

CITY OF MADISON, WISCONSIN

2nd SUBSTITUTE ORDINANCE \_\_\_\_\_

PRESENTED  
REFERRED

July 5, 2016  
Madison Food Policy  
Council, BPW, COE

Amending Section 23.29 of the Madison General Ordinances, the City's noxious weeds ordinance.

LEGISTAR #43445

Drafted by: Doran Viste

Date: September 12, 2016

SPONSOR: Alders Palm, Skidmore, Gruber & Zellers

DRAFTER'S ANALYSIS: This ordinance amends the City's noxious weeds ordinance to add in a policy statement, add six species of invasive species to the City's noxious weed ordinance while removing three, and reorganize the ordinance to make it easier to understand (including adding in common names for all plants). These changes will make the City's policy regarding invasive species more apparent, and give the City the authority to order and remove these new harmful species if necessary.

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The Common Council of the City of Madison do hereby ordain as follows:

Section 23.29 entitled "Noxious Weeds" of the Madison General Ordinances is amended to read as follows:

**"23.29 NOXIOUS WEEDS.**

- (1) ~~The term "noxious weeds" as used in this section includes the following: Canada or other thistles, leafy spurge and field bindweed (commonly called creeping Jenny), Ambrosia trifida (commonly called giant ragweed), Ambrosia artemesifolia (commonly called common ragweed), burdock, Rhus radicans sometimes called Radicans toxicodendron, Rhus toxicodendron and Toxicodendron radicans (commonly called poison ivy), Urtica dioica (commonly called stinging nettle), and non-native Lythrum salicaria and Lythrum virgatum and their hybrids (commonly called purple loosestrife).~~

Purpose. This ordinance is intended to restrict specific plant species which are deleterious to human health, can cause significant environmental damage such as stream bank erosion, or can cause significant damage to foundations or other infrastructure. All identified noxious weeds except those which are deleterious to human health are also invasive to Wisconsin. The City recognizes that there are many plants which are invasive to Wisconsin and has only identified those as prohibited under the City's ordinance that have the greatest identified negative impacts.

The City of Madison encourages homeowners to include plants native to Wisconsin within their landscaping because these plants provide a hardy, drought resistant, low maintenance yard while benefiting the environment. Native plants, once established, save time and money by eliminating or significantly reducing the need for fertilizers, herbicides, water, and lawn maintenance equipment. Native plants are also beneficial because they help reduce air pollution because they do not require mowing; they attract a variety of birds, butterflies and other pollinators; and their use promotes biodiversity and stewardship of our natural heritage. Many non-native plants can also fill this role and be good selections but

Approved as to form:

those identified as invasive should be avoided. For a list of plants which have been identified as invasive species in Wisconsin, see Wis. Admin Code ch. NR 40.

(2) Definitions. For the purposes of this Section, the following definitions apply:

(a) Destroy. 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 such time and in such manner as will effectually prevent such plants from maturing to the bloom or flower stage.

(b) Prohibited Noxious Weeds. The following plants are prohibited noxious weeds:

1. Rhus toxicodendron and Toxicodendron radicans (sometimes called Radicans toxicodendron) and Rhus radicans (common name Poison Ivy).
2. Urtica dioica (common name Stinging Nettle).
3. Euphorbia esula L. (common name Leafy Spurge).
4. Heraclelum mantegazzianum Sommier & Levier (common name Giant Hogweed).
5. Pastinaca sativa L. (common name Wild Parsnip).
6. Cirsium arvense (L.) Scop. (common name Canada Thistle).
7. Carduus acanthoides L. (common name Plumeless Thistle, Spiny Plumeless Thistle).
8. Carduus nutans (common name Musk Thistle).
9. Cirsium palustre (common name European Marsh Thistle).
10. Dipsacus fullonum L. (common name Common Teasel).
11. Dipsacus laciniatus (common name Cutleaf Teasel, Cut-leaf Teasel).
12. Non-native Lythrum salicaria and its hybrids (common name Purple Loosestrife).
13. Polygonum cuspidatum; synonym Fallopiia japonica (common name Japanese Knotweed and alternatively called Japanese bamboo, Mexican bamboo, Japanese fleece flower, crimson beauty, Reynoutria, Hancock's curse).
14. Phragmites australis (common names common reed grass, ditch reed, giant reed).

(23) Every person shall destroy ~~all of such prohibited~~ noxious weeds on lands which he/she shall own, occupy or control and failure to comply with this paragraph shall subject such person to a forfeiture in accordance with the provisions of Section 23.60.

(3) ~~The term "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 such time and in such manner as will effectually prevent such plants from maturing to the bloom or flower stage.~~

(4) Weed Commissioners; Appointment, Oath, Term; Exception. The Mayor shall appoint two (2) or more Weed Commissioners on or before May 15 in each year; such Weed Commissioners shall take the official oath (which oath shall be filed in the office of the City Clerk) and shall hold their office for one (1) year and until their successors have qualified. The Mayor may appoint the Weed Commissioners directly, or may delegate the authority for such appointment to the Superintendent of Streets, which delegation may be withdrawn by the Mayor at any time. Weed Commissioners are not subject to Common Council confirmation.

(5) Duties; Powers; Collections of Tax.

The Weed Commissioner or Superintendent of Streets shall carefully investigate concerning the existence of noxious weeds in his/her district; and if any person therein neglects to destroy any weeds as required by this section, he/she shall, without giving written notice, destroy or cause all such weeds to be destroyed, in the manner deemed to be the most economical method and present to the Treasurer his/her account therefore verified by his/her oath and approved by the appointing officer. Such account shall specify by separate items the amount chargeable to each piece of land described the same, and shall, after being paid by the Treasurer, be filed with the City, who shall enter the amount chargeable to each tract of land in the next tax roll in a column headed "For the Destruction of Weeds", as a tax on the lands upon which such weeds were destroyed, which tax shall be collected as other taxes are, or as taxes are collected on personal property pursuant to Wis. Stat. § 74.11, except in case of lands which are exempt from taxation in the usual way. In case of railroad or other lands not taxed in the usual way the amount chargeable against the same shall be certified

by the City to the State Treasurer with the request that he or she add the amount designated therein to the sum due from the company owning, occupying or controlling the lands specified and that he or she collect the same therefrom as prescribed in Wis. Stat. ch. 76, and return the amount collected to the City. Any Weed Commissioner may, without giving written notice, enter upon any lands upon which any of the weeds mentioned in this section are growing, and cut or otherwise destroy them, without being liable to an action for trespass or any other action for damages resulting from such entry and destruction, if reasonable care is exercised in the performance of the duty hereby imposed.”