Sustainability Committee Meeting

Thursday, March 28, 2024

City Hall Council Chambers – 601 Main St W. Ashland, WI 54806

6:00 PM

Take notice that a meeting of the Sustainability Committee will be held in- person in the City Hall Council Chambers, with the availability to attend virtually.

To join the meeting from your computer, tablet or smartphone: https://meet.goto.com/740241965. Or dial in using your phone. United States (Toll Free): 1 866 899 4679 Access Code: 740-241-965

The following items will be considered:

1. **Approval of Agenda**
2. **Election of Chairperson**
3. **Approval of Minutes**
   a. Approval of minutes from the February 22nd, 2024 meeting
4. **Citizen Participation Period**
5. **Projects/Discussions**
   a. Climate Change
   b. Water
      i. Sourcewater Protection Plan Initial Recommendations-Update
   c. Seed Mix - Discussion/Action
   d. Lawn Chemicals - Discussion
   e. Potential Ordinance/Proposal regarding Fruit and Nut Trees-Discussion/Action
   f. Invasive Species-Discussion
   g. Annual Report-Update/Action
6. **Items of Interest for Future Meetings**
7. **Adjournment**

The City of Ashland does not discriminate on the basis of sex, race, creed, color, national origin, sexual orientation, age or disability in employment or provision of services, programs or activities.

NOTE: Upon reasonable notice, the City of Ashland will accommodate the needs of disabled individuals or individuals with limited English proficiency through auxiliary aids or services. For additional

information or to request this service, contact the Planning & Zoning Department at 715-682-7041 (not a TDD telephone number)

City of Ashland – Sustainability Committee Meeting

Thursday, February 22nd, 2024

6:00 pm – 7:00 pm HYBRID MEETING:

Meeting Link: https://meet.goto.com/740241965 | Access Code: 740-241-965 - CITY COUNCIL CHAMBERS (601 Main Street W)

Energy Action Plan, 25x25 Plan, Sourcewater Protection Plan linked here: https://sites.google.com/view/ashland-sustainability/themes

Present: Jim Gregoire, Dale Kupczyk, Axel Peterman, Lissa Radke

Bob Blaskowski, Steven Wiley (Planning and Development Director), Chianne Schweitzer (Administrative Clerk)

Absent: Kelly Westlund (Excused), Amy Amman (Excused)

Agenda

1) Approval of Agenda
   Peterman called the meeting to order at 6:00 pm. Peterman moved and Kupczyk seconded to approve the agenda. Motion carried 4-0.
2) Approval of minutes from the January 25th, 2023 meeting
   Kupczyk moved and Gregoire seconded to approve the minutes. Motion carried 4-0.
3) Citizen Comments
   Bob Blaskowski on Junction Road spoke. He had contacted the Extension service about looking into some of the agents in chemicals being sprayed on lawns by commercial applications. This is as far as he has gone. The Committee is looking at water quality control for Ashland. These agents go downhill. This is about all and he said he would come back to the committee. He thanked the committee.
4) Projects/Discussions
   a) Climate Change
      i. EPA Community Change and PSC Rural Startup Grants-Update
      Peterman asked for an update. Steven Wiley provided one stating that Council and Committee of the Whole approved the City's applications for those grants. Staff worked with pertinent parties to submit the EPA grant. The PSC Rural Energy Startup grant was also submitted by Steven Wiley with the help of Sara Hudson.

   b) Water
      i. Develop Sourcewater Protection Plan Initial Recommendations
      Peterman asked who the key person was for this. Wiley explained that Radke had taken the executive summary and key recommendations from the plan which is on the city website and put them into a condensed summary. Radke was on the workgroup and she and the group thought that the plan was pretty dense for the general public. She explained the summarized version with recommendations and ideas for outreach to the public. There is a nice flow the group can work on together or with Public Works. The Sustainability

Committee can decide what the recommendations are for the plan. Radke recommended next steps including determining who the partners are to work with and working with them. Then determine how we are going to talk to people about, for example consequences of spraying chemicals on lawns. The five steps consist of: Our input, recommendations to the City on education, talking to John Butler on what they are working on/find out from Public Works (PW), then promote those as good news stories, (example City is getting a new intake pipe), then work with PW to review outreach strategies to give us guidance on what they would like to see next. Are people interested in moving this forward? Radke is interested and would be happy to make a recommendation to the City Council. The original Sourcewater protection plan was done in 2021. Radke suggested it would be good to make a recommendation to the Council. She is happy to work with other people to engage and form partnerships with other community groups and determine what types of outreach can be done. Radke can work with John Butler. Wiley can too.

c) Green Tier Legacy Communities – Update
Wiley provided an update. The annual report was due 12/31/2023 but we were approved for an extension. The City has been a Green Tier member for several years. The group is administered by the WI DNR looking at sustainability driven initiatives. Wiley gathered all of the information with help from other City staff to enter into Green Tier's new scoresheet for the City. The report was submitted on time.

d) Seed Mix - Discussion
Wiley did not have much of an update. Radke had sent an email with sample ordinances. This is an important next step. We should have some action on this to see if we want to move forward. Radke is not sure what types of ordinances are on the books but this is probably a step one. What do we want for ordinances? There are some great BMPs from the DNR. Some are really to the point for example about not including invasive species. We can look at those to put together a sample ordinance and run them by Public Works to see if this is doable. We have the information we need so we can see if we want to move forward. Peterman asked about the process to move forward. Wiley explained this. It would go through the pertinent City departments, then committees, then COW and Council. Peterman asked if it would be helpful to take action to move forward. Wiley said yes but at the next meeting since the item was not listed as an action item on the agenda.

e) Potential Ordinance regarding Fruit and Nut Trees in City rights-of-way-Discussion
Peterman distributed the draft proposal. He read the draft ordinance. He had spoken with Wiley about this and had a short meeting the other day. There are two basic things required. The first is an ordinance that requires that the right-of-way (sidewalk, etc.) be kept clear from debris. The second is that a permit is required to plant a tree or shrub in the right-of-way. City has both these things in place. Two things are required to happen: one is to clarify that the sidewalk maintenance ordinance requiring the sidewalks be kept clear of debris also applies to fruit and nuts on entire right-of-way which includes the street and sidewalk. The owner/business owner is responsible for the right-of-way cleanliness. The second is to establish a formal

procedure for approval of existing right-of-way permit for planting of public trees. Given that the city has an existing permit application this strikes Peterman as an oversight. Peterman mentioned that thirdly, simplify permitting process to get people to use it. Kupczyk asked if Public Works has a system where they would come out and show people where to plant the trees? Peterman and Wiley explained. Public Works and Ms. Hudson review and tell people whether or not a certain location is suitable for planting a tree. Peterman's impression is that the permitting process is not very efficient. Wiley explained that usually existing trees and replacement shade trees are put in with street reconstructions but we don't see many private property owners planting trees/applying. Peterman would like to see workshops to teach people how to plant trees in the planting strips. He would like to see the application process simplified. Gregoire stated that if you want to get education instead of doing groups of meetings contact the realtors and perhaps they can include information in packets when homes are sold. What is the City's requirement for planting trees in right-of-way (cleaning up walnuts, etc.)? There should be education to homeowners on who is responsible. Peterman stated that this was unclear to him currently. Gregoire stated that the City is being active going up and down and trimming the trees. If he planted an apple tree, etc. he might be angry if this was trimmed so he can see a problem for someone who is nurturing a tree. He would not want the City to get a black eye doing what we are supposed to do.

Mr. Blaskowski left the meeting at 6:36 pm.

Peterman suggested that perhaps something gets put on the tree indicating that the owner has to maintain and City will not touch it. Radke stated more people are interested in growing food so can see challenges with doing this. What conversations have been had to allow planting on some City properties, parks, etc.? Wiley explained that there have been conversations about orchards on City properties, parks, etc. Peterman asked who would be responsible for maintaining these trees if they were planted on City properties. He brought up that for example the Beaser garden would have to maintain things when they proposed things in the past. Radke was in favor of the City being responsible for things that are planted on City properties. The general public would still have access. Locations that would be ideal include the elementary school, by the lakewalk trail, the tri-county corridor trail, dog park, etc. This way we minimize challenges that have been brought up. The possibility of a tree memorial program was suggested, similar to the existing memorial program for park benches. Can get the public engaged in many different ways. Peterman asked if it would be helpful for us to draft a statement in support of planting trees in public parks. Wiley answered that this would be helpful. Gregoire mentioned that if you allow trees in public areas you would draw the deer, other wildlife and/or pests in so be aware. Wiley explained that we could support in concept and then have to consider these issues. Peterman would also like to see a map of fruit trees created and available. Public outreach is important. A map is very common. Radke asked if it is worth finding out from other cities if they have concerns like we mentioned and management practices to deter issues. Peterman can do research to provide some answers to these concerns and inquiries for the next meeting. A lot of outreach involves people picking up fruit. Kupczyk asked what Public Works thinks. Apple tree pruning is different than others. Wiley stated that Public Works had concerns.

Gregoire stated that he is 100% supportive of fruit trees but just wants to be prepared for concerns that people will bring up and already have the answers. It will be easier to get it through then. Peterman and Radke thanked Gregoire. Peterman will do research on how cities are deterring pests and other issues for their fruit trees.

5) Future agenda items
   Wiley mentioned the invasive species section of the UDO and that Sara Hudson asked the Committee to look at updating our invasive species ordinance.
6) Adjournment
   Kupczyk moved and Gregoire seconded. Motion carried 4-0. Meeting adjourned at 6:55pm

Recorded by:

Steven D. Wiley, AICP
Planning and Development Director

Chianne Schweitzer
Administrative Clerk

Executive Summary: City of Ashland Source Water Protection Plan July 2021

(ADD Cover page)

(ADD photos, relevant charts/graphs)

Source water is untreated water from streams, rivers, lakes, and groundwater aquifers. Source water protection is a watershed-based approach to protecting drinking water sources and reducing treatment costs.

A watershed is not limited to political boundaries such as township, county or state. Instead, it is simply an area of land that drains to a common point. Although we often manage land according to political boundaries, it makes more sense to plan and manage areas by the lay of the land, and all people living within a watershed play an important role in protecting their water.

Affordable, safe drinking water is essential to the health, development and stability of all communities. Treatment is used to maintain safe drinking water for surface water systems; however, the cost and quality of treated drinking water is a function of the pretreatment water quality.

One of the best ways to ensure safe drinking water and reduce treatment costs is to develop a local source water protection program designed to protect the source of drinking water against potential contamination.

Source Water Protection (SWP) is the first line of defense in a multi-barrier approach to assure the availability and reduce the cost of clean safe drinking water. It focuses on protecting and improving water quality at the origin before reaching the drinking water intake and undergoing treatment.

SWP is accomplished using four main steps: assessment, planning, implementation, and long-term management.

For the City of Ashland, the first step, *"assessment,"* was completed in March 2003 by the Wisconsin Department of Natural Resources (WDNR) and documented in the report *Source Water Assessment For Ashland Water Utility, Ashland, Wisconsin March 27, 2003* (A copy of Ashland's source water assessment is available by contacting the WDNR or the City of Ashland). The source water assessment for Ashland suggests that the next steps in protecting their drinking water is for the city to develop a SWP program by forming a SWP

committee to plan and implement best management practices in the source water area. This source water protection program is intended to put in place the remaining steps of planning, implementation, and long-term management of the city's source water.

In February 2016, due to an increase in public awareness about water quality concerns, city employees compiled a list of potential source water protection committee members who could collaboratively develop a SWP plan for the City of Ashland. In March 2016, the City Council voted to approve the formation of a SWP committee and development of the SWP plan.

The city contacted the Wisconsin Rural Water Association (WRWA) for assistance with facilitating the SWP plan writing process. WRWA is a non-profit association of utilities that provides technical assistance to utilities. Ashland is a long-time member of WRWA. SWP planning efforts began with an initial meeting of the SWP committee in August 2016.

The committee started to develop the SWP plan and conducted several additional meetings throughout 2016 and 2017. Due to staff turnover at the city, the plan stalled before being completed. In early 2020, with new city staff in place and a refreshed SWP committee, the SWP planning efforts were renewed and the SWP plan was completed.

Integration with City of Ashland Planning (Comprehensive Plan and Strategic Plan) Integration of the Ashland Source Water Protection Plan with the City of Ashland is done two ways: through city operations and through ordinances. Two city council members and several city staff members sit on the SWP committee. These individuals are tasked with implementing the plan by revising and updating the city's operating procedures and developing ordinances that improve and protect water quality in the Chequamegon Bay and the tributaries leading to it.

(ADD: What else?)

City of Ashland Source Water Protection Plan Recommendations (Actions): August 2023

1.2 Integration with Ashland And Bayfield Counties (Including Resource Management Plan); P. 2

"Ashland and Bayfield Counties have Land & Water Resource Management (LWRM) Plans. The Ashland Source Water Protection Plan takes a more focused look at surface water quality in Chequamegon Bay. In Chapter VIII of the Ashland County plan, coordination with the City of Ashland is specifically listed. This includes the goal "Increase collaboration on Lake Superior waterfront issues, stormwater management, invasive species, and beach health." The Bayfield County plan lists the City of Washburn and the City of Bayfield as implementation partners."

Recommendation: The City of Ashland should look for commonalities in the Ashland and Bayfield Counties' Land and Water Resource Management Plans and look for opportunities to participate in the regular planning cycle.

1.3 Integration with Other Planning Efforts (Tribal Governments and Entities and Non-Governmental Organizations); P. 2

"Tribal government entities in the area include the Bad River Band of Lake Superior Chippewa, Red Cliff Band of Lake Superior Chippewa, and the Great Lakes Indian Fish and Wildlife Commission. Prominent non-governmental organizations in the area include the Superior Rivers Watershed Association, Chequamegon Bay Area Partnership, Mary Griggs Burke Center for Freshwater Innovation at Northland College, and others."

Recommendation: The Ashland city staff and SWP committee members should seek opportunities to coordinate these tribal and non-governmental organizations to improve and protect water quality in the Chequamegon Bay and coordinate source water protection in planning efforts.

4.2 Susceptibility To Harmful Algal Blooms (P.11)

"As of January 2020, about 20,283 microcystin samples were taken through this program, and only 6 samples exceeded the advisory standards for small children, and 0 samples exceeded the advisory levels for adults. Cylindrospermopsin had 11

instances of advisory exceedance. This shows the risk of cyanotoxins being found in finished water is low, but the cyanobacteria situation is constantly evolving, so it is important to continue to monitor the situation."

Recommendation: City Public Works staff will work with local and regional partners to monitor the situation.

5.2.4 Rural Sanitary Waste (Septic Systems, Holding Tanks; P. 21

"Septic systems must be properly used, operated, and maintained by the owner to assure the long-term performance of the system and protection of public health and the environment."

Recommendation: The City should conduct regular and ongoing education activities to inform private property owners how to care for their septic systems.

5.2.5 Incidental Spills of Hazardous Materials; P. 23

"Minor releases can be addressed through landowner education, provision of convenient hazardous waste disposal options, and disconnecting paved area drainage from streams."

Recommendation: The City should conduct regular and ongoing education activities to inform private property owners how to reduce the use of and safe disposal of hazardous materials.

5.4 Urban Nonpoint Sources of Pollution; P. 25

"Convincing people to change their behaviors and properly dispose of materials can minimize such pollution. It is important that the public be aware of the significance of their behavior and that their actions can either pollute or protect our waterways. The benefits of public education efforts cannot be understated, especially for urban stormwater pollution."

Recommendation: The City should work with local and regional partners to conduct ongoing outreach about how to minimize nonpoint solution at residences, businesses, and local governmental properties.

5.4 Urban Nonpoint Sources Of Pollution; P. 26

"Encouraging community participation, forming partnerships, and combining efforts of other groups in the community will encourage everyone to work towards the same stormwater goals. Public involvement builds on community capital—the wealth of interested citizens and groups—to help spread the message to: prevent stormwater pollution; undertake group activities that highlight storm drain pollution; contribute volunteer community actions to restore and protect local water resources."

Recommendation: The City should take the lead to encourage community participation, form partnerships, and combine efforts of other community groups to focus on stormwater goals collaboratively.

5.4 Urban Nonpoint Sources of Pollution; P. 26

"Phase II MS4s are required to follow all state, tribal, and local public notice requirements when implementing their stormwater program. Public involvement also includes creating opportunities for direct action, educational, and volunteer programs such as tree planting days, volunteer monitoring programs, storm drain marking, or stream clean-up programs.

"Preventing pollutants from entering a waterway is less expensive than restoring a waterway after it has been polluted. Therefore, programs should first focus on preventing pollution before it happens. BMPs under each of the minimum measures, but especially under this pollution prevention category, focus on preventing pollutants from contacting stormwater.

"Municipal activities such as winter road maintenance, minor road repairs and other infrastructure work, automobile fleet maintenance, landscaping and park maintenance, and building maintenance can release pollutants into MS4s that ultimately discharge to nearby water bodies.

"Municipal facilities can also be sources of stormwater pollutants if BMPs are not in place to contain spills, manage trash, and handle non-stormwater discharges. Sweeping parking lots and streets and cleaning storm drains can prevent pollutants from entering nearby waterways.

Recommendations: The City should work with local and regional partners (including property owners, city and county staff, and other groups and businesses)

to conduct ongoing outreach about: **(ADD—Names of local groups that can help with each?)**

- The importance of planting trees
- Volunteer monitoring programs
- Storm drain markings
- Stream clean-up programs
- Pollution prevention BMPs
- Smart salting strategies and practices
- Solid waste management
- Storm drain maintenance and cleaning (voluntary adoption of neighborhood storm drains) **(ADD link to city's page on educational activities such as this)**

5.4.1 Urban Runoff Entering the City's Storm Sewer System; P. 26

"An effective approach to reduce nonpoint source pollution in the city's storm sewer system should include efforts to reduce the volume and speed of runoff entering the system, a concept known as "slow the flow." Implementing stormwater Best Management Practices (BMPs) will help reduce both the volume and the speed of stormwater.

"As new development or redevelopment occurs, conservation considerations should be made to reduce stormwater runoff. The city should create runoff-reduction requirements or incentives, such as minimizing the number of impervious surfaces and/or adding filter strips, swales, or bioretention areas to filter runoff from paved surfaces and rooftops before it enters storm sewers, ditches, and/or waterways.

"Consideration should also be given to practices, in the residential, commercial and industrial sectors, that result in the reduction of chemicals associated with yard fertilizer, herbicides, and pesticides within City Of Ashland Source Water Protection Plan - July 2021 the city. Fertilizer, herbicide, and pesticides are used on lawns and gardens for the purpose of growing green grass and weed control. These lawn chemicals can runoff lawns and gardens into waterways though the urban stormwater system. The extent to which fertilizer and lawn chemicals are applied is not known; however, it is important to recognize the excess use could be an important threat to water quality in the bay. Controlling excess fertilizer and lawn chemicals from commercial and industrial development focuses on BMPs for

reducing over application and minimizing the amount that reaches surface water through good stormwater management practices, as described above. The City is in a good position to promote these practices through the Sustainability Committee."

Recommendation:

The City should work with local and regional partners (including property owners, city and county staff, and other groups and businesses) to conduct ongoing outreach about:

- Slow the flow BMPs
- Reduce stormwater runoff (rain barrels, native plantings, etc.)
- Reduce lawn chemicals

5.4.2 Streambank Erosion Along Open Channels Within the City (Bay City Creek, Other Streams and Ravines Leading to the Bay); P. 27

"Another component of the effective reduction of sediment and pollution loading to Chequamegon Bay is prevention of streambank erosion…. McClure identified five major sites (3 sites on Bay City Creek, 1 site on Industrial Park Creek, and 1 on Mack Road Creek) that combined contribute approximately 40% of the total sediment load from urban streams. The study recommended that the city prioritize and implement repairs to those five sites."

Recommendation: The City will prioritize and implement repairs to 5 identified sites in partnership with local and regional partners.

7.1.1 Sanitary Surveys; P. 43

"A sanitary survey is an inspection of a water system's facilities, operations, and records to ensure the delivery of safe and reliable drinking water. As required by the WI DNR under section NR809.35, the DNR must complete a sanitary survey every 3 years. Several deficiencies were identified during the most recent sanitary survey conducted in 2018 that have yet to be corrected. The city must prioritize fixing these deficiencies as well as any additional deficiencies identified during the next sanitary survey conducted during summer of 2021."

Recommendation: The City's Public Works Department will prioritize fixes of the deficiencies found by WI DNR of its sanitary surveys.

7.1.3 Harmful Algal Blooms; P. 43

"If it is determined that Chequamegon Bay is at high risk for cyanobacteria blooms, the City of Ashland water utility will develop a monitoring and response plan after assessing their capabilities and priorities. When creating a plan, the water utility must decide when to test for cyanobacteria, which testing method to use, which step in the drinking water treatment process to collect samples from, and which method of decontamination to use."

Recommendation: The city's water utility will develop a monitoring and response plan to cyanobacteria blooms after assessing its capabilities and priorities. Included will be information about when to test for cyanobacteria, which testing method to use, which step in the drinking water treatment process to collect samples from, and which method of decontamination to use.

7.1.4 Chemical Compounds; P. 44

"The City's water utility tests for all regulated compounds on an annual basis. Reducing the water system's susceptibility to chemical compounds can be accomplished by working directly with businesses that use or store chemical compounds and educating the general public about the hazard chemicals pose to the city's water supply."

Recommendation: The public works department will coordinate with the fire department to help prevent spills of chemical compounds through the fire inspection program.

7.1.5 Redundant Water Intake

"The City of Ashland has received grant funds from the U.S. Army Corp of Engineers for the construction of a new drinking water intake to serve the city water system…. Preliminary design concepts include the incorporation of the new intake piping into the existing pumping facility in a manner that will allow the continued use of the existing intake piping as backup source of water supply.

"Although the existing intake piping has exceeded its useful life and will eventually begin to fail, rehabilitation of some portion of the piping will likely allow the city to continue use of the existing intake as a redundant source of water supply, as recommended by the WI DNR."

Recommendation: The city will continue using the existing intake pipe as a

redundant source of water supply, as recommended by the WI DNR, when a new pipe is constructed.

7.2.1 Municipal Wastewater Treatment Plant Effluent Load Reductions: P. 45

"The Wastewater Utility anticipates that regulatory changes in the next 10-20 years will further work to reduce loading to Chequamegon Bay through the regulation of phosphorus and nitrogen."

Recommendation: The City should monitor the regulatory process and prepare for the impact of these requirements from a technical and managerial perspective.

7.2.2 City of Ashland Sanitary System Load Reductions; P. 46

"During testing of the sanitary sewer collection system in 2019, city staff noticed an usually high amount of clear water flowing into a manhole near the water treatment plant. Field investigation revealed that backwash water, used to clean filtration units used in the drinking water treatment process, was being disposed of in the sanitary sewer system. Upon consultation with the WI DNR, it was determined that this water could instead be directly discharged to the storm sewer system and Chequamegon Bay, as it was free of any of the chemicals used at the water treatment plant.

"City staff are currently pursuing an aggressive program to evaluate the collection system and anticipates the identification and elimination of similar discharges to the sanitary sewer as these efforts are further implemented."

Recommendation: City staff will pursue an aggressive program to evaluate the collection system and identify and eliminate similar discharges to the sanitary sewer as these efforts are further implemented.

7.2.3 Sanitary Sewer Overflow/Inflow and Infiltration Reduction; P. 47

"Smoke testing to identify leaking sewer lines was completed in 2019 but results were inconclusive, an indication that I&I is seen from multiple diffuse sources. A pilot study completed with a specialized firm from Finland resulted in the identification of a few large sources of inflow, including one from a private property. The city is working to partner with the property owner on necessary repairs, but future changes to applicable city ordinances and regulations will be

necessary for the efficient organization and enforcement of similar repairs throughout the city."

Recommendation: The City will partner with property owners on necessary repairs on private properties.

Recommendation: The City will determine future changes to applicable city ordinances and regulations in order to efficiently organize and enforce similar repairs throughout the city.

Recommendation: Future capital projects for the sewer collection system will be scheduled annually and supported by a funding allocation directed by the city council.

7.2.3 Sanitary Sewer Overflow/Inflow and Infiltration Reduction; P. 48

"The first step to managing the I&I issue is to measure the extent of the problem… The wastewater utility is in a good position to address the impact of I&I on the sewer collection system as a result of council direction to prioritize this work and the annual allocation of funds to support it. However, it is critical that the city continue to prioritize and support these efforts on a long term and ongoing basis in order to ensure control of I&I and ensure source water protection through the regular collection, treatment, and disposal of wastewater in accordance with WI DNR requirements."

Recommendation: The city should continue to prioritize and support these efforts on a long term and ongoing basis in order to ensure control of I&I and ensure source water protection through the regular collection, treatment, and disposal of wastewater in accordance with WI DNR requirements.

7.3.1 Urban Runoff Load Reductions: Stormwater Utility; P. 50

"Managing stormwater quality is a requirement, particularly for communities located adjacent to pristine water resources. As such, municipal stormwater management programs are becoming an important part of a community's infrastructure and overall operational costs. As comprehensive stormwater management programs grow in complexity they begin to resemble electric, water, and wastewater utility systems. It is becoming increasingly common to consider stormwater management as a public utility."

Recommendation: The creation of a stormwater utility ultimately should be the future long-term end goal of the City of Ashland.

P. 51: "Although the creation of a stormwater utility is not feasible at this time, a long-term priority with a funding strategy will need to be developed in order to provide a means for implementation that does not further diminish available resources for other city priority programs."

7.3.1 Urban Runoff Load Reductions: Ongoing City Efforts; P. 50

"The City continues to seek opportunities to best reduce nonpoint source pollution and source pollution within the storm sewer system. Road reconstruction and paving projects frequently result in reduced roadway widths and associated runoff. A 2019 project at Maslowski Beach saw the installation of a bioswale for the collection, treatment, and disposal of runoff. Another example is the construction of the new police station, which incorporated onsite facilities for stormwater treatment. Reducing nonpoint source pollution should be a top priority in any development or redevelopment projects."

Recommendation: Reducing nonpoint source pollution should be a top priority in any development or redevelopment projects.

7.3.1 Urban Runoff Load Reductions: Green Infrastructure; P. 50

"Green infrastructure efforts must be balanced with general stormwater infrastructure maintenance…Well maintained stormwater infrastructure is a key component to stormwater runoff management and should be the city's first priority with installation of green infrastructure being a secondary goal."

Recommendation: City staff should continue to investigate the use of green infrastructure initiatives in applicable projects.

7.3.4 Road Salt Usage Load Reduction; P. 53

"The city recognizes the safety concerns associated with icy roads and winter driving conditions and tries to maintain, to the extent practicable, reasonably clear roads during the winter months. Additionally, the city recognizes the potential water quality concerns that come from road salt-laden runoff from roadways. It is important to find a balance between maintaining safe roads and reducing the amount of road salt used. Essentially, the goal is to use the least amount of salt possible to get the job done."

Recommendation: The City will conduct ongoing outreach programs about salt usage, with a primary goal of educating residents, leaders, and winter maintenance professionals on salt pollution and solutions, providing training, and promoting best practices to reduce salt pollution and recognize contractors committed to using the right amount of salt for conditions.

Recommendation: The City will provide this to new employees and will evaluate new technology and alternatives with the potential to reduce road salt application, such as new plow blades for existing equipment that can more effectively remove ice from roadways.

7.4.1 Sediment Load Reductions; P. 55

"The Mary Griggs Burke Center for Freshwater Innovation, along with other partners, have completed one bluff restoration project on North Fish Creek, and another is scheduled to begin construction in the summer of 2021. Prioritizing restoration in this area of the watershed is vital to reducing sediment loads in Chequamegon Bay since eroding bluffs in North Fish Creek are the primary contributors of sediment into the watershed."

Recommendation: The City should continue to work with local and regional partners when possible to stabilize erosion along stream banks, which continue sediments to Chequamegon Bay.

7.4.2 Hydrodynamics; P. 55

"Bathymetry mapping efforts are planned for 2021. The city does not need to be directly involved with this project at this time, but it is important to keep up to date with research findings, which will help anticipate potential threats to the drinking water system based on patterns of pollutant movement."

Recommendation: The City will keep up to date with research findings about research results related to currents in the Bay.

7.4.3 Nutrient Load Reductions; P. 57

"Nutrient load reductions are achieved by reducing the amount of nutrient laden surface water runoff that reaches lakes and rivers and when the amount of nutrients contained in the surface water runoff is reduced.

"Ashland County has adopted NR151 rules and is able to enforce NR 151 regulations at the county level….Bayfield County has adopted NR151 rules and is

able to enforce NR 151 regulations at the county level. In addition, they have adopted a number of county ordinances to manage large scale livestock operations."

Recommendation: Ashland County will consider also adopting ordinances similar to Bayfield County's regarding CAFO operations (see ordinance titles and links and p. 57 of this plan.)

7.4.4 Land Spreading Load Reductions; P. 57

"The City of Ashland has the most direct control over land spreading of municipal sludge from Ashland's wastewater treatment plant. The city has a WPDES permit (#0030767) that regulates the city's land spreading. The wastewater utility is responsible for complying with the terms of the WPDES permit and completing all required testing. The wastewater treatment plan is under the supervision of the City of Ashland Public Works Department. The wastewater department should consider SWP during long range planning and look for opportunities to upgrade facilities and improve processes to reduce pollutant runoff and improve source water quality."

Recommendation: The wastewater department should consider source water protection during long range planning and look for opportunities to upgrade facilities and improve processes to reduce pollutant runoff and improve source water quality.

7.5.1 City of Ashland Private Well Ordinance; P. 58

"Cities have the authority to regulate private wells within the municipal boundary. Private wells in the City of Ashland are regulated under Chapter 705 *Water Utility Rates and Regulations*, Section 705.19(b). Generally speaking, the city can better ensure the quality and reliability of drinking water through the public water system, rather than private wells, due to the technical staff and regulation associated with the system. The city should more strongly enforce the provisions of the above ordinance and also consider modifications to require connection to the public water system for all residences, commercial, industrial, and institutional entities within the municipal boundary in a designated time period."

Recommendation: The City should more strongly enforce the provisions of the above ordinance and also consider modifications to require connection to the

public water system for all residences, commercial, industrial, and institutional entities within the municipal boundary in a designated time period.

7.5.3 Capture Zone Delineation; P. 59

"Having a better understanding of where groundwater pumped from a well comes from allows for better decision making on how to protect the well. While it is not practical to delineate the capture zones for the many private wells in the SWP area, delineating capture zones for the 28 non-municipal public supply wells within the SWP area could be completed with a reasonable amount of effort."

Recommendation: The City of Ashland should support efforts to work with Ashland and Bayfield counties to better understand and delineate groundwater capture zones for non-municipal public wells within the SWP area.

7.5.4 County Well Head Protection Ordinance; P. 59

"A common regulatory approach to protecting public wells is adopting a wellhead protection ordinance. A wellhead protection ordinance works to protect groundwater quality near a well by regulating land use within a specified distance of the well and maintaining minimum setbacks from potential groundwater contaminant sources. Municipalities often use this approach, but it can easily be expanded to non-municipal public wells at a county wide scale... The City of Ashland should support efforts to work with Bayfield and Ashland counties to develop and adopt county wellhead protection ordinances."

Recommendation: The City of Ashland will support efforts to work with Bayfield and Ashland counties to develop and adopt county wellhead protection ordinances.

7.6.1 Community Education and Outreach; P. 59

"The wastewater utility has recently developed educational materials regarding the proper disposal of waste products in order to allow for reliable operation of the sewage collection system and wastewater treatment plant."

Recommendation: The city should seek opportunities to staff future outreach campaigns with AmeriCorp or similar staffing programs, either in a short term or permanent capacity, as well as look to broaden the approach to incorporate sanitary sewer and drinking water management.

7.6.2 Coordination with Local Organizations; P. 60

"The City of Ashland coordinates with local groups and organizations on a variety of efforts to protect water quality in the Chequamegon Bay."

Recommendation: The City should seek additional opportunities to work with organizations to promote source water protection or activities that protect and improve water quality. Such groups include League of Women Voters, Superior Rivers Watershed Association, UW Extension Ashland County, Ashland County Human Health Services Department, Lake Superior Collaborative, Ashland County Land and Water Conservation Department, City of Ashland's Sustainability Committee, City of Ashland's Public Works Advisory Committee, and local schools.

Recommendation: The City of Ashland should look for opportunities to work with local elementary, middle and high schools to educate students on the importance of protecting water resources.

7.1.2 Coordination with Other Departments; P. 61
"The plan has been provided to other city departments for awareness and discussion regarding the implementation. Source water protection impacts all departments in a variety of ways but key stakeholders within the city include the Public Works, Finance, Planning, Parks and Recreation, and Fire/EMS Departments."

Recommendation: The Public Works Director will coordinate inter-departmental management of the plan as needed to keep all department heads and staff invested and engaged in the implementation.

Recommendation: The source water protection plan will be used as a guidance and reference to these departments as they conduct planning activities and implementation related to their department's mission and associated goals.

Recommendation: City Departments should periodically review the plan to ensure members are familiar with its recommendations and goals.

8.1.2 Regulatory Requirements; P. 62
"The city's primary tool for communications plan related to the drinking water system is as a stakeholder in the Ashland County Emergency Operations plan (EOP). Discussions with the WI DNR have brought up that this plan needs to be updated."

Recommendation: The city should participate in and support efforts to update the Ashland County EOP.

8.3.2 Communication Methods; P. 63
"Communications with the public regarding source water quality issues may be provided by several different methods depending on the situation."

Recommendation: The City of Ashland will notify customers potentially affected by an incident/event using one or more of the following options:
- Direct contact (phone, text and email)
- Local media (press release, press conference, updates)
- County emergency alert system
- Website and social media (Facebook, Twitter)
- Door-to-door/door hangers
- Posted notices (city hall, public library)

By Lissa Radke
Ashland County UW Extension
August 2023

Sample Seeding City Ordinances: August 2022

By Lissa Radke, Ashland County UW Extension, August 15, 2022

1. City of Milwaukee

https://city.milwaukee.gov/SWMP/Erosion-Control/Basic-Control-Measures/Construction-Site-Seeding

Construction Site Seeding

Code References

- "All disturbed ground left inactive for 10 or more days shall be stabilized by seeding or sodding, or by mulching or covering, or other equivalent control measure." (Reference: Section 290-7.2.e-3 of the City Code of Ordinances).
- "If {soil or dirt storage piles are} remaining for more than 10 days, they shall be stabilized by mulching, vegetative cover, tarps, or other means." (Reference: Section 290-7.2.e-6 of the City Code of Ordinances).

Quick Tips

- Seeding shall be inspected weekly at minimum and within 24 hours after a precipitation event of 0.5 inches or greater. Continue to inspect seeded areas on a weekly basis through the growing season or until vegetation is densely established.
- Seeded areas showing erosion damage shall be repaired and reseeded.
- Temporary seeding shall be applied on a minimum 2-inch deep seedbed of loose soil.
- Permanent seeding shall be applied on a minimum 4-inch deep seedbed of loose topsoil with the ability to support a dense vegetative cover.
- Rocks, twigs, foreign materials, and clods over 2-inches shall be removed or broken down prior to seeding.
- Seed shall be applied no more than 1/4 inch deep.
- Perform a soil test prior to applying fertilizer to avoid over-application of fertilizer.

Applicable Standard

- "Seeding for Construction Site Erosion Control" (WDNR Technical Standard 1059).

Related Weblinks

- "Critical Area Planting" (USDA-NRCS Field Office Technical Guide Section IV, Standard 342).
- "Lawn & Garden Fertilizers" (University of Wisconsin-Extension Publication GWQ002).

2. Kansas City Ordinance

https://kcmetro.apwa.net/Content/Chapters/kcmetro.apwa.net/File/Specifications%2FSection%202400%20-%20Seeding%20Sodding%20and%20Overseeding_APWA%20021517.pdf

2400.6 Acceptance of Seeding and Sodding

A. Acceptance: Acceptance by the Owner will occur when areas seeded and/or sodded are determined to be established turf areas ready for mowing. Grass areas in excess of one (1) square foot that are dead or in poor condition regarding color and quality shall be replaced at the Contractor's expense prior to the initiation of the Maintenance Period.

B. Sod Watering: Throughout the Maintenance Period, the Contractor shall be responsible for watering the installed sod until it is established and ready for mowing. In the absence of rainfall, watering shall be performed daily during the first week and shall be sufficient to maintain moist soil to a depth of at least 4 inches. Soil on sod pads shall be kept moist at all times. Watering may be done during the heat of the day to help prevent wilting. After the second week, the Contractor shall water the sod as required to maintain adequate moisture in the upper 4 inches of topsoil necessary for the promotion of deep root growth until final acceptance as established turf areas ready for mowing.

C. Seed Watering: The Contractor shall be responsible for watering seeded areas, keeping all areas moist throughout the germination period, following the substantial germination of the seed, and during the occurrence of a dry or drought period. Continued watering will be required until final acceptance as established turf areas ready for mowing.

D. Acceptance Notification: After acceptance of the seeded or sodded area by the Owner, the Contractor shall by door hangers or other approved methods, notify all affected property owners that the maintenance of the grassed areas is now their responsibility.

EXCERPT:

SECTION 2401 SEEDING 2401.1 Scope This section governs furnishing all labor, materials and equipment necessary for complete installation of seeding in American

Public Works Association 4 February 2017 Kansas City Metropolitan Chapter accordance with the Standard Drawings, the specifications and Special Provisions.

The Contractor shall furnish all plants and materials and perform all operations in connection with the preparation, fertilizing, placing, watering, firming and establishment, of seeding areas, complete and in strict accordance with these specifications and applicable Plans, and subject to the terms and conditions of the Contract.

The Contractor shall seed disturbed areas where shown on the Plans or by field inspection and as required by the Storm Water Pollution Prevention Plan.

The Contractor shall be responsible for establishment of grass.

2401.2 Materials A. Seed: Seed shall be labeled in accordance with U.S. Department of Agriculture Rules and Regulations under Federal Seed Act. All seed shall be furnished in sealed standard containers unless exception is granted in writing by the Owner. Seed shall be free from noxious weeds and recleaned “Grade A” recent crop seed treated with appropriate fungicide at time of mixing. Seed which has become wet, moldy, or otherwise damaged in transit or in storage will not be acceptable. Seed mix to be used will be identified prior to sowing.

The minimum percentage by weight of pure live seed in each lot of seed shall be as follows: 1. Seeding – Mix #1 (Turf Areas) Festuca arundinacea, Fineleaf Tall Fescue. Varieties- Houndog V. Rebel Jr., Rebel III, Rebel 3D, Barlexas, Millennium, Southern Choice, Tar Heel, Wolf Pack, Bonsai 2000, Shortstop II Coyote, or other pre-approved substitutes ..... 62.5% Poa pratensis, Kentucky Bluegrass. Varieties- Baran, Nassau, Ram I, Nublue, Rugby II, Award, Blacksburg, Challenger, Eagleton, Limousine, Livingston, Midnight, Nuglade, Preakness, Princeton 105, Quantum Leap, 1757 or other approved substitutes ..... 25.0% Lolium multiflorum – annual ryegrass ..... 12.5% 2. Seeding – Mix #2 (Low Use Areas) Fescure ovina, Sheeps Fescue. Varieties- Azay, Big Horn, or other pre-approved substitutes .....
.....
.... 15.0% Fescura rubra subsp. Commutata, Chewings Fescue, Varieties-James town II, Victory, Tiffany, or other approved substitutes
..... 20.0% Fescuca longifolia, Hard Fescue. Varieties- Spartan, Tournament, Warwick, Discovery, Waldina, Aurora, 4 AG Attila, Reliant II, Scaldis, or other pre-approved substitutes ..... 35.0% Fescuca ruba subp. Ruba, Creeping Red Fescue. Varieties- Shademaster II, Jasper, Cindy, Pennlawn, or other pre-approved substitutes 30.0%

3. Canyon City, Colorado

https://www.canoncity.org/DocumentCenter/View/249/Seeding-and-Revegetation-PDF

1.3 SUBMITTALS A. Product Data: Submit product information and design. Standard Construction Specifications Seeding & Revegetation City of Cañon City 2017 02924 – 2

1. Submittals shall include seed mixes and certification of seed testing dated within 6 months prior to seeding; guaranteed analysis or manufacturers certified test results for mulches, soil amendments, compost, tackifiers, etc.; certified topsoil analysis from an independent soils laboratory prior to topsoil delivery; rolled erosion control products (RECP), and any other appurtenances . The Contractor shall also submit an irrigation plan.
2. ….

Another section had details on what kinds of plant seeds are allowable.

4. Conway, Arkansas

An Ordinance gets passed requiring tree planting after new building projects are completed. A 6-minute video bemoaning the trees clear cut to make room for new housing units or other dwellings.

https://www.youtube.com/watch?v=qWsBmCPROFo

Passed 7 to 0!

5. Wisconsin Seed Law and Rule (2006)

Microsoft PowerPoint - Helmbrecht-2006.ppt (wisc.edu)

6. USDA Wisconsin Agronomy Technical Note 5

Establishing and Maintaining Native Grasses, Forbs and Legumes

7. WIDNR Seeding Regulations

Microsoft Word - Seeding For Construction Site Erosion Control _1059_.doc (wisconsin.gov)

Important Excerpt: B. Seeding 1. Seed Selection a. Seed mixtures that will produce dense vegetation shall be selected based on soil and site conditions and intended final use. Section IX References, lists sources containing suggested seed mixtures.

b. All seed shall conform to the requirements of the Wisconsin Statutes and of the Administrative Code Chapter ATCP 20.01 regarding noxious weed seed content and labeling.

c. Seed mixtures that contain potentially invasive species or species that may be harmful to native plant communities shall be avoided.

Lissa Radke

UW Extension August 15, 2022

PUBLIC FOOD TREE/SHRUB PLANTING ORDINANCE PROPOSAL

A property owner may plant food trees/shrubs in the space between the edge of the sidewalk and the curb (hereafter referred to as the "planting strip") with a Public Food Tree/Shrub Planting Permit granted by the Public Works Department. (This may be obtained through a quick and comprehensive application process (a simplified version of the existing Right-of-Way Permit Application), without cost (or at minimal cost) to the property owner. The permit application will require the address of the parcel, and a brief description of the planting, including the number of plants, their location(s), and type(s) and variety/varieties of fruit/nut (if known.)

The property owner may (and is encouraged to) opt to have their registered planting(s) placed on a map of public food trees/shrubs in the City of Ashland, which will be made accessible through the Parks and Recreation page on the COAWI website. In this case, the planting(s) should be clearly marked as available for harvest by members of the public using a sign, or other easily visible marker.

The property owner shall be responsible for care and maintenance of the planting(s) without the use of chemical inputs, and for the removal and use/disposal in a timely manner of any fruits/nuts which may fall on the sidewalk, on the planting strip, or in the street.

No food tree/shrub over four feet in height may be grown within 35ft of an intersection (standard based on that used by the City of Sheboygan, which makes reference only to trees, not to shrubs.)

If a person purchases a property with a registered food tree/shrub growing in its planting strip, the new owner may choose to continue to maintain the planting in accordance with City maintenance standards, or may choose to remove the planting, notifying the Public Works Department no less than ten days prior to the removal.

Relevant Existing Ordinances:

MC454.05 Private Planting on Public Property
No person shall plant any tree, shrub or plant of any kind on any public property, including property between the lot line and curb or improved portion of any street or alley, without first having consulted the Director of Public Works or his designee and obtaining the applicable permit(s) [Right-of-Way Permit] from the Public Works Department.

MC501.02(o) Definitions
Public Right-Of-Way. A public way or thoroughfare dedicated or platted for public use which includes but is not limited to, a street, road, highway, alley, sidewalk, bicycle path and bridge. A public right-of-way includes that portion between the curb lines or the lateral lines of a public way and the adjacent property lines (commonly referred to as a boulevard or shoulder).

MC530.09(a) Winter Sidewalk Maintenance

The Department [of Public Works] may cause the removal of snow and ice from sidewalks that have not been removed in the required time period by the responsible property owners. Failure to remove snow and ice from sidewalks as provided by this Ordinance will result in a fine or forfeiture levied against the abutting property owner as provided by these Ordinances. Also, the Department shall bill the abutting property owner for the full cost of removing the snow and ice and if unpaid a lien may be placed on the property in accordance with Wisconsin Statute (66.615).

MC530.10(c) Prohibited Acts

No one shall allow an ongoing accumulation of toys, debris, bicycles, or any other item that may be considered unsafe for pedestrian movement.

City of Ashland Public Works Decontamination BMPs

Invasive species are harmful to the environment the economy and human health. The most cost-effective method of addressing invasive species is to prevent their establishment and limit their spread.

Decontamination Policy

This document was created to help guide decontamination practices, it is not meant to fit into every situation, but rather a starting point to use along with best management practices and best professional judgment to limit the spread of invasive species.

When to Inspect

Inspection should be done before:

- Moving vehicles out of a local area of operation
- Moving machinery between properties or sites within the same property where invasive species may be present in one area, and not in another
- Using machinery along roadsides, in ditches, and along watercourses
- Vehicles using unformed dirt roads, trails or off road conditions
- Using machinery to transport soil and quarry materials
- Visiting remote areas where access by vehicles is limited

Inspection should be done after:

- Operating in areas known to have terrestrial invasive plants or are in high risk areas (i.e. recently disturbed areas near known invaded areas)
- Transporting material (i.e. soil) that is known to contain, or has the potential to contain, invasive species
- Operating in an area or transporting material that you are uncertain contain invasive species
- In the event of rain. If mud contains seeds, they can travel indefinitely until it rains or the road surface is wet, allowing for long distance transport. This may result in transporting seeds to areas where those species did not previously exist

When to Clean

Vehicles and heavy equipment that stay on formed and sealed roads have a low risk of spreading invasive species. Cleaning is only required when inspection identifies visible dirt clods and plant material or when moving from one area to another. Depending on the invasive species present, vehicles may need to be cleaned even when deep snow is present. Phragmites, for example, can still be spread, even

in packed snow because the seed heads are usually above the surface of the snow. *Regular inspection of vehicles and machinery will identify if any soil or plant material has been collected on or in vehicles and machinery.

Where to Clean

Clean the vehicle/equipment in an area where contamination and seed spread is not possible (or limited). The site should be:

• Ideally, mud free, gravel covered or a hard surface. If this option is not available, choose a well maintained (i.e. regularly mowed) grassy area.

• Gently sloping to assist in draining water and material away from the vehicle or equipment. Care should be taken to ensure that localized erosion will not be created, and that water runs back into the area where contamination occurred.

• At least 30m away from any watercourse, water body and natural vegetation.

• Large enough to allow for adequate movement of larger vehicles and equipment.

*Safely locate the vehicle and equipment away from any hazards. If mechanized, ensure engine is off and the vehicle or equipment is immobilized.

How to Clean Inside

Clean the interior of the vehicle by sweeping, vacuuming or using a compressed air device. Particular attention should be paid to the floor, foot wells, pedals, seats and under the seats.

How to Clean Outside

Knock off all large clods of dirt. Use a pry bar or other device if necessary. Identify areas that may require cleaning with compressed air rather than water such as radiators and grills. Clean these areas first prior to using water.

Clean the vehicle with a high pressure hose in combination with a stiff brush and/or pry bar to further assist the removal of dirt clods. Start cleaning from the top of the vehicle and work down to the bottom. Emphasis should be placed on the undersides, wheels, wheel arches, guards, chassis, engine bays, radiator, grills and other attachments.

When the cleaning is finished avoid driving through the waste water when removing the vehicle or equipment from the cleaning site.

For equipment such as water trucks that may be exposed to aquatic invasive species, trucks should be disinfected with bleach solution before conducting work in a new area.

Safety Precautions

When practicing decontamination, staff should do so safely. Consider the following:

- Wear proper personal protection equipment such as safety glasses and gloves when needed
- Ensure staff are trained on the use of decontamination equipment such as pressure washer and air compressors.

- Comply with manufacturers' recommendation to sustain the life of decontamination equipment and prevent damage or safety concerns.

Specific Practices

Personal Gear

• To remove debris, scrub personal gear with a stiff bristle brush and rinse with clean water (municipal, bottled, well, etc.), and then refer to one of the disinfection options outlined in the manual code.

• An adhesive roller can be used on clothing to remove seeds and plant materials that could spread.

• Note that hot water and steam can damage gortex (rain gear) and melt seams of waders/boots.

• Heat resistant gloves, nitrile gloves, splash goggles, face shield, emergency eyewash stations and other personal protective equipment should be used.

• When using chlorine or Virko Aquatic solution on personal equipment, some individuals spray and place equipment in plastic bags to maintain a wet surface for the desired contact time, however, soaking has been found to be more effective with certain species/disinfectant combinations, and bagging sprayed applications equipment does not increase the efficacy of spray

Heavy Equipment

• Scrub equipment with a stiff bristled brush or spray with pressurized water to remove any sediment.

• Steam-cleaning or hot water (=140) is an effective method for disinfecting heavy equipment.

• Steam-cleaning will not be effective if soil and other organic matter is present so be sure to scrub equipment with a stiff bristled brush.

• Decontamination should take place in areas where equipment is unloaded and loaded.

• Before transporting a piece of heavy equipment from one project site to the next, debris and soil must be cleaned off the tracks, tires and other portions of the piece(s) of equipment by hand with hand tools or with high pressurized water. The piece of equipment is then coated with steam/hot water after debris and mud are removed from the piece of equipment.

Chapter NR 40

INVASIVE SPECIES IDENTIFICATION, CLASSIFICATION AND CONTROL

NR 40.01 Purpose.
NR 40.02 Definitions.
NR 40.03 Classifications.
NR 40.04 Prohibited category.
NR 40.045 Emergency additions to prohibited category.
NR 40.05 Restricted category.
NR 40.06 Invasive species permits.
NR 40.07 Preventive measures.
NR 40.08 Enforcement.
NR 40.09 Interagency coordination.

NR 40.01 Purpose. The purpose of this chapter is to identify, classify and control invasive species in Wisconsin as part of the department's statewide program required by s. 23.22 (2) (a), Stats.

History: CR 08–074: cr. Register August 2009 No. 644, eff. 9–1–09.

NR 40.02 Definitions. For purposes of this chapter:

(1) "Algae" means a predominately photosynthetic eukaryotic organism ranging from unicellular to macroscopic forms, lacking true roots, stems, leaves, and embryos.

(2) "Animal" means all vertebrate and invertebrate species, including but not limited to mammals, birds, reptiles, amphibians, fish, mollusks, arthropods, insects, and their eggs, larvae or young, but excluding humans.

(3) "Aquatic animal" means any vertebrate or invertebrate species that lives or grows only in water during any life stage, and includes the eggs, larvae or young of those species.

(3m) "Aquatic invasive species" means any invasive species that dwells in water or wetlands.

(4) "Aquatic plant" means a submergent, emergent, free–floating or floating–leaf plant and includes any part of the plant.

(5) "Attached" means in, on, or physically connected to in any way.

(6) "Boat" means any device capable of being used as a means of transportation on water.

(7) "Category" means a grouping of species designated by administrative rule for which there are specific legal requirements or restrictions.

(7g) "Cave" means any naturally occurring void, cavity, recess or system of interconnected passageways beneath the surface of the earth or in a bluff, cliff or ledge, including pits and sinkholes, but does not include a rock shelter.

(7r) "Commercial cave or mine" means a cave or mine that has more than 1,000 visitors per year and charges a fee.

(8) "Contain" or "containment" means to prevent spread beyond a designated boundary.

(9) "Control" has the meaning given it in s. 23.22 (1) (a), Stats. In addition, "control" includes activities to eliminate or reduce the adverse effects of invasive species including decreasing or eradicating their population or limiting their introduction or spread, and includes destroying the aboveground, and when necessary, the belowground portions of a plant in a manner and at the proper time to prevent the development and distribution of viable seeds or other propagules. For plants that reproduce vegetatively, "control" includes the use of methods that contain or reduce the vegetative spread of the plant.

Note: Section 23.22 (1) (a), Stats., states that "control" means to cut, remove, destroy, suppress, or prevent the introduction or spread of.

(9m) "Crayfish" means any decapod crustacean from the following families: *Astacidae*, *Cambaridae* and *Parastacidae*.

(10) "Cultivate" means, for plants, intentionally maintaining an individual or population of a plant.

(11) "Cyanobacteria" means a predominately photosynthetic prokaryotic organism occurring singly or in colonies.

(12) "DATCP" means the Wisconsin department of agriculture, trade and consumer protection.

(13) "Department" means the Wisconsin department of natural resources.

(14) "Disposal" means the lawful discharge, deposit, dumping or placing of any invasive species into or on any land or water in a manner that prevents the establishment, introduction or spread of the disposed species, or the consumption of the species as food.

(15) "Eradicate" means to remove an entire population of an invasive species and all its propagules from an area of infestation.

(16) "Established" means, for algae and cyanobacteria, plants, terrestrial invertebrates and plant disease–causing microorganisms, aquatic invertebrates except crayfish, and terrestrial and aquatic vertebrates except fish, present in an area as a self–sustaining population that is dispersed to the extent that eradication is either infeasible or will take a significant effort over a period of several years.

(17) "Established nonnative fish species and established nonnative crayfish species" means alewife (*Alosa pseudoharengus*), common carp (*Cyprinus carpio*), eastern mosquitofish (*Gambusia holbrooki*), rainbow smelt (*Osmerus mordax*), round goby (*Neogobius melanostomus*), ruffe (*Gymnocephalus cernuus*), sea lamprey (*Petromyzon marinus*), three–spine stickleback (*Gasterosteus aculeatus*), tubenose goby (*Proterorhinus marmoratus*), white perch (*Morone americana*), ~~and~~ rusty crayfish (*Orconectes rusticus*), and western mosquitofish (*Gambusia affinis*).

(18) "Feral" means existing in an untamed or wild, unconfined state, having returned to such a state from domestication.

(19) "Genetically modified" refers to an organism whose genome, chromosomal or extrachromosomal, is modified permanently and heritably, using recombinant nucleic acid techniques, and includes the progeny of any genetically modified organism.

(20) "Identified carrier of an invasive species" means any material identified in a department infestation control designation under s. 26.30 (7), Stats., a DATCP quarantine under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine declaration under 7 USC section 7714 or 7715 as potentially carrying an invasive species.

(21) "Import" means to bring into Wisconsin or to arrange for another person to bring into Wisconsin.

(22) "Incidental" means something is done inadvertently when performing an otherwise legal activity.

(23) "Introduce" means to stock, plant, release or otherwise put an invasive species into the outdoor environment or use an invasive species in this state anywhere except within an indoor facility which is designed to physically contain the organism, including but not limited to a laboratory, greenhouse, growth chamber or fermenter.

(24) "Invasive species" has the meaning given it in s. 23.22 (1) (c), Stats. In addition, "invasive species" means nonnative species including hybrids, cultivars, subspecific taxa, and genetically modified variants whose introduction causes or is likely to cause

economic or environmental harm or harm to human health, and includes individual specimens, eggs, larvae, seeds, propagules, and any other viable life–stages of such species. For fish, "invasive species" includes all nonnative species.

Note: Section 23.22 (1) (c), Stats., states that "invasive species" means nonindigenous species whose introduction causes or is likely to cause economic or environmental harm or harm to human health. The department does not consider dead specimens or organisms that are dead, not revivable, and no longer capable of living, growing, developing, reproducing, and functioning as "invasive species".

(25) "Management action" means limiting the spread of established populations or abating harmful ecological, economic, social and public health impacts associated with invasive species introductions.

(25m) "Mine" means any artificial excavation, shaft, underground passageway, slope, tunnel or working from which ore or mineral is or was extracted, but does not include an open pit mine. However, caves or mines may be located adjacent to open pit mines.

(26) "Native duckweed" means any of the following: *Lemna aequinoctialis* (lesser duckweed, three–nerved duckweed), *Lemna minor* (common duckweed), *Lemna obscura* (little duckweed, purple duckweed), *Lemna perpusilla* (least duckweed, minute duckweed), *Lemna trisulca* (forked duckweed, star duckweed), *Lemna turionifera* (perennial duckweed, turion duckweed), *Spirodela polyrrhiza* (giant duckweed), *Wolffia borealis* (northern watermeal), *Wolffia brasiliensis* (Brazilian watermeal), and *Wolffia columbiana* (Columbian watermeal).

(27) "Native species" means a species indigenous to Wisconsin, and includes an individual specimen. For fish, "native species" means those fish species identified as native fish species in *Wisconsin Fishes 2000: Status and Distribution,* by Lyons, J., P. A. Cochran, and D. Fago, published by University of Wisconsin Sea Grant Institute, and includes an individual specimen, regardless of the specimen's origin.

(28) "Natural areas" means undeveloped or wild lands and those lands preserved or restored and managed for their natural features, including but not limited to parks, forests, refuges, grasslands, wetlands and shorelines on public and private lands.

(29) "Nonnative" or "nonnative species" means a species not indigenous to Wisconsin, and includes an individual specimen.

(30) "Nonnative fish species in the aquaculture industry" means arctic char (*Salvelinus alpinus*), Atlantic salmon (*Salmo salar*), brown trout (*Salmo trutta*), chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*Oncorhynchus kisutch*), rainbow trout (*Oncorhynchus mykiss*), pink salmon (*Oncorhynchus gorbuscha*), redear sunfish (*Lepomis microlophus*), tiger trout (a hybrid of *Salvelinus fontinalis* and *Salmo trutta*) and tilapia (*Tilapia* spp).

(31) "Nonnative viable fish species in the aquarium trade" means goldfish (*Carassius auratus*), koi carp (*Cyprinus carpio*), sterlet (*Acipenser ruthenus*), Chinese hi–fin banded shark (*Myxocyprinus asiaticus*), bitterling (*Rhodeus* spp.), ide (*Leuciscus idus*) and weather loach (*Misgurnus anguillicaudatus*).

(32) "Non–reproductive" means, for plants, not capable of reproduction sexually or asexually.

(33) "Nonviable" means, with respect to aquatic vertebrates including fish species, species for which eggs, fry, or adults are not capable of surviving water temperature below 38 degrees Fahrenheit or not capable of surviving in fresh water. "Nonviable" means, with respect to terrestrial vertebrates, species that are not capable of living, growing, developing, and functioning successfully in Wisconsin's outdoor environment.

(34) "Open pond" means an outdoor pond that is not entirely covered to prevent the escape of fish.

(35) "Order" means an element of the Linnean taxonomic classification system, unless the context indicates otherwise.

(36) "Person" means an individual, partnership, corporation, society, association, firm, unit of government, public agency or public institution, and includes an agent of one of these entities.

(37) "Pet" means an animal raised or kept for companionship and generally kept indoors, in an enclosure or otherwise confined or restrained, and not allowed to roam freely out–of–doors. "Pet" does not include fish and crayfish, or other aquatic invertebrates.

(38) "Plant" means, as a verb, to place entire live plants, plant parts or seeds into the water, the ground or a planter out of doors for the purpose of growing them. "Plant", as a noun, means any member of the Kingdom Plantae, lichens, algae and cyanobacteria, and any varieties, cultivars, hybrids or genetically modified variants thereof, and includes any plant parts capable of vegetative or sexual reproduction.

(39) "Plant taxa" mean taxonomic categories or units of plant classification, such as family, genus, species, variety and cultivar.

(40) "Possess" means to own, maintain control over, restrain, hold, grow, raise or keep.

(41) "Prohibited invasive species" or "prohibited species" means an invasive species that the department, at the time of listing under s. NR 40.04 (2), has determined is likely to survive and spread if introduced into the state, potentially causing economic or environmental harm or harm to human health, but which is not found in the state or in that region of the state where the species is listed as prohibited in s. NR 40.04 (2), with the exception of isolated individuals, small populations or small pioneer stands of terrestrial species, or in the case of aquatic species, that are isolated to a specific watershed in the state or the Great Lakes, and for which statewide or regional eradication or containment may be feasible.

(42) "Propagules" means specimens or parts of a species that are capable of producing additional specimens through either sexual or asexual reproduction, including but not limited to seeds, roots, stems, rhizomes, tubers and spores.

(43) "Public highway" means every public street, alley, road, highway or thoroughfare of any kind, except waterways, in this state while open to public travel and use, but does not include public boat access sites and associated parking areas.

(44) "Reasonable precautions" means intentional actions that prevent or minimize the transport, introduction, possession or transfer of invasive species. Reasonable precautions include but are not limited to best management practices (BMPs) for invasive species approved by the department, practices recommended by the "Wisconsin Clean Boats, Clean Waters" program and "Stop Aquatic Hitchhikers" campaign, and compliance with DATCP quarantine regulations imposed under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine declared under 7 USC section 7714 or 7715. For the transfer of aquatic plants, reasonable precautions include verifying that the species transferred is identified correctly and is not listed in s. NR 40.04 or 40.05 as prohibited or restricted, and that there are no other listed invasive species comingled with the species being transferred.

(45) "Recombinant nucleic acid techniques" means laboratory techniques through which genetic material is isolated and manipulated in vitro and then inserted into an organism, resulting in a transgenic organism.

(46) "Restricted invasive species" or "restricted species" means an invasive species that the department, at the time of listing under s. NR 40.05 (2), has determined is already established in the state or in that region of the state where the species is listed as restricted in s. NR 40.05 (2) and that causes or has the potential to cause economic or environmental harm or harm to human health, and for which statewide or regional eradication or containment may not be feasible.

(46m) "Rock shelter" means an overhang or cave–like opening in a bluff, cliff or ledge that is shallow and does not provide an area of substantial daytime darkness.

(47) "Safe facility" means, for fish, an aquarium or container that does not directly drain into a water of the state, is not subject to intermittent or periodic flooding, is not connected to any water of the state, and is not an open pond. For crayfish and other aquatic invertebrates, "safe facility" means an aquarium or container that prevents the escape of the aquatic invertebrates and that does not directly drain into a water of the state.

(48) "Species" means monera, protista, fungi, plantae, animalia, viruses, phytoplasmas, mycoplasma–like organisms and prions and includes seeds, propagules and individual living specimens, eggs, larvae, and any other viable life–stages of such species. "Species" includes genetically modified species, cultivars, hybrids and sub–specific taxa.

(49) "Transfer" means to buy, sell, trade, barter, exchange, give or receive or to offer to buy, sell, trade, barter, exchange, give or receive.

(50) "Transport" means to cause, or attempt to cause, an invasive species to be imported or carried or moved within the state, and includes accepting or receiving a specimen for the purpose of transportation or shipment.

(51) "Unknowing" means unaware of the presence of a prohibited or restricted invasive species.

(52) "Waters of the state" has the meaning given it in s. 281.01 (18), Stats.

Note: Section 281.01 (18), Stats., provides as follows: "Waters of the state" includes those portions of Lake Michigan and Lake Superior within the boundaries of this state, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within this state or its jurisdiction.

(53) "Wild animal" means any mammal, bird, or other creature of a wild nature endowed with sensation and the power of voluntary motion, except fish and crayfish and other aquatic invertebrates.

History: CR 08–074: cr. Register August 2009 No. 644, eff. 9–1–09; CR 10–016: cr. (3m), am. (16), (42) and (53) Register August 2010 No. 656, eff. 9–1–10; EmR1039: emerg. cr. (7g), (7r), (25m), (46m), eff. 11–3–10; CR 10–123: cr. (7g), (7r), (25m), (46m) Register May 2011 No. 665, eff. 6–1–11; CR 14–034: cr. (9m), am. (14), (17), (37), (53) Register April 2015 No. 712, eff. 5–1–15.

NR 40.03 Classifications.

(1) CLASSIFICATION CATEGORIES. For purposes of this chapter, invasive species are classified into the following categories: prohibited and restricted.

Note: For informational and educational purposes, the department informally maintains and updates as needed a caution list of invasive species and a list of non–restricted invasive species. Caution list invasive species are either not found in the state, or if they are, the extent of their presence or impact is not sufficiently documented. Caution list species may have shown evidence of invasiveness in similar environments in other states and could potentially spread in Wisconsin. Unlike the prohibited and restricted categories, caution list category invasive species are not regulated under this chapter. Additional information is needed to determine if caution list species belong in another category. Non–restricted invasive species may have adverse environmental, recreational or economic impacts or cause harm to human health. Most of the non–restricted species are already integrated into Wisconsin's ecosystems, and state–wide control or eradication is not practical or feasible. Non–restricted category invasive species are not regulated under this chapter. All other non–native species recommended for listing as invasive but not yet assessed for this rule are put on an informal pending list. Future rule revisions will involve assessing some species from this list.

(2) CRITERIA. The department shall consider the following criteria in classifying a nonnative species as an invasive species for the purpose of this chapter:

(a) The species' potential to directly or indirectly cause economic or environmental harm or harm to human health, including harm to native species, biodiversity, natural scenic beauty and natural ecosystem structure, function or sustainability; harm to the long–term genetic integrity of native species; harm to recreational, commercial, industrial and other uses of natural resources in the state; and harm to the safety or well being of humans, including vulnerable or sensitive individuals.

(b) The extent to which the species is already present in the state, or in portions of the state, including whether there are isolated pioneer stands.

(c) The likelihood that the species, upon introduction, will become established and spread within the state.

(d) The potential for eradicating the species or controlling the species' spread within the state, including the technological and economic feasibility of eradication or control.

(e) The socio–economic value afforded by the species, including any beneficial uses or values the species may provide for recreation, commerce, agriculture or industry within the state.

History: CR 08–074: cr. Register August 2009 No. 644, eff. 9–1–09.

NR 40.04 Prohibited category.

(1) PROHIBITED INVASIVE SPECIES. Prohibited invasive species are identified in this section by scientific and common names and by specific categories of species.

(2) IDENTIFICATION OF PROHIBITED SPECIES. (a) *Algae and cyanobacteria.* The following algae and cyanobacteria invasive species are prohibited:

1g. *Caulerpa taxifolia* (Killer algae)

1r. *Cylindrospermopsis raciborskii* (Cylindro)

2. *Didymosphenia geminata* (Didymo or rock snot), except in Lake Superior

3. *Nitellopsis obtusa* (Starry stonewort)

4. Novel cyanobacterial epiphyte of the order Stigonematales linked with avian vacuolar myelinopathy

5. *Prymnesium parvum* (Golden alga)

6. *Ulva* species, including species previously known as *Enteromorpha* species

(b) *Plants.* The following plant invasive species are prohibited statewide except in the counties listed where they are restricted under s. NR 40.05 (2) (b):

1e. *Achyranthes japonica* (Japanese chaff flower)

1m. *Akebia quinata* (Fiveleaf akebia or chocolate vine)

1s. Ampelopsis brevipedunculata (Porcelain berry) including the variegated cultivar

2. *Anthriscus sylvestris* (Wild chervil) except in Adams, Barron, Chippewa, Crawford, Columbia, Dane, Dodge, Dunn, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Marquette, Milwaukee, Monroe, Ozaukee, Polk, Racine, Richland, Rock, Sauk, Sheboygan, Taylor, Vernon, Walworth, Waukesha, and Washington counties

2e. *Arundo donax* (Giant reed)

2m. *Azolla pinnata* (Mosquito fern)

2s. *Berberis vulgaris* (Common barberry)

3. *Bunias orientalis* (Hill mustard) except in Dane, Grant, Green, Iowa, Lafayette, and Rock counties

4. *Cabomba caroliniana* (Fanwort)

4g. *Cardamine impatiens* (Narrow leaf bittercress)

4n. *Celastrus loeseneri* (Asian loeseneri bittersweet)

4r. *Centaurea diffusa* (Diffuse knapweed)

4w. *Centaurea repens* (Russian knapweed)

5. *Centaurea solstitialis* (Yellow star thistle)

7. *Cirsium palustre* (European marsh thistle) except in Ashland, Bayfield, Chippewa, Clark, Door, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Marinette, Menominee, Oconto, Oneida, Price, Rusk, Sawyer, Shawano, Taylor and Vilas counties

8. *Conium maculatum* (Poison hemlock) except in Buffalo, Crawford, Dane, Grant, Green, Iowa, Jefferson, Kenosha, La Crosse, Lafayette, Milwaukee, Monroe, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Trempealeau, Vernon, Walworth, and Waukesha counties

9. Crassula helmsii (Australian swamp crop or New Zealand pygmyweed)

10. *Cytisus scoparius* (Scotch broom)

10g. *Digitalis lanata* (Grecian foxglove)

10r. *Dioscorea batatas* or *Dioscorea polystacha* (Chinese yam)

11. *Dioscorea oppositifolia* (Indian yam)

12. *Egeria densa* (Brazilian waterweed or wide–leaf anacharis)

12g. *Eichhornia azurea* (Anchored water hyacinth)

12r. *Eichhornia crassipes* (Water hyacinth, floating)

13. *Epilobium hirsutum* (Hairy willow herb) except in Brown, Calumet, Door, Kenosha, Kewaunee, and Manitowoc counties

13e. *Fallopia* x *bohemicum* or *F.* x *bohemica* or *Polygonum* x *bohemicum* (Bohemian knotweed)

13m. *Fallopia sachalinensis* or *Polygonum sachalinense* (Giant knotweed)

13s. *Glossostigma cleistanthum* (Mudmat)

14. *Glyceria maxima* (Tall or reed mannagrass) except in Brown, Calumet, Columbia, Dane, Dodge, Door, Fond du Lac, Green, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha and Winnebago counties

15. *Heracleum mantegazzianum* (Giant hogweed)

16. *Humulus japonicus* (Japanese hops) except in Buffalo, Crawford, Dane, Grant, Green, Iowa, Jackson, La Crosse, Lafayette, Monroe, Pepin, Richland, Sauk, Trempealeau, and Vernon counties

17. *Hydrilla verticillata* (Hydrilla)

18. *Hydrocharis morsus–ranae* (European frogbit)

18d. *Hydrocotyle ranunculoides* (Floating marsh pennywort)

18h. *Hygrophila polysperma* (Indian swampweed)

18p. *Impatiens glandulifera* (Policeman's helmet)

18t. *Ipomoea aquatica* (Water spinach)

19. *Lagarosiphon major* (Oxygen–weed, African elodea or African waterweed)

20. *Lepidium latifolium* (Perennial or broadleaved pepperweed)

21. *Lespedeza cuneata* or *Lespedeza sericea* (Sericea or Chinese lespedeza)

22. *Leymus arenarius* or *Elymus arenarius* (Lyme grass or sand ryegrass) except in Door, Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, and Sheboygan counties

22g. *Limnophila sessiliflora* (Asian marshweed)

22r. *Linaria dalmatica* (Dalmatian toadflax) except in Juneau and Bayfield counties

23. *Lonicera japonica* (Japanese honeysuckle)

24. *Lonicera maackii* (Amur honeysuckle) except in Adams, Brown, Buffalo, Calumet, Columbia, Crawford, Dane, Dodge, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Manitowoc, Marquette, Milwaukee, Monroe, Outagamie, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago counties

24m. *Lythrum virgatum* (Wanded loosestrife)

25. *Microstegium vimineum* (Japanese stilt grass)

26. *Myriophyllum aquaticum* (Parrot feather)

27. *Najas minor* (Brittle naiad, or lesser, bushy, slender, spiny or minor naiad or waternymph)

27m. *Nelumbo nucifera* (Sacred lotus)

28. *Nymphoides peltata* (Yellow floating heart)

28e. *Oenanthe javanica* (Java waterdropwort or Vietnamese parsley)

28m. *Oplismenus hirtellus* ssp. *undulatifolius* (Wavy leaf basket grass)

28s. *Ottelia alismoides* (Ducklettuce)

29. *Paulownia tomentosa* (Princess tree)

29d. *Petasites hybridus* (Butterfly dock)

29h. *Phellodendron amurense* (Amur cork tree) except male cultivars and seedling rootstock

29p. *Phragmites australis* (Phragmites or common reed) non–native ecotype except in Brown, Calumet, Columbia, Dane, Dodge, Door, Florence, Fond du Lac, Forest, Green Lake, Jefferson, Kenosha, Kewaunee, Langlade, Manitowoc, Marathon, Marinette, Marquette, Menominee, Milwaukee, Oconto, Outagamie, Ozaukee, Portage, Racine, Rock, Shawano, Sheboygan, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago counties

29t. *Pistia stratiotes* (Water lettuce)

30. *Polygonum perfoliatum* or *Persicaria perfoliata* (Mile–a–minute vine)

32. *Pueraria montana* or *P. lobata* (Kudzu)

33. *Quercus acutissima* (Sawtooth oak)

33g. *Ranunculus ficaria* (Lesser celandine)

33r. *Rubus armeniacus* (Himalayan blackberry)

34. *Rubus phoenicolasius* (Wineberry or wine raspberry)

34b. *Sagittaria sagittifolia* (Hawaii arrowhead)

34f. *Salvinia herzogii* (Giant salvinia)

34k. *Salvinia molesta* (Giant salvinia)

34p. *Solidago sempervirens* (Seaside goldenrod) except in Kenosha, Milwaukee and Racine counties

34s. *Sorghum halepense* (Johnsongrass)

34w. *Stratiotes aloides* (Water soldiers)

34y. *Taeniatherum caput–medusae* (Medusahead)

35. *Torilis arvensis* (Spreading hedgeparsley)

36. *Torilis japonica* (Japanese hedgeparsley or erect hedgeparsley) except in Adams, Brown, Calumet, Columbia, Crawford, Dane, Dodge, Door, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Langlade, Manitowoc, Marathon, Marinette, Marquette, Menominee, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Portage, Racine, Richland, Rock, Sauk, Shawano, Sheboygan, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago counties

37. *Trapa natans* (Water chestnut)

37e. *Tussilago farfara* (Colt's foot)

37m. *Typha domingensis* (Southern cattail)

37s. *Typha laxmannii* (Graceful cattail)

38. *Vincetoxicum nigrum* or *Cynanchum louiseae* (Black or Louise's swallow–wort) except in Columbia, Crawford, Dane, Grant, Green, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Milwaukee, Monroe, Racine, Richland, Rock, Sauk, Vernon, Walworth and Waukesha counties

39. *Vincetoxicum rossicum* or *Cynanchum rossicum* (Pale or European swallow–wort)

40. *Wisteria floribunda* (Japanese wisteria)

41. *Wisteria sinensis* (Chinese wisteria)

(c) *Fish and crayfish.* The following fish invasive species and crayfish invasive species are prohibited:

1. *Channidae* (snakehead), including *Channa argus* (Northern snakehead), *Channa bleheri* (Rainbow snakehead), *Channa gachua* (Dwarf snakehead), *Channa maculata* (Blotched snakehead), *Channa marulius* (Bullseye snakehead), *Channa punctata* (Spotted snakehead), and *Channa striata* (Chevron snakehead)

2. *Ctenopharyngodon idella* (Grass carp)

3. *Cyprinella lutrensis* (Red shiner)

6. *Hypophthalmichthys molitrix* (Silver carp)

7. *Hypophthalmichthys nobilis* (Bighead carp)

8. *Mylopharyngodon piceus* (Black carp)

9. *Sander lucioperca* (Zander)

10. *Scardinius erythrophthalmus* (Rudd)

11. *Tinca tinca* (Tench)

12. All other nonnative fish and nonnative crayfish except:

a. Established nonnative fish species and established nonnative crayfish species

b. Nonnative viable fish species in the aquarium trade

c. Nonnative fish species in the aquaculture industry

d. Nonviable fish species

e. Genetically modified fish species

(d) *Aquatic invertebrates except crayfish.* The following aquatic invertebrate invasive species are prohibited:

1. *Bithynia tentaculata* (Faucet snail)

2. *Bythotrephes cederstroemi* (Spiny water flea)

3. *Cercopagis pengoi* (Fishhook water flea)

4. *Corbicula fluminea* (Asian clam)

5. *Daphnia lumholtzi* (Water flea)

5m. *Dikerogammarus villosus* (Killer shrimp)

6. *Dreissena rostriformis* (Quagga mussel)

7. *Eriocheir sinensi* (Chinese mitten crabs)

8. *Hemimysis anomala* (Bloody shrimp)

8g. *Limnoperna fortune*i (Golden mussel)

8r. *Melanoides tuberculata* (Malaysian trumpet snail)

9. *Potamopyrgus antipodarum* (New Zealand mud snail)

(e) *Terrestrial invertebrates and plant disease–causing microorganisms.* The following terrestrial invertebrate invasive species and plant disease–causing microorganism invasive species are prohibited:

1. *Adelges tsugae* (Hemlock woolly adelgid)

4. *Anoplophora glabripennis* (Asian longhorned beetle)

5e. *Dendroctonus ponderosae* (Mountain pine beetle)

5m. *Geosmithia morbida* (Thousand cankers disease of walnut)

6. *Lymantria dispar Asian race* (Asian Gypsy moth)

7. *Phytophthora ramorum* (Sudden oak death pathogen)

8. *Pityophthorus juglandis* (Walnut twig beetle)

Note: These terrestrial invertebrates and plant disease–causing microorganisms are also regulated by the department under s. NR 45.04 and by DATCP under ch. ATCP 21 and ch. 94, Stats.

Note: For species that are both listed under ch. NR 40 and quarantined at the federal and/or the state level, the department determines that "reasonable precautions" allow for the incidental possession, transport, transfer, or introduction of a prohibited or restricted organism *within* the boundaries of a federal or state quarantine for that organism.

(f) *Terrestrial and aquatic vertebrates except fish.* The following terrestrial and aquatic vertebrate invasive species are prohibited:

1. *Myiopsitta monachus* (Monk or Quaker parakeet or parrot)

1m. *Myocastor coypus* (Nutria)

2. *Sus domestica* (Feral domestic swine)

3. *Sus scrofa* (Russian boar) and other wild swine

(g) *Fungi.* The following fungus invasive species are prohibited:

1. *Pseudogymnoascus destructans* (White–nose syndrome fungal pathogen)

(3) ACTIONS PROHIBITED BY THIS CLASSIFICATION; EXEMPTIONS. (a) Except as otherwise provided in pars. (b) to (i), no person may transport, possess, transfer, or introduce a prohibited invasive species identified or listed under sub. (2).

(b) Paragraph (a) does not apply to a person who transports, possesses, transfers or introduces a prohibited invasive species identified or listed under sub. (2) if the department determines that the transportation, possession, transfer or introduction was incidental or unknowing, and was not due to the person's failure to take reasonable precautions.

Note: Paragraph (b) does not apply to preventive measures set out in s. NR 40.07.

(c) If authorized by a permit issued by the department under this chapter, a person may transport, possess, transfer or introduce a prohibited invasive species for research, public display, or, if the species is not a fish or crayfish, for other purposes specified by the department in the permit.

(d) A legally obtained nonnative wild animal that is a pet may be possessed, transported or transferred without a permit issued by the department under this chapter if obtained prior to and located in the State of Wisconsin on the date the species is listed as prohibited under this section, but may not be introduced. The offspring of pets possessed under this paragraph may not be transferred.

(e) Paragraph (a) does not apply to a person who transports, possesses, transfers, or introduces a terrestrial invertebrate or plant disease–causing microorganism that is regulated under a quarantine imposed by DATCP under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine area declared under 7 USC section 7714 or 7715 if any of the following apply:

1. The person is in compliance with a DATCP–USDA APHIS compliance agreement applicable to the terrestrial invertebrate or plant disease–causing microorganism.

2. The transport, possession, transfer or introduction takes place entirely within the quarantine applicable to the terrestrial invertebrate or plant disease–causing microorganism.

(f) Paragraph (a) does not apply to a person who has a permit issued by DATCP under s. ATCP 21.04 for importation, movement, distribution or release of a pest or biological control agent that is a prohibited invasive species identified or listed under sub. (2).

(g) A person may transport, possess or give away a prohibited invasive species for the purpose of identification or disposal without a permit issued by the department under this chapter, if the person reports the location of origin of the prohibited invasive species to the department and no individual specimens or propagules are allowed to escape or be introduced. Reports shall be submitted within 30 days of the person taking possession and shall include contact and property owner information, type and detailed location of the species, the purpose for transporting, possessing or giving away the invasive species, and the final disposition of the invasive species. This paragraph does not apply to terrestrial and aquatic vertebrates or fish species.

Note: Paragraph (g) does not apply to transport of identified carriers of invasive species as described in s. NR 40.07 (5) (a).

Note: Reports for invasive species may be sent to:
Attn: Statewide Invasive Species Coordinator, SS/7
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707–7921

Note: Reports may also be sent by email to invasive.species@wisconsin.gov.

(h) Paragraph (a) does not apply to any of the following:

1. A person who holds a scientific collector permit for the invasive species under s. 29.614, Stats.

2. A person who, while lawfully fishing, inadvertently catches a fish invasive species.

3. Employees or duly authorized agents of the department in the performance of their official duties.

Note: Section NR 20.20 (73) (c) 1. sets a bag limit of 0 for nonindigenous detrimental fish, but allows one such fish to be taken by hook and line if it is killed immediately and delivered immediately to a department service center or regional office. All nonindigenous fish species are declared under s. NR 20.38 (6) to be detrimental fish if the fish were imported without a permit in violation of s. 29.735, Stats., or are found in any water where their presence is not specifically permitted by the department.

(i) Paragraph (a) does not apply to phragmites associated with a reed bed treatment unit used in a wastewater treatment facility authorized by a WPDES permit under ch. 283, Stats.

(3m) EARLY DETECTION MONITORING. Unless entry is otherwise authorized by law, as part of an invasive species early detection program, the department or its designee may enter property where a cave or mine may be located to monitor, survey or inspect for the presence of the prohibited invasive fungus species *Geomyces destructans* (white–nose syndrome fungal pathogen) in the cave or mine, with permission of the person who owns, controls or manages the property, but if the person does not grant permission or cannot be located by the department after making reasonable effort, the department may seek an inspection warrant under s. 66.0119, Stats., from the appropriate circuit court authorizing entry. Data obtained by the department under this subsection shall be made available to the person who owns, controls or manages the property.

(4) CONTROL REQUIREMENTS. (a) Unless entry is otherwise authorized by law, if the department has reason to believe that a prohibited species is present, the department or its designee may enter property to inspect for, survey or control prohibited species with permission of the person who owns, controls or manages the property, but if the person does not grant permission or cannot be located by the department after making reasonable effort, the department may seek an inspection warrant from the appropriate circuit court authorizing entry.

(b) The department may ask any person who owns, controls or manages property where a prohibited species is present to control the prohibited species in accordance with a plan approved by the department. The department will seek funds to assist in the control of prohibited species. However, a person who owns, controls or manages property where a prohibited species is present is responsible for controlling the prohibited species that exists on the property.

Note: The department anticipates it will request control of a prohibited invasive species only if it is feasible and reasonable to control the prohibited species on the property.

(c) If voluntary cooperation is not achievable or likely, and it is feasible and reasonable to control the prohibited species on the property, the department or its designee may control the prohibited species or it may offer the person the opportunity to negotiate the terms of a consent order for control purposes.

(d) If a consent order is not achievable or likely, the department may issue a unilateral order requiring that the person who owns, controls or manages the property control the prohibited species in accordance with a plan approved by the department unless the department determines that the prohibited species is present through no fault of the person. If the department determines that the prohibited species is present through no fault of the person, the department or its designee may control the prohibited species.

(e) If the person does not control the prohibited species upon order of the department, the department or its designee may control the prohibited species and the department may recover the reasonable and necessary expenses it incurs.

(f) The department may remove, or cause to be removed any detrimental fish or other prohibited invasive species from waters of the state.

Note: All nonindigenous fish species are declared under s. NR 20.38 (6) to be detrimental fish if the fish were imported without a permit in violation of s. 29.735, Stats., or are found in any water where their presence is not specifically permitted by the department.

Note: Persons finding any prohibited species are encouraged to report the species and its location to the department.

History: CR 08–074: cr. Register August 2009 No. 644, eff. 9–1–09; CR 10–016: am. (2) (b) 6., 7., 8., 14., 24., 36., 38., r. and recr. (2) (c) Register August 2010 No. 656, eff. 9–1–10; EmR1039: emerg. cr. (3m), eff. 11–3–10; CR 10–123: cr. (3m) Register May 2011 No. 665, eff. 6–1–11; EmR1036: emerg. cr. (2) (g), eff. 9–29–10; CR 10–115: cr. (2) (g) Register May 2011 No. 665, eff. 6–1–11; CR 14–034: renum. (2) (a) 1. to 1r., cr. (2) (a) 1g., am. (2) (b) (intro.), renum. (2) (b) 1. to 1s., cr. (2) (b) 1e., 1m., am. (2) (b) 2., cr. (2) (b) 2e., 2m., 2s., am. (2) (b) 3., cr. (2) (b) 4g., 4n., 4r., 4w., r. (2) (b) 6., am. (2) (b) 7., 8., cr. (2) (b) 10g., 10r., am. (2) (b) 11., 12., cr. (2) (b) 12g., 12r., am. (2) (b) 13., cr. (2) (b) 13e., 13s., am. (2) (b) 14., 16., cr. (2) (b) 18d., 18h., 18p., 18t., am. (2) (b) 22., cr. (2) (b) 22g., 22r., am. (2) (b) 24., cr. (2) (b) 24m., 27m., 28e., 28m., 28s., 29d., 29h., 29p., 29t., am. (2) (b) 30., renum. (2) (b) 31. to 13m. and am., am. (2) (b) 32., cr. (2) (b) 33g., 33r., 34b., 34f., 34k., 34p., 34s., 34w., 34y., am. (2) (b) 36., cr. (2) (b) 37e., 37m., 37s., 40., 41., r. (2) (c) 4., 5., am. (2) (c) 12. d., cr. (2) (c) 12. e., (d) 5m., 8g., 8r., r. (2) (e) 2., 3., 5., cr. (2) (e) 5e., 5m., 8., (f) 1m., am. (2) (g) 1., (3) (a), (d), renum. (3) (e) to (3) (e) (intro.) and am., cr. (3) (e) 1., 2., cr. (3) (h) 3., (i), am. (4) (f) Register April 2015 No. 712, eff. 5–1–15; correction in (2) (b) 1m., 13e., 27., 29p., (d) 8g., (g) 1., (3) (e) 1. made under s. 35.17, Stats., Register April 2015 No. 712.

NR 40.045 Emergency additions to prohibited category. (1) The department may temporarily identify an additional species as an invasive species and may classify it into the prohibited category of s. NR 40.04 (2) if the secretary determines that all of the following are met:

(a) The species meets the definition of invasive species in s. NR 40.02 (24).

(b) Based on consideration of the criteria of s. NR 40.03 (2), the species meets the definition of prohibited invasive species for inclusion under s. NR 40.04 (2).

(c) An emergency exists, making it necessary for the preservation of public peace, health, safety or welfare, or the environment, to require the immediate identification and classification of the species as a prohibited invasive species under this chapter prior to the time it would take effect if the department complied with the procedures for permanent rulemaking under ch. 227, Stats.

(2) Department action under sub. (1) shall become effective upon issuance of an emergency order by the secretary and publication of a notice of the emergency order in the official state newspaper.

(3) The department shall provide the notice of the emergency order to the Wisconsin Council on Invasive Species and shall promptly notify the public of its determination by issuing a press release, by posting the notice of the emergency order on the department's internet site, and by such other means as the department determines are reasonably likely to inform the public.

(4) During the time that an emergency order issued under sub. (2) is in effect, the actions prohibited by s. NR 40.04 (3) (a) and the exemptions of s. NR 40.04 (3) (b) through (h) apply to the additional species. In addition, the control requirements of s. NR 40.04 (4) apply to the additional species.

(5) The identification and classification under sub. (1) of an additional species as an invasive species in the prohibited category terminates 2 years after the emergency order is issued under sub. (2), when the emergency order issued under sub. (2) is withdrawn by the department, or when a permanent rule takes effect adding the species to this chapter, whichever occurs first.

Note: Under s. 23.22 (2t) (a), Stats., the department may promulgate an emergency rule to identify, classify, or control an invasive species and is not required to provide evidence that such a rule is necessary for the preservation of public peace, health, safety, or welfare or to provide a finding of emergency for such a rule. An emergency rule promulgated under s. 23.22 (2t) (a), Stats., remains in effect for 24 months or until the repeal of the emergency rule, or until the effective date of the permanent rule identifying, classifying, or controlling the invasive species, whichever occurs first.

History: CR 08–074: cr. Register August 2009 No. 644, eff. 9–1–09.

NR 40.05 Restricted category. (1) RESTRICTED INVASIVE SPECIES. Restricted species are listed or identified in this section by scientific and common names and by specific categories of species.

(2) IDENTIFICATION OF RESTRICTED SPECIES. (a) *Algae and cyanobacteria.* The following algae and cyanobacteria invasive species are restricted: None.

(b) *Plants.* The following plant invasive species are restricted statewide except in the counties not listed where they are prohibited under s. NR 40.04 (2) (b):

1e. *Acer tataricum* subsp. *ginnala* (Amur maple) except all cultivars

Note: Effective date of listing: May 1, 2015.

1m. *Aegopodium podagraria* (Bishop's goutweed)

Note: Effective date of listing: May 1, 2015.

1s. *Ailanthus altissima* (Tree of heaven)

2. *Alliaria petiolata* (Garlic mustard)

2m. *Alnus glutinosa* (Black alder) except all cultivars and hybrids

Note: Effective date of listing: May 1, 2015.

3. *Anthriscus sylvestris* (Wild chervil) in Adams, Barron, Chippewa, Crawford, Columbia, Dane, Dodge, Dunn, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Marquette, Milwaukee, Monroe, Ozaukee, Polk, Racine, Richland, Rock, Sauk, Sheboygan, Taylor, Vernon, Walworth, Waukesha, and Washington counties

3g. *Artemisia absinthium* (Wormwood)

Note: Effective date of listing: May 1, 2015.

3r. *Berberis thunbergii* (Japanese barberry). This restriction only applies to the parent type, the variety *atropurpurea*, the hybrid of *B. thunbergii* x *B. koreana*, and the following cultivars. *Berberis thunbergii* cultivars: Sparkle, 'Anderson' Lustre Green™, Erecta, 'Bailgreen' Jade Carousel®, Angel Wings, Painter's Palette, Inermis ('Thornless'), Pow Wow, Golden Ring, Kelleriis, Kobold, 'JN Variegated' Stardust™ and Antares. Variety *atropurpurea* cultivars: Marshall Upright ('Erecta'), Crimson Velvet, 'Bailtwo' Burgundy Carousel®, Red Rocket, 'Monomb' Cherry Bomb™, 'Bailone' Ruby Carousel®, JN Redleaf, Rose Glow and Silver Mile. Hybrid of *B. thunbergii* x *B. koreana* cultivars: Tara and 'Bailsel' Golden Carousel®.

Note: Effective date of listing: May 1, 2015.

4. *Bunias orientalis* (Hill mustard) in Dane, Grant, Green, Iowa, Lafayette, and Rock counties

5. *Butomus umbellatus* (Flowering rush)

6. *Campanula rapunculoides* (Creeping bellflower)

6m. *Caragana arborescens* (Siberian peashrub) except the cultivars Lorbergii, Pendula, and Walkerii

Note: Effective date of listing: May 1, 2015.

7. *Carduus acanthoides* (Plumeless thistle)

8. *Carduus nutans* (Musk thistle or nodding thistle)

9. *Celastrus orbiculatus* (Oriental bittersweet)

10. *Centaurea biebersteinii*, *Centaurea maculosa* or *Centaurea stoebe* (Spotted knapweed)

10e. *Centaurea jacea* (Brown knapweed)

Note: Effective date of listing: May 1, 2015.

10m. *Centaurea nigra* (Black knapweed)

Note: Effective date of listing: May 1, 2015.

10s. *Centaurea nigrescens* (Tyrol knapweed)

Note: Effective date of listing: May 1, 2015.

11. *Chelidonium majus* (Celandine)

12. *Cirsium arvense* (Canada thistle)

13. *Cirsium palustre* (European marsh thistle) in Ashland, Bayfield, Chippewa, Clark, Door, Florence, Forest, Iron, Langlade, Lincoln, Marathon, Marinette, Menominee, Oconto, Oneida, Price, Rusk, Sawyer, Shawano, Taylor and Vilas counties

14. *Conium maculatum* (Poison hemlock) in Buffalo, Crawford, Dane, Grant, Green, Iowa, Jefferson, Kenosha, La Crosse, Lafayette, Milwaukee, Monroe, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Trempealeau, Vernon, Walworth, and Waukesha counties

14m. *Coronilla varia* (Crown vetch)

Note: Effective date of listing: May 1, 2015.

15. *Cynoglossum officinale* (Hound's tongue)

16. *Dipsacus laciniatus* (Cut–leaved teasel)

17. *Dipsacus sylvestris* or *Dipsacus fullonum* (Common teasel)

18. *Elaeagnus angustifolia* (Russian olive)

19. *Elaeagnus umbellata* (Autumn olive)

20. *Epilobium hirsutum* (Hairy willow herb) in Brown, Calumet, Door, Kenosha, Kewaunee, and Manitowoc counties

21. *Epipactis helleborine* (Helleborine orchid)

21m. *Euonymus alatus* (Burning bush) including the cultivar 'Nordine' and excluding all other cultivars

Note: Effective date of listing: May 1, 2015.

22. *Euphorbia cyparissias* (Cypress spurge)

23. *Euphorbia esula* (Leafy spurge)

23g. *Fallopia japonica* or *Polygonum cuspidatum* (Japanese knotweed)

23r. *Filipendula ulmaria* (Queen of the meadow)

Note: Effective date of listing: May 1, 2015.

24. *Galeopsis tetrahit* (Hemp nettle)

24m. *Galium mollugo* (White bedstraw)

Note: Effective date of listing: May 1, 2015.

25. *Glyceria maxima* (Tall or reed mannagrass) in Brown, Calumet, Columbia, Dane, Dodge, Door, Fond du Lac, Green, Jefferson, Kenosha, Kewaunee, Manitowoc, Milwaukee, Outagamie, Ozaukee, Racine, Rock, Sheboygan, Walworth, Washington, Waukesha, and Winnebago counties

26. *Hesperis matronalis* (Dame's rocket)

27. *Humulus japonicus* (Japanese hops) in Buffalo, Crawford, Dane, Grant, Green, Iowa, Jackson, La Crosse, Lafayette, Monroe, Pepin, Richland, Sauk, Trempealeau, and Vernon counties

27e. *Impatiens balfourii* (Balfour's touch–me–not)

Note: Effective date of listing: May 1, 2015.

27m. *Iris pseudacorus* (Yellow iris)

Note: Effective date of listing: May 1, 2015.

27s. *Knautia arvensis* (Field scabiosa)

Note: Effective date of listing: May 1, 2015.

28. *Leymus arenarius* or *Elymus arenarius* (Lyme grass or sand ryegrass) in Door, Kenosha, Kewaunee, Manitowoc, Milwaukee, Ozaukee, Racine, and Sheboygan counties

28m. *Linaria dalmatica* (Dalmation toadflax) in Juneau and Bayfield counties

29. *Lonicera maackii* (Amur honeysuckle) in Adams, Brown, Buffalo, Calumet, Columbia, Crawford, Dane, Dodge, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Manitowoc, Marquette, Milwaukee, Monroe, Outagamie, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago counties

30. *Lonicera morrowii* (Morrow's honeysuckle)

31. *Lonicera tatarica* (Tartarian honeysuckle)

32. *Lonicera x bella* (Bell's or showy bush honeysuckle)

32g. *Lysimachia nummelaria* (Moneywort) except the cultivar Aurea and yellow and gold leaf forms

Note: Effective date of listing: May 1, 2015.

32r. *Lysimachia vulgaris* (Garden yellow loosestrife)

Note: Effective date of listing: May 1, 2015.

33. *Lythrum salicaria* (Purple loosestrife)

Note: Purple loosestrife is also designated as an invasive aquatic plant statewide under s. NR 109.07 (2).

33e. *Morus alba* (White mulberry) except male cultivars

Note: Effective date of listing: May 1, 2015.

33m. *Myosotis scorpioides* (Aquatic forget–me–not)

Note: Effective date of listing: May 1, 2015.

33s. *Myosotis sylvatica* (Woodland forget–me–not)

Note: Effective date of listing: May 1, 2015.

34. *Myriophyllum spicatum* (Eurasian watermilfoil)

Note: Eurasian watermilfoil is also designated as an invasive aquatic plant statewide under s. NR 109.07 (2).

34m. *Najas marina* (Spiny naiad)

Note: Effective date of listing: May 1, 2015.

35. *Pastinaca sativa* (Wild parsnip), except for the garden vegetable form

35m. *Phalaris arundinacea* var. *picta* (Ribbon grass or gardener's garters) and other ornamental variegated varieties and cultivars. This restriction does not include the parent type – reed canary grass.

Note: Effective date of listing: May 1, 2015.

36. *Phragmites australis* (Phragmites or common reed) non–native ecotype in Brown, Calumet, Columbia, Dane, Dodge,

Door, Florence, Fond du Lac, Forest, Green Lake, Jefferson, Kenosha, Kewaunee, Langlade, Manitowoc, Marathon, Marinette, Marquette, Menominee, Milwaukee, Oconto, Outagamie, Ozaukee, Portage, Racine, Rock, Shawano, Sheboygan, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago counties

36m. *Pimpinella saxifraga* (Scarlet pimpernel)

Note: Effective date of listing: May 1, 2015.

37m. *Populus alba* (White poplar)

Note: Effective date of listing: May 1, 2015.

38. *Potamogeton crispus* (Curly–leaf pondweed)

Note: Curly–leaf pondweed is also designated as an invasive aquatic plant statewide under s. NR 109.07 (2).

39. *Rhamnus cathartica* (Common buckthorn)

40. *Rhamnus frangula* or *Frangula alnus* (Glossy buckthorn) including the Columnaris (tall hedge) cultivar but excluding the cultivars Asplenifolia and Fineline (Ron Williams)

40g. *Robinia hispida* (Rose acacia)

Note: Effective date of listing: May 1, 2015.

40r. *Robinia pseudoacacia* (Black locust) except all cultivars

Note: Effective date of listing: May 1, 2015.

41. *Rosa multiflora* (Multiflora rose)

41m. *Solidago sempervirens* (Seaside goldenrod) in Kenosha, Milwaukee and Racine counties

42. *Tanacetum vulgare* (Tansy), except the cultivars Aureum and Crispum

43. *Torilis japonica* (Japanese hedgeparsley or erect hedgeparsley) in Adams, Brown, Calumet, Columbia, Crawford, Dane, Dodge, Door, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, Kewaunee, La Crosse, Lafayette, Langlade, Manitowoc, Marathon, Marinette, Marquette, Menominee, Milwaukee, Monroe, Oconto, Outagamie, Ozaukee, Portage, Racine, Richland, Rock, Sauk, Shawano, Sheboygan, Vernon, Walworth, Washington, Waukesha, Waupaca, Waushara, and Winnebago counties

44. *Typha angustifolia* (Narrow–leaf cattail)

45. *Typha x glauca* (Hybrid cattail)

45g. *Ulmus pumila* (Siberian elm) except hybrids and individuals used as rootstock

Note: Effective date of listing: May 1, 2015.

45r. *Valeriana officinalis* (Garden heliotrope)

Note: Effective date of listing: May 1, 2015.

46. *Vincetoxicum nigrum* or *Cynanchum louiseae* (Black or Louise's swallow–wort) in Columbia, Crawford, Dane, Grant, Green, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Lafayette, Milwaukee, Monroe, Racine, Richland, Rock, Sauk, Vernon, Walworth and Waukesha counties

(c) *Fish and crayfish.* The following fish invasive species and crayfish invasive species are restricted:

1. Established nonnative fish species and established nonnative crayfish species

2. Nonnative viable fish species in the aquarium trade

3. Nonnative fish species in the aquaculture industry

4. Nonviable fish species

5. Viable genetically modified native and nonnative fish species.

(d) *Aquatic invertebrates except crayfish.* The following aquatic invertebrate invasive species are restricted:

1. *Cipangopaludina chinensis* (Chinese mystery snail)

1m. *Cipangopaludina japonica* (Japanese trapdoor snail or Japanese mystery snail)

2. *Dreissena polymorpha* (Zebra mussel)

3. *Valvata piscinalis* (European valve snail)

4. *Viviparus georgianus* (Banded mystery snail)

(e) *Terrestrial invertebrates and plant disease–causing microorganisms.* The following terrestrial invertebrate invasive species and plant disease–causing microorganism invasive species are restricted:

1m. *Agrilus planipennis* (Emerald ash borer)

2. *Amynthas* or *Amynthus* species (Jumping worm)

3. *Lymantria dispar* (European Gypsy moth) European race in all counties except those included in a DATCP quarantine under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine declaration under 7 USC section 7714 or 7715.

Note: A new common name for *Lymantria dispar*, spongy moth, replaced the prior name of this insect, gypsy moth, in 2022. The department acknowledges this decision and will make the name change in future rule making.

Note: Spongy moth is also regulated by DATCP under ch. ATCP 21 and ch. 94, Stats.

Note: For species that are both listed under NR 40 and quarantined at the federal and/or the state level, the department determines that "reasonable precautions" allow for the incidental possession, transport, transfer, or introduction of a prohibited or restricted organism *within* the boundaries of a federal or state quarantine for that organism.

(3) ACTIONS RESTRICTED BY THIS CLASSIFICATION; EXEMPTIONS. (a) Except as otherwise provided in pars. (b) to (o), no person may do any of the following:

1. Transport, possess, transfer or introduce a restricted invasive fish or crayfish species identified or listed under sub. (2).

2. Transport, transfer or introduce any other restricted invasive species identified or listed under sub. (2).

(b) Paragraph (a) does not apply to a person who transports, possesses, transfers or introduces a restricted invasive species identified or listed under sub. (2) if the department determines that the transportation, possession, transfer or introduction was incidental or unknowing, and was not due to the person's failure to take reasonable precautions.

Note: Paragraph (b) does not apply to preventive measures set out in s. NR 40.07.

(c) If authorized by a permit issued by the department under this chapter, a person may transport, possess, transfer or introduce a restricted invasive species for research, public display, or for other purposes specified by the department in the permit.

(d) A legally obtained nonnative wild animal that is a pet may be possessed, transported or transferred without a permit issued by the department under this chapter if obtained prior to and located in the State of Wisconsin on the date the species is listed as restricted under this section. The offspring of pets possessed under this paragraph may not be transferred except as a gift.

(e) Paragraph (a) does not apply to a person who transports, possesses, transfers or introduces a terrestrial invertebrate or plant disease–causing microorganism that is regulated under a quarantine imposed by DATCP under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine area declared under 7 USC section 7714 or 7715 if any of the following apply:

1. The person is in compliance with a DATCP–USDA APHIS compliance agreement applicable to the terrestrial invertebrate or plant disease–causing microorganism.

2. The transport, possession, transfer, or introduction takes place entirely within the quarantine applicable to the terrestrial invertebrate or plant disease–causing microorganism.

(f) A person may transport or give away a restricted invasive species for the purpose of identification, education, control, or disposal without a permit issued by the department under this chapter, if no viable individual specimens or propagules are allowed to escape or be introduced. This paragraph does not apply to terrestrial and aquatic vertebrates or fish species.

Note: New populations of restricted aquatic plant species may be reported to the appropriate department regional aquatic invasive species coordinator. Visit the DNR website (dnr.wi.gov) keywords "reporting invasives" to view a list of waterbodies with known invasives and reporting contacts.

(h) Restricted plant species parts that are incapable of reproducing or propagating may be transported, transferred or intro-

duced without a permit issued by the department under this chapter.

(i) Multiflora rose, when used as root stock for ornamental roses, may be transported, transferred or introduced without a permit issued by the department under this chapter.

(j) Koi carp and goldfish may be transported, possessed or transferred without a permit issued by the department under this chapter but koi carp may not be used as bait or introduced to any water of the state except waters of the state that are artificial, entirely confined and retained upon the property of a person, do not drain to other waters of the state, are not subject to intermittent or periodic flooding, and are not connected to any other water of the state.

Note: Section NR 20.08 (1) prohibits the use of goldfish as bait and the possession of goldfish in any form or manner on any water of the state.

(k) If held in a safe facility, nonviable fish species and nonnative viable fish species in the aquarium trade may be transported, possessed or transferred without a permit issued by the department under this chapter. In addition, rusty crayfish taken from the Mississippi River can be used as bait on the Mississippi River as authorized under s. NR 19.27 (4) (a) 1. a.

Note: Possession of dead crayfish for purposes of fishing bait on all waters, including outlying waters, is not prohibited under this chapter, but may be restricted under other rules that regulate the use of certain types of bait for fishing purposes.

(L) Nonnative fish species in the aquaculture industry may be transported, possessed in a safe facility, possessed in a registered fish farm, or transferred without a permit issued by the department under this chapter.

Note: A department permit is required under this chapter and s. 29.735, Stats., to import nonnative fish for the purpose of introduction into any waters of the state, and under s. 29.736, Stats., to stock or introduce any fish, and DATCP regulates fish farms under ch. ATCP 10.

(m) Paragraph (a) does not apply to a person who has a permit issued by DATCP under s. ATCP 21.04 for importation, movement, distribution or release of a pest or biological control agent that is a restricted invasive species identified or listed under sub. (2).

(n) Paragraph (a) does not apply to phragmites associated with a reed bed treatment unit used in a wastewater treatment facility authorized by a WPDES permit under ch. 283, Stats.

(o) Paragraph (a) does not apply to any of the following:

1. A person who holds a scientific collector permit for the invasive species under s. 29.614, Stats.

2. A person who, while lawfully fishing, inadvertently catches a fish invasive species.

3. Employees or duly authorized agents of the department in the performance of their official duties.

Note: Section NR 20.20 (73) (c) 1. sets a bag limit of 0 for nonindigenous detrimental fish, but allows one such fish to be taken by hook and line if it is killed immediately and delivered immediately to a department service center or regional office. All nonindigenous fish species are declared under s. NR 20.38 (6) to be detrimental fish if the fish were imported without a permit in violation of s. 29.735, Stats., or are found in any water where their presence is not specifically permitted by the department.

(p) Restricted plants listed under sub. (2) that are not also listed as prohibited under s. NR 40.04 (2) (b) and that were located in Wisconsin prior to the effective date of the listing of the species under sub. (2) may be transported, transferred, and introduced without a permit for a period not to exceed 3 years for herbaceous plants and woody vines, or 5 years for trees and shrubs, from the effective date of the listing of that species under sub. (2).

Note: The effective date of the listing of a species under sub. (2) is the effective date of the rule that adds the species under sub. (2). Plants added to the restricted list under sub. (2) after 2009 are indicated by a note following the listing in sub. (2) stating the effective date of the listing. All plant listings in sub. (2) without an effective date note have been restricted since 2009.

(4) CONTROL REQUIREMENTS. Any person who grows a restricted plant at a nursery shall make a good faith effort to destroy it upon closure of the nursery.

Note: Any person who owns, controls or manages land where a restricted plant species is present in the pioneering stage, in an area otherwise not infested with that species or where there is a high priority resource threatened by a restricted plant species is encouraged to control the restricted plant or contain it to the already infested sites, to reduce its population, and to foster an increase in desired species.

History: CR 08–074: cr. Register August 2009 No. 644, eff. 9–1–09; CR 10–016: am. (2) (b) 11., 13., 14., 25., 29., 43., 46. Register August 2010 No. 656, eff. 9–1–10; CR 14–034: am. (2) (b) (intro.), renum. (2) (b) 1. to 1s., cr. (2) (b) 1e., 1m., 2m., am. (2) (b) 3., cr. (2) (b) 3g., 3r., am. (2) (b) 4., cr. (2) (b) 6m., 10e., 10m., 10s., am. (2) (b) 11., 14., cr. (2) (b) 14m., am. (2) (b) 20., cr. (2) (b) 21m., 23r., 24m., am. (2) (b) 25., 27., cr. (2) (b) 27e., 27m., 27s., am. (2) (b) 28., cr. (2) (b) 28m., am. (2) (b) 29., cr. (2) (b) 32g., 32r., 33e., 33m., 33s., 34m., 35m., am. (2) (b) 36., cr. (2) (b) 36m., renum. (2) (b) 37. to 23g. and am., cr. (2) (b) 37m., 40g., 40r., 41m., am. (2) (b) 42., 43., cr. (2) (b) 45g., 45r., (c) 5., (d) 1m., 3., 4., renum. (2) (e) 1. to 3., cr. (2) (e) 1m., 2., r. (2) (f), am. (3) (d), renum. (3) (e) to (e) (intro.) and am., cr. (3) (e) 1., 2., am. (3) (f), r. (3) (g), am. (3) (k), cr. (3) (o) 3., (p) Register April 2015 No. 712, eff. 5–1–15; correction in (2) (b) 3., 3r., 8., 35m., 36., (3) (e) 1. made under s. 35.17, Stats., Register April 2015 No. 712; CR 16–037: am. (2) (b) 3., 13., 14., 33s., (e) 2. Register April 2017 No. 736, eff. 5–1–17.

NR 40.06 Invasive species permits. A person may transport, possess, transfer or introduce a prohibited invasive species listed in s. NR 40.04 (2), or a restricted invasive species listed in s. NR 40.05 (2), if the person has been issued a permit by the department under this section for the activity.

(1) WRITTEN APPLICATION REQUIRED. (a) Applications for permits under this chapter shall be submitted in writing to the department on forms available from the department. The application shall include the name and quantity or number of invasive species specimens for which a permit is sought, whether the permit is sought for the transportation, possession, transfer or introduction of the invasive species, a description of other relevant permits, approvals or licenses of the applicant and the applicant's purpose or reasons for seeking a permit. The department may request additional information in order to determine whether the criteria of sub. (2) are met. This may include but is not limited to: where the invasive species is located or will be kept, how they will be kept from spreading into the wild, how they will be disseminated, and how they will be destroyed once the applicant is done using them.

Note: Applications for permits may be sent to:
Attn: Statewide Invasive Species Coordinator, SS/7
Wisconsin Department of Natural Resources
PO Box 7921
Madison, WI 53707–7921

Note: Reports may also be sent by email to invasive.species@wisconsin.gov.

(b) The department shall act on complete permit applications within 45 days following receipt of the application.

(2) APPROVAL CRITERIA. The department shall review permit applications to determine whether all of the following criteria are met:

(a) The applicant is knowledgeable in the proper management or humane care of the invasive species.

(b) The applicant has an adequate site or facility for containment of the invasive species.

(c) The applicant has demonstrated to the department's satisfaction that permitted activities will not cause significant ecologic or economic harm or harm to human health.

(d) The applicant has complied with the conditions of any previous department permits issued under this chapter.

(3) ISSUANCE AND CONDITIONS. (a) If it determines that there is significant public interest, the department may hold a public informational hearing on a permit application before acting on the application.

(b) An applicant meeting the criteria described in sub. (2) may be issued a permit subject to conditions the department considers reasonable.

(4) RECORDS AND REPORTING. Each permittee shall keep a current, correct and complete record of all permit activities as required by the department, on forms available from the department. Permit records may be inspected and copied by the department at any time. Copies of records shall be provided to the department upon request.

(5) PERMIT TRANSFER; ALTERATION. Unless expressly provided by the terms of the permit or by subsequent written approval of the department, permits issued under this chapter are not transferable. No person may alter or deface a permit issued under this chapter.

(6) VIOLATIONS. No person may violate any term of any permit issued under this chapter.

(7) OTHER PERMITS OR APPROVALS. A person who holds a permit or approval issued by the department under another chapter or a statute other than s. 23.22, Stats., is not required to hold a permit under this chapter to transport, possess, transfer or introduce a prohibited invasive species listed in s. NR 40.04 (2), or a restricted invasive species listed in s. NR 40.05 (2), if the department determines that all of the following apply:

(a) The permit or approval expressly authorizes the transportation, possession, transfer or introduction of the prohibited invasive species listed in s. NR 40.04 (2), or the restricted invasive species listed in s. NR 40.05 (2).

(b) The permit or approval includes legally enforceable requirements that are at least equivalent to those that would be contained in a permit issued by the department under this chapter.

(c) The person is not in violation of the permit or approval.

History: CR 08–074: cr. Register August 2009 No. 644, eff. 9–1–09.

NR 40.07 Preventive measures. (1) NOTIFICATION REQUIRED. Any person who possesses a restricted invasive fish species in a safe facility shall notify the department within 24 hours of any escape of a specimen or viable part of a specimen, or of any failure of the integrity of the safe facility that could allow the escape of any specimen or viable part of a specimen. The notice shall be made in writing by mail or by e–mail and shall include the specific location of the known, suspected, or anticipated escape and the fish species involved.

Note: The notice shall be mailed to the Director, Bureau of Fisheries Management, Wisconsin Department of Natural Resources, PO Box 7921, Madison, Wisconsin 53707–7921 and e–mailed to DNRFishHabitatProtection@wisconsin.gov.

(2) IMMEDIATE REMOVAL OF AQUATIC PLANTS AND AQUATIC ANIMALS AND DRAINAGE OF WATER. (a) Except as provided in pars. (b) to (g):

1. Any person who removes a vehicle, boat, boat trailer, boating or fishing equipment, or other equipment or gear of any type from any inland or outlying water or from its bank or shore shall remove all attached aquatic plants and aquatic animals immediately after removing the vehicle, boat, boat trailer, boating or fishing equipment or other equipment or gear from the water, bank or shore and before leaving any boat launch area or associated parking area.

Note: Section 30.07 (2) (a) and (b), Stats., prohibit any person from placing or operating a vehicle, seaplane, watercraft, or other object of any kind in a navigable water if it has any aquatic plants or aquatic animals attached to the exterior and from taking off with a seaplane, or transporting or operating a vehicle, watercraft, or other object of any kind on a highway with aquatic plants or aquatic animals attached to the exterior.

2. Any person who removes a vehicle or equipment other than boating or fishing equipment, or gear of any type from any inland or outlying water or from its bank or shore shall drain all water from the vehicle, equipment or gear, including water in any motor, tank or other container, immediately after removing the vehicle, equipment or gear from the water, bank or shore and before leaving any boat launch area or associated parking area.

Note: Section NR 19.055 (1) requires any person who removes a boat, boat trailer, boating equipment or fishing equipment from any inland or outlying water or its bank or shore to immediately drain all water from the boat, boat trailer, boating equipment or fishing equipment, including water in any bilge, ballast tank, bait bucket, live well or other container immediately after removing the boat, boat trailer, boating equipment or fishing equipment from the water, bank or shore, with certain exceptions.

Note: Chapters NR 320, 323, 328, 329, 341, 343 and 345, relating to general navigable waters permit criteria, set out equipment decontamination requirements to stop the spread of invasive species from one waterway to another and require removal of all plants, animals, mud, debris, etc., before and after use.

Note: See ss. 30.18 (2) and 31.02 (1), Stats., regarding the diversion or withdrawal of water from lakes and streams. Withdrawals are regulated through individual permits that may consider the associated risk of spreading invasive species.

(b) The department may exempt any vehicle, equipment or gear in writing from par. (a) 1. or 2. if it determines that it will not allow invasive species to be transported to other waters.

(c) Paragraph (a) does not apply to decontaminated equipment, tanks or containers when used for the operation or maintenance of dry fire hydrants that are subject to ch. NR 329.

Note: See s. NR 329.04 (1) (c) 5. and (2) (c) 4. c. regarding the maintenance and operation of dry fire hydrants.

(d) Paragraph (a) 1. does not apply to an aquatic animal whose possession is authorized by department rule.

Note: An example of an aquatic animal whose possession is authorized by department rule is a dead game fish taken in compliance with ch. NR 20.

(e) Paragraph (a) 2. does not apply to water in closed engine cooling systems or to tanks or containers of potable drinking water or other beverages meant for human consumption.

(f) Paragraph (a) 2. does not apply to water in a container that holds live bait minnows obtained from a Wisconsin bait dealer, if the container holds no other fish, contains 2 gallons or less of water, and is used to transport only live minnows that have not been exposed to water or fish from that inland or outlying water or will be used for bait only on the same inland or outlying water, its bank or shore.

Note: The transport of live fish and fish eggs away from any inland or outlying water or its bank or shore is prohibited by s. NR 19.05 (3), with certain exceptions.

(g) Paragraph (a) does not apply to vehicles, equipment, or gear while engaged in fire suppression.

(3) TRANSPORT OF VEHICLES AND EQUIPMENT INTO WISCONSIN; REMOVAL PRIOR TO ENTRY OF AQUATIC PLANTS AND AQUATIC ANIMALS AND DRAINAGE OF WATER. (a) Except as provided in pars. (b) to (d), no person may do any of the following:

1. Transport over land from another state any vehicle, boat, boat trailer, boating or fishing equipment, or other equipment or gear of any type for use on any water of the state or its bank or shore unless the person first removes all attached aquatic plants and aquatic animals from the vehicle, boat, boat trailer, boating or fishing equipment, or other equipment or gear of any type before entering the state.

Note: Section 30.07 (2) (a) and (b), Stats., prohibit any person from placing or operating a vehicle, seaplane, watercraft, or other object of any kind in a navigable water if it has any aquatic plants or aquatic animals attached to the exterior and from taking off with a seaplane, or transporting or operating a vehicle, watercraft, or other object of any kind on a highway with aquatic plants or aquatic animals attached to the exterior.

2. Transport over land from another state any vehicle, equipment other than boating or fishing equipment, or gear of any type for use on any water of the state or its bank or shore unless the person first drains all water from the vehicle, equipment or gear, including water in any motor, tank, or other container before entering the state.

Note: Section NR 19.055 (2) prohibits any person from transporting over land from another state any boat, boat trailer, boating equipment or fishing equipment for use on any water of the state or its bank or shore unless the person drains all water from the boat, boat trailer, boating equipment or fishing equipment, including water in any bilge, ballast tank, bait bucket, live well or other container before entering the state, with certain exceptions.

(b) The department may exempt any vehicle, boat, boat trailer, equipment or gear in writing from par. (a) 1. or 2. if it determines that it will not allow invasive species to be transported to waters of the state.

(c) Paragraph (a) 1. does not apply to dead game fish lawfully taken in another state, as provided by s. 29.047, Stats.

(d) Paragraph (a) 2. does not apply to water in closed engine cooling systems or to tanks or containers of potable drinking water or other beverages meant for human consumption.

(4) ILLEGAL TO LAUNCH, TAKE OFF OR TRANSPORT. (a) Except as provided in par. (b), no person may place or operate a vehicle, watercraft or other object of any kind in any wetland or non–navigable water of the state if the vehicle, watercraft or other object has an aquatic plant or aquatic animal attached to the exterior.

(b) Paragraph (a) does not apply if the aquatic plant is native duckweed or wild rice.

(c) Paragraph (a) does not apply to vehicles, watercraft or other objects while engaged in fire suppression.

(5) QUARANTINED MATERIALS. (a) No person may transport an identified carrier of an invasive species from a department infestation control zone designated under s. 26.30 (7), Stats., a DATCP quarantine area imposed under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine area declared under 7 USC section 7714 or 7715, for the specific identified invasive species.

Note: Identified carriers of invasive terrestrial invertebrates and plant–disease causing microorganisms most commonly include but are not limited to trees that support life stages of the invasive species. Trees include all parts of a tree including limbs, branches, roots and foliage. Raw forest products such as unprocessed logs, slabs with bark, cut firewood and chips may be considered as carriers. The department does not consider certified firewood to be an identified carrier. Certified firewood is firewood that has been treated by a DATCP–certified firewood dealer using one or more DATCP–approved firewood treatment methods to prevent the spread of invasive pests.

(b) Paragraph (a) does not apply to a person who transports an identified carrier of an invasive species from a department infestation control zone designated under s. 26.30 (7), Stats., a DATCP quarantine area imposed under s. 94.01, Stats., or a United States Department of Agriculture Animal and Plant Health Inspection Service quarantine area declared under 7 USC section 7714 or 7715, if the person is in compliance with a DATCP–USDA APHIS compliance agreement applicable to the terrestrial invertebrate or plant disease–causing microorganism.

(6) USE OF PROHIBITED FISH OR CRAYFISH AS BAIT. Unless authorized by a permit issued by the department under this chapter, no person may use a prohibited fish invasive species or prohibited crayfish invasive species as bait.

Note: Prohibited fish invasive species and crayfish invasive species are identified in s. NR 40.04 (2) (c).

(7) INTRODUCTION PROHIBITED. Unless authorized by a permit issued by the department under this chapter, no person may introduce a nonnative algae or cyanobacteria species in any water of the state. This subsection does not apply to the incidental introduction of a nonnative algae or cyanobacteria species by a person operating an aircraft, vehicle, equipment or gear while engaged in fire suppression.

Note: Section 23.24 (3) (a) 1., Stats., prohibits any person from introducing nonnative aquatic plants into waters of this state unless the person has a valid aquatic plant management permit issued by the department.

(8) WHITE–NOSE SYNDROME PREVENTION. (a) *Definition.* In this subsection "near a cave or mine" means within 100 feet of a cave or mine.

(b) *Entry with imported items prohibited*. Except as provided in par. (e), no person may bring or place any equipment, gear, clothing or other object of any kind in or near a cave or mine if the equipment, gear, clothing or other object has been in or near a cave or mine located outside of Wisconsin.

(c) *Requirements.* 1. Except as provided in subd. 5. and par. (e), no person may bring or place any equipment, gear, clothing or other object of any kind in or near a cave or mine if the equipment, gear, clothing or other object has been in or near a cave or mine located in this state unless the equipment, gear, clothing or other object has first been cleaned in accordance with par. (d).

2. Except as provided in subd. 5. and par. (e), any person removing any equipment, gear, clothing or other object of any kind from any cave or mine or from within 100 feet of any cave or mine or exiting any cave or mine or the area within 100 feet of any cave or mine with any equipment, gear, clothing or other object of any kind shall clean the equipment, gear, clothing and other objects in accordance with par. (d).

3. Except as provided in subd. 5. and par. (e), any person who caused or will cause contact to occur between a bat and an individual or object of any kind, including but not limited to a net, trap, weighting tube, bat bag, wing punch, ruler, clothing, glove, electronic equipment or exclusion material shall, prior to and immediately following the contact, clean the individual or object in accordance with par. (d).

4. Except as provided in subd. 5. and par. (e), any person who owns or operates an active mine or a commercial cave or mine shall ensure that each individual entering or exiting the person's active mine or commercial cave or mine complies with par. (b) and subds. 1. to 3.

5. The requirements of subds. 1. to 4. do not apply to dedicated equipment, gear, clothing and other objects of any kind that are used exclusively in or near and stored exclusively in or near a single cave or mine.

(d) *Protocols.* Individuals, equipment, gear, clothing and other objects of any kind to which the requirement of par. (c) 1., 2., or 3. applies shall be cleaned in accordance with protocols approved by the department. Unless it determines that emergency conditions require otherwise, the department shall provide notice and opportunity for public comment at least 14 days before it materially changes an approved protocol.

Note: Detailed information about department–approved protocols may be obtained on the DNR website (dnr.wi.gov) keyword "bats" or by writing to Wisconsin Department of Natural Resources, Wisconsin Bat Monitoring Program, Bureau of Natural Heritage Conservation, P.O. Box 7921, Madison,WI 53707–7921.

(e) *Written exemption.* The department may exempt any person in writing from par. (b) or (c) if it determines that the exemption will not significantly increase the risk that *Geomyces destructans* (white–nose syndrome fungal pathogen) would be introduced or transported to other locations. The department may set conditions in any written exemption granted under this paragraph. Any person who receives a conditional exemption from the department under this paragraph shall comply with the conditions of the exemption.

(f) *Site–specific prevention plan.* Except as provided in subd. 5., any person who owns or operates a cave or mine shall develop a written plan for each of the person's caves and mines to prevent the introduction and transmission of *Geomyces destructans* (white–nose syndrome fungal pathogen).

1. The prevention plan shall include a description of practices that will be installed or implemented by the owner or operator to prevent the introduction or transmission of *Geomyces destructans* via human transmission. The plan may include practices such as screening visitors, cleaning equipment, gear, clothing and other objects before they are brought into the cave or mine or upon their removal, the use of dedicated equipment, gear, clothing and other objects, and modification of the cave or mine environment to make it unsuitable for establishment and transmission of *Geomyces destructans*.

2. The prevention plan shall be submitted by the owner or operator to the department by June 1, 2011, for its review and approval. The department may set conditions for the approval of any plan required under this paragraph and shall include any exemption granted under par. (e) to the owner or operator of a cave or mine in a plan approval issued under this paragraph. In setting conditions for the approval of any plan, the department shall consider the site–specific risk of *Geomyces destructans* introduction and transmission along with the feasibility and reasonableness of alternative practices for the prevention of *Geomyces destructans* transmission or introduction.

3. The owner or operator shall implement the plan as approved by the department and shall maintain as appropriate all practices specified in the plan.

4. The owner or operator shall maintain a copy of the approved prevention plan at the cave or mine covered by the plan or an alternate location approved by the department and shall make the copy available for inspection upon request by the department at any reasonable time.

5. This paragraph does not apply to any of the following:

a. A cave or mine that the department has determined in writing lacks the environmental conditions, including temperature and humidity, suitable for the introduction or transmission of *Geomyces destructans*.

b. A cave or mine where the owner or operator restricts human access through the use of department–supplied and maintained signage or bat–friendly barriers or gates.

c. A cave or mine where the primary reason for human presence in the cave or mine relates to the storage or processing of a food or beverage intended for human consumption.

History: CR 08–074: cr. Register August 2009 No. 644, eff. 9–1–09; CR 10–016: am. (4) and (7) Register August 2010 No. 656, eff. 9–1–10; EmR1039: emerg. cr. (8), eff. 11–3–10; CR 10–123: cr. (8) Register May 2011 No. 665, eff. 6–1–11.

NR 40.08 Enforcement. Under s. 23.22 (9), Stats., if the department finds that any person is violating this chapter or a permit issued under this chapter, the department may do one or more of the following:

(1) Issue a citation pursuant to ss. 23.50 to 23.99, Stats.

(2) Refer the matter to the department of justice for enforcement.

(3) Revoke any permit issued under this chapter, after notice and opportunity for hearing.

History: CR 08–074: cr. Register August 2009 No. 644, eff. 9–1–09.

NR 40.09 Interagency coordination. This chapter does not affect the authority of DATCP under chs. 93, 94, 95 and 97, Stats. The action of the department under this chapter shall be coordinated with DATCP. The secretaries of the department and DATCP shall execute a memorandum of agreement to enable coordination of invasive species work of their departments.

History: CR 08–074: cr. Register August 2009 No. 644, eff. 9–1–09.

SUSTAINABILITY COMMITTEE ANNUAL REPORT 2023

CITY OF ASHLAND. XCEL ENERGY, AND SUSTAINABILITY COMMITTEE COMPLETE MUNICIPAL EV CHARGING STATIONS

Representatives from Xcel Energy and the City of Ashland at the June 15th, 2023 ribbon cutting.

The City of Ashland worked with Xcel Energy and the Sustainability Committee to install four Level 2 Electric Vehicle charging ports in the municipal parking lot downtown across Main Street from City Hall. The collaborating partners held a ribbon cutting ceremony on Thursday, June 15th, 2023 which was well attended. The City Administrator, Mayor, members of the Common Council, and several Sustainability Committee members attended. The four charging ports are the first installation of public EV charging infrastructure in the City of Ashland.

The EV charging stations are currently available for public use and EV owners visiting the Downtown may plug their vehicles in and charge them while they visit downtown businesses. The charging stations are within close proximity to City Hall, the U.S. Post Office, the Vaughn Public Library, the Deep Water Grille, and other downtown amenities. City staff are able to monitor the operation and usage of the charging ports via an online dashboard. The City has an agreement with the local utility provider, Xcel Energy, to maintain the charging ports. During the second half of 2023 the ports were well used.

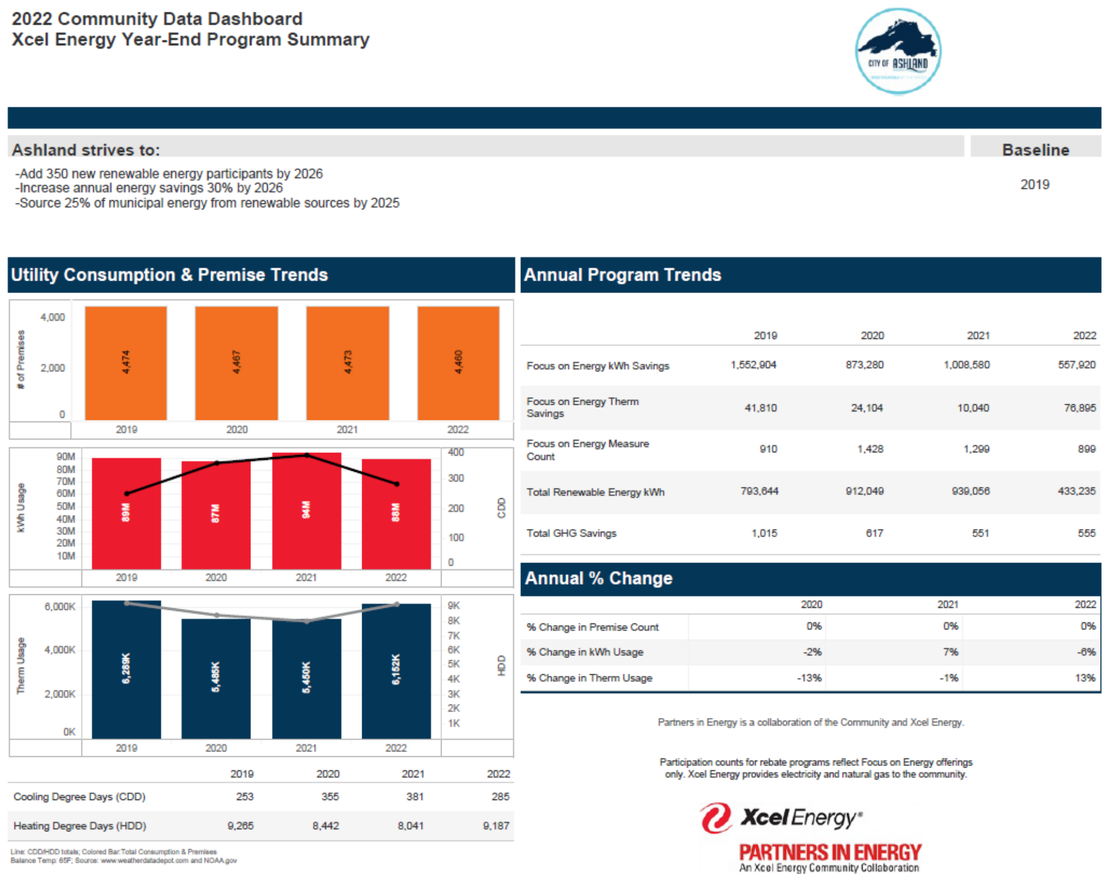
The Sustainability Committee continues to discuss and champion EVs, EV charging infrastructure, and other uses of renewable energy within the community. The City and Sustainability Committee see the four downtown charging ports as a pilot project that can serve as a model for the installation of additional EV charging infrastructure in other locations within the City of Ashland.

BEASER AVENUE COMMUNITY GARDEN

The community garden continued at Beaser Park for 2023. Sustainability Committee Chair Axel Peterman-Spreen co-manages the gardens and has worked on an expansion of the garden from 22 plots to 34 plots. The plots are 10 feet by 20 feet in size and are rented out for the year. Over the past year the garden has overhauled its compost sytem. The community garden group held several volunteer events throughout 2023 and these included a kid's pollinator event, a garden foraging class, potlucks, etc. The co-managers of the Beaser Community Gardens continue to look ahead at another potential expansion of the gardens in Beaser Park.

2023 ANNUAL CLEANSWEEPS

The committee worked with the Water Utility to include a Cleansweeps flyer in the water bills. This flyer provided information on the Cleansweeps event and explained which materials were recyclable. By distributing the flyer with the water bills the committee could ensure that the flyer reached the maximum number of City residents and businesses. Committee member Lissa Radke is with the UW-Extension and helps coordinate and run the annual Cleensweeps event in tandem with many volunteers.



2022 Community Data Dashboard
Xcel Energy Year-End Program Summary

Ashland strives to:

-Add 350 new renewable energy participants by 2026
-Increase annual energy savings 30% by 2026
-Source 25% of municipal energy from renewable sources by 2025

Baseline

2019

Utility Consumption & Premise Trends

	2019	2020	2021	2022
Cooling Degree Days (CDD)	253	355	381	285
Heating Degree Days (HDD)	9,265	8,442	8,041	9,187

Line: CDD/HDD totals; Colored Bar: Total Consumption & Premises
Balance Temp: 65F; Source: www.weatherdatadepot.com and NOAA.gov

Annual Program Trends

	2019	2020	2021	2022
Focus on Energy kWh Savings	1,552,904	873,280	1,008,580	557,920
Focus on Energy Therm Savings	41,810	24,104	10,040	76,895
Focus on Energy Measure Count	910	1,428	1,299	899
Total Renewable Energy kWh	793,644	912,049	939,056	433,235
Total GHG Savings	1,015	617	551	555

Annual % Change

	2020	2021	2022
% Change in Premise Count	0%	0%	0%
% Change in kWh Usage	-2%	7%	-6%
% Change in Therm Usage	-13%	-1%	13%

Partners in Energy is a collaboration of the Community and Xcel Energy.

Participation counts for rebate programs reflect Focus on Energy offerings only. Xcel Energy provides electricity and natural gas to the community.

Xcel Energy®
PARTNERS IN ENERGY
An Xcel Energy Community Collaboration

25x25 PLAN WORK CONTINUES THROUGH PARTNERS IN ENERGY PROGRAM

The Sustainability Committee worked with City staff, Xcel Energy, and the Center for Energy and the Environment on the Partners in Energy program. Partners in Energy is a collaboration between participating communities and Xcel Energy. Major goals of Ashland's participation are to achieve the goals of the 25x25 Plan and determine how to get there. The City's participation in the program lasted through much of 2022 and into 2023. The City, Xcel, and Center for Energy and the Environment staff met regularly to discuss strategies for achieving the 25x25 goals.

ANNUAL NO MOW MAY EFFORT CONTINUES

Private property owners and the City participate by refraining from or reducing mowing of their properties for the month of May. In doing so they contribute to pollinator habitats and carbon sequestration. The Committee sold yard signs to interested property owners.