authorize a law enforcement officer, at the time of issuing a citation for a violation of s. 346.94 (16) or a local ordinance in strict conformity with s. 346.94 (16) or any other local ordinance prohibiting excessive noise, to seize any radio, electric sound amplification device or other sound-producing device used in the commission of the violation if the person charged with such violation is the owner of the radio, electric sound amplification device or other sound-producing device and has 3 or more prior convictions within a 3-year period of s. 346.94 (16) or a local ordinance in strict conformity with s. 346.94 (16) or any other local ordinance prohibiting excessive noise.
- (b) The ordinance under par. (a) may provide for impoundment of a vehicle for not more than 5 working days to permit the city, village, town or county or its authorized agent to remove the radio, electric sound amplification device or other sound-producing device if the vehicle is owned by the person charged with the violation and the sound-producing device may not be easily removed from the vehicle. Upon removal of the sound-producing device, an impounded vehicle shall be returned to its rightful owner upon payment of the reasonable costs of impounding the vehicle and removing the sound-producing device.
- (c) The ordinance under par. (a) shall include provisions that treat any seized sound-producing device in substantially the manner provided in ss. 973.075 (3), 973.076 and 973.077 for property realized through the commission of any crime, except that the sound-producing device shall remain in the custody of the applicable law enforcement agency; a district attorney or city, village or town attorney, whichever is applicable, shall institute the forfeiture proceedings; and, if the sound-producing device is sold by the law enforcement agency, all proceeds of the sale shall be retained by the applicable city, village, town or county.
- (d) The city, village, town or county may, following the procedure for an abandoned vehicle under s. 342.40, dispose of any impounded vehicle which has remained unclaimed for a period of 90 days after disposition of the forfeiture action.
- (e) This subsection does not apply to a radio, electric sound amplification device or other sound-producing device on a motorcycle.



- (am) Nothing in this section prohibits a political subdivision from continuing to enforce until November 30, 1998, an ordinance or resolution that is in effect on November 18, 1995, and that requires a waiting period of not more than 7 days for the purchase of a handgun.
- (b) If a political subdivision has in effect on November 17, 1995, an ordinance or resolution that regulates the sale, purchase, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, and the ordinance or resolution is not the same as or similar to a state statute, the ordinance or resolution shall have no legal effect and the political subdivision may not enforce the ordinance or resolution on or after November 18, 1995.
- (c) Nothing in this section prohibits a political subdivision from enacting and enforcing a zoning ordinance that regulates the new construction of a sport shooting range or when the expansion of an existing sport shooting range would impact public health and safety.
- (5) A county ordinance that is enacted or a county resolution that is adopted by a county under sub. (2) or a county ordinance or resolution that remains in effect under sub. (4) (a) or (am) applies only in those towns in the county that have not enacted an ordinance or adopted a resolution under sub. (2) or that continue to enforce an ordinance or resolution under sub. (4) (a) or (am), except that this subsection does not apply to a sales or use tax that is imposed under subch. V of ch. 77.
- (6) Unless other facts and circumstances that indicate a criminal or malicious intent on the part of the person apply, no person may be in violation of, or be charged with a violation of, an ordinance of a political subdivision relating to disorderly conduct or other inappropriate behavior for loading a firearm, or for carrying or going armed with a firearm or a knife, without regard to whether the firearm is loaded or the firearm or the knife is concealed or openly carried. Any ordinance in violation of this subsection does not apply and may not be enforced.

**History:** 1995 a. 72; 1999 a. 150 s. 260; Stats. 1999 s. 66.0409; 2011 a. 35; 2015 a. 149.

This section does not prohibit municipalities from enacting and enforcing zoning ordinances that apply to sport shooting ranges. *Town of Avon v. Oliver*, 2002 WI App 97, 253 Wis. 2d 647, 644 N.W.2d 260, 01-1851.

The scope of legislative activity covered by "ordinances" and "resolutions" extends to formal and informal enactments that address matters both general and specific in a manner meant to be either temporary or permanent and that can be characterized as administrative or otherwise, regardless of how they may be denominated. There is no legislative action a municipality could take that would not come within the ambit of ordinance or resolution. If a statute removes the authority of a municipality's governing body to adopt an ordinance or resolution on a particular subject, the governing body loses all legislative authority on that subject. *Wisconsin Carry, Inc. v. City of Madison*, 2017 WI 19, 373 Wis. 2d 543, 892 N.W.2d 233, 15-0146.

Under sub. (2), the legislature has withdrawn from municipalities all authority to legislate on the possession, bearing, or transportation of any knife or any firearm unless the legislation is the same as or similar to, and no more stringent than, a state statute. Because a municipality cannot delegate what it does not have, a municipality is entirely powerless to authorize any of its subunits to legislate on this subject. *Wisconsin Carry, Inc. v. City of Madison*, 2017 WI 19, 373 Wis. 2d 543, 892 N.W.2d 233, 15-0146.

This section forbids a municipality from forbidding weapons on its buses when otherwise carried in conformance with the law. To the extent that a municipality previously had a property-based right to exclude riders in possession of weapons, that right ceased with the advent of this section. *Wisconsin Carry, Inc. v. City of Madison*, 2017 WI 19, 373 Wis. 2d 543, 892 N.W.2d 233, 15-0146.

#### **66.0410 Local regulation of ticket reselling.**

##### **(1) DEFINITIONS. In this section:**

- (a) "Political subdivision" means a city, village, town, or county.
- (b) "Ticket" means a ticket that is sold to an entertainment or sporting event.

##### **(2) RESELLING OF TICKETS.**

- (a) A political subdivision may not enact an ordinance or adopt a resolution and the Board of Regents of the University of Wisconsin System may not promulgate a rule or adopt a resolution prohibiting the resale of any ticket for an amount that is equal to or less than the ticket's face value.
- (b) If a political subdivision or the Board of Regents of the University of Wisconsin System has in effect on April 22, 2004 an ordinance, rule, or resolution that is inconsistent with par. (a), the ordinance, rule, or resolution does not apply and may not be enforced.

**History:** 2003 a. 191.

#### **66.0411 Sound-producing devices; impoundment; seizure and forfeiture.**

- (1) In this section, "sound-producing device" does not include a piece of equipment or machinery that is designed for agricultural purposes and that is being used in the conduct of agricultural operations.

##### **(1m)**

(1) DEFINITIONS. In this section, "political subdivision" means a city, village, town, or county.

(2) LIMITATIONS ON NEW REGULATIONS.

- (a) Except as provided in sub. (3), beginning on November 13, 2015, a political subdivision may not impose any occupational fees or licensing requirements on any profession if that profession is not subject to occupational fees or licensing requirements of the political subdivision on that date, but the political subdivision may continue to so regulate any profession that is subject to its occupational fees or licensing requirements on that date.
  - (b) With regard to the areas in which the department of safety and professional services may impose requirements on a contractor under s. 101.654, a political subdivision may not impose any requirements on a contractor that are more stringent than the requirements imposed by the department of safety and professional services under s. 101.654.
  - (c) Beginning on November 13, 2015, if the department of safety and professional services or an examining board, affiliated credentialing board, or other board in the department of safety and professional services imposes any new occupational fees or licensing requirements on any profession that was previously unregulated by the state, and if a political subdivision regulates that occupation when the state regulations take effect, the political subdivision may not continue to regulate that profession on or after the day on which the state regulations take effect and the political subdivision's regulations do not apply and may not be enforced.
  - (d) With regard to the areas in which any department of state government may impose occupational licensing requirements on any profession, a political subdivision may not impose any occupational licensing requirements on an individual who works in that profession that are more stringent than the requirements imposed by the department that regulates that profession.
- (3) EXCEPTION. If a political subdivision has in effect an occupational fee or licensing requirement on the profession of photographer on November 13, 2015, that regulation does not apply and may not be enforced.

History: 2015 a. 65; 2017 a. 327.

#### **66.0409 Local regulation of weapons.**

(1) In this section:

- (a) "Firearm" has the meaning given in s. 167.31 (1) (c).
  - (b) "Political subdivision" means a city, village, town or county.
  - (c) "Sport shooting range" means an area designed and operated for the practice of weapons used in hunting, skeet shooting and similar sport shooting.
- (2) Except as provided in subs. (3) and (4), no political subdivision may enact or enforce an ordinance or adopt a resolution that regulates the sale, purchase, purchase delay, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration, or taxation of any knife or any firearm or part of a firearm, including ammunition and reloader components, unless the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute.
- (3)
- (a) Nothing in this section prohibits a county from imposing a sales tax or use tax under subch. V of ch. 77 on any knife or any firearm or part of a firearm, including ammunition and reloader components, sold in the county.
  - (b) Nothing in this section prohibits a city, village or town that is authorized to exercise village powers under s. 60.22 (3) from enacting an ordinance or adopting a resolution that restricts the discharge of a firearm. Any ordinance or resolution that restricts the discharge of a firearm does not apply and may not be enforced if the actor's conduct is justified or, had it been subject to a criminal penalty, would have been subject to a defense described in s. 939.45.
  - (c) Nothing in this section prohibits a political subdivision from enacting or enforcing an ordinance or adopting a resolution that prohibits the possession of a knife in a building, or part of a building, that is owned, occupied, or controlled by the political subdivision.
- (4)
- (a) Nothing in this section prohibits a political subdivision from continuing to enforce an ordinance or resolution that is in effect on November 18, 1995, and that regulates the sale, purchase, transfer, ownership, use, keeping, possession, bearing, transportation, licensing, permitting, registration or taxation of any firearm or part of a firearm, including ammunition and reloader components, if the ordinance or resolution is the same as or similar to, and no more stringent than, a state statute.



- (a) "Political subdivision" means any city, village, town, or county.
  - (b) "Radio broadcast services" means the regular provision of a commercial or noncommercial service involving the transmission, emission, or reception of radio waves for the transmission of sound or images in which the transmissions are intended for direct reception by the general public.
  - (c) "Radio broadcast service facilities" means commercial or noncommercial facilities, including antennas and antenna support structures, intended for the provision of radio broadcast services.
- (2) **LIMITATIONS ON LOCAL REGULATION.** Beginning on May 1, 2013, if a political subdivision enacts an ordinance, adopts a resolution, or takes any other action that affects the placement, construction, or modification of radio broadcast service facilities, the ordinance, resolution, or other action may not take effect unless all of the following apply:
- (a) The ordinance, resolution, or other action has a reasonable and clearly defined public health or safety objective, and reflects the minimum practical regulation that is necessary to accomplish that objective.
  - (b) The ordinance, resolution, or other action reasonably accommodates radio broadcast services and does not prohibit, or have the effect of prohibiting, the provision of such services in the political subdivision.
- (3) **CONTINUED APPLICATION OF EXISTING REGULATIONS.** If a political subdivision has in effect on May 1, 2013, an ordinance or resolution that is inconsistent with the requirements that are specified in sub. (2) for an ordinance, resolution, or other action to take effect, the existing ordinance or resolution does not apply, and may not be enforced, to the extent that it is inconsistent with the requirements that are specified in sub. (2).
- (4) **DENIAL OF PLACEMENT, CONSTRUCTION, OR MODIFICATION OF FACILITIES.** If a political subdivision denies a request by any person to place, construct, or modify radio broadcast service facilities in the political subdivision, the denial may be based only on the political subdivision's public health or safety concerns. The political subdivision must provide the requester with a written denial of the requester's request, and the political subdivision must provide the requester with substantial written evidence which supports the reasons for the political subdivision's action.

**History:** 2013 a. 20; 2013 a. 173 s. 33.

#### **66.0407 Noxious weeds.**

- (1) In this section:
- (a) "Destroy" means the complete killing of weeds or the killing of weed plants above the surface of the ground by the use of chemicals, cutting, tillage, cropping system, pasturing livestock, or any or all of these in effective combination, at a time and in a manner as will effectually prevent the weed plants from maturing to the bloom or flower stage.
  - (b) "Noxious weed" means Canada thistle, leafy spurge, field bindweed, any weed designated as a noxious weed by the department of natural resources by rule, and any other weed the governing body of any municipality or the county board of any county by ordinance or resolution declares to be noxious within its respective boundaries.
- (3) A person owning, occupying or controlling land shall destroy all noxious weeds on the land. The person having immediate charge of any public lands shall destroy all noxious weeds on the lands. The highway patrolman on all federal, state or county trunk highways shall destroy all noxious weeds on that portion of the highway which that highway patrolman patrols. The town board is responsible for the destruction of all noxious weeds on the town highways.
- (4) The chairperson of each town, the president of each village and the mayor or manager of each city may annually on or before May 15 publish a class 2 notice, under ch. 985, that every person is required by law to destroy all noxious weeds, as defined in this section, on lands in the municipality which the person owns, occupies or controls. A town, village or city which has designated as its official newspaper or which uses for its official notices the same newspaper as any other town, village or city may publish the notice under this subsection in combination with the other town, village or city.
- (5) This section does not apply to Canada thistle or annual noxious weeds that are located on land that the department of natural resources owns, occupies or controls and that is maintained in whole or in part as habitat for wild birds by the department of natural resources.

**History:** 1975 c. 394 s. 12; 1975 c. 421; Stats. 1975 s. 66.96; 1983 a. 112, 189; 1989 a. 56 s. 258; 1991 a. 39, 316; 1997 a. 287; 1999 a. 150 ss. 617 to 619; Stats. 1999 s. 66.0407; 2009 a. 55.

#### **66.0408 Regulation of occupations.**

- (j) Prohibit the placement of emergency power systems.
  - (k) Require that a mobile service support structure be placed on property owned by the political subdivision.
  - (L) Disapprove an application based solely on the height of the mobile service support structure or on whether the structure requires lighting.
  - (m) Condition approval of such activities on the agreement of the structure or mobile service facility owner to provide space on or near the structure for the use of or by the political subdivision at less than the market rate, or to provide the political subdivision other services via the structure or facilities at less than the market rate.
  - (n) Limit the duration of any permit that is granted.
  - (o) Require an applicant to construct a distributed antenna system instead of either constructing a new mobile service support structure or engaging in collocation.
  - (p) Disapprove an application based on an assessment by the political subdivision of the suitability of other locations for conducting the activity.
  - (q) Require that a mobile service support structure, existing structure, or mobile service facilities have or be connected to backup battery power.
  - (r) Impose a setback or fall zone requirement for a mobile service support structure that is different from a requirement that is imposed on other types of commercial structures.
  - (s) Consider an activity a substantial modification under sub. (1) (s) 1. or 2. if a greater height is necessary to avoid interference with an existing antenna.
  - (t) Consider an activity a substantial modification under sub. (1) (s) 3. if a greater protrusion is necessary to shelter the antenna from inclement weather or to connect the antenna to the existing structure by cable.
  - (u) Limit the height of a mobile service support structure to under 200 feet.
  - (v) Condition the approval of an application on, or otherwise require, the applicant's agreement to indemnify or insure the political subdivision in connection with the political subdivision's exercise of its authority to approve the application.
  - (w) Condition the approval of an application on, or otherwise require, the applicant's agreement to permit the political subdivision to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, a political subdivision or an entity in which a political subdivision has a governance, competitive, economic, financial or other interest.
- (5) **APPLICABILITY.** If a county enacts an ordinance as described under sub. (2) the ordinance applies only in the unincorporated parts of the county, except that if a town enacts an ordinance as described under sub. (2) after a county has so acted, the county ordinance does not apply, and may not be enforced, in the town, except that if the town later repeals its ordinance, the county ordinance applies in that town.

**History:** 2013 a. 20, 173.

**66.0405 Removal of rubbish.** Cities, villages and towns may remove ashes, garbage, and rubbish from such classes of places in the city, village or town as the board or council directs. The removal may be from all of the places or from those whose owners or occupants desire the service. Districts may be created and removal provided for certain districts only, and different regulations may be applied to each removal district or class of property. The cost of removal may be funded by special assessment against the property served, by general tax upon the property of the respective districts, or by general tax upon the property of the city, village or town. If a city, village or town contracts for ash, garbage or rubbish removal service, it may contract with one or more service providers.

**History:** 1993 a. 246; 1999 a. 150 s. 119; Stats. 1999 s. 66.0405.

#### **66.0406 Radio broadcast service facility regulations.**

- (1) **DEFINITIONS.** In this section: