

Amended Illegal Transport of Aquatic Plants and Invasive Animals Ordinance

TO THE HONORABLE SUPERVISORS OF THE COUNTY BOARD OF THE COUNTY OF POLK:

WHEREAS, the Polk County Board of Supervisors adopted Ordinance No. 10-08, the Illegal Transport Of Aquatic Plants And Invasive Animals Ordinance, to prevent the spread of aquatic invasive species in Polk County and surrounding water bodies; to protect property values and the property tax base; and to ensure quality recreational opportunities; and

WHEREAS, the ordinance placed the responsibility of preventing the spread of aquatic plants and invasive animals on persons who operate or use a vehicle or transport any boat, boat trailer, personal watercraft and its associated trailer, canoe, kayak, or boating equipment, fishing equipment, hunting and/or trapping equipment to and from a navigable waterway;

WHEREAS, it is in the interest of Polk County that the owners and lessors of vehicles, watercraft and equipment share in the responsibility so that effort of preventing the spread of aquatic invasive species is comprehensive.

WHEREAS, the Polk County Board of Supervisors has held a public hearing for the purpose of receiving commentary on an amendment of Ordinance No. 10-08, the Illegal Transport Of Aquatic Plants And Invasive Animals Ordinance, to provide for liability of owners and lessors of vehicles, watercraft, trailers or equipment that is operated or used contrary to the ordinance.

NOW, THEREFORE, the Polk County Board of Supervisors does ordain to Amended Illegal Transport of Aquatic Plants and Invasive Animals Ordinance, as follows:

Section 1 Purpose and Statutory Authority.

- A. The purpose of this ordinance is to prevent the spread of aquatic invasive species in Polk County and surrounding water bodies in order to protect property values and the property tax base and ensure quality recreational opportunities.
- B. This ordinance is adopted under authority of Section 59.03 of the Wisconsin Statutes.

Section 2 ~~Definitions of Aquatic Plants and Invasive Animals.~~

- A. "Aquatic plant" means a non-woody submergent, emergent, free-floating, or floating-leaf plant that normally grows in or near water and includes any part thereof. "Aquatic plant" does not mean wild rice when being harvested with a permit issued under NR 19.09 or any rights proffered by the Treaty of 1838.
- B. "Invasive animal" means all vertebrate and invertebrate species including zebra mussel, quagga mussel, rusty crayfish, spiny water flea, or any other aquatic invasive animal prohibited by the state.
- C. "Equipment" mean plant harvesting equipment, boating equipment, fishing equipment, hunting and/or trapping equipment including but not limited to personal floatation devices, nets, anchors, fishing lines, decoys, and waders.

Section 3 Prohibited Transport of Aquatic Plants and Invasive Animals.

- A. No person may operate a vehicle or transport any boat, boat trailer, personal watercraft and its associated trailer, canoe, kayak, or boating equipment, fishing equipment, hunting and/or trapping equipment including but not limited to personal floatation devices, nets, anchors, fishing lines, decoys, and waders, from navigable waters onto any roadway open to the public if aquatic plants or invasive animals are attached.
- B. All aquatic plants or invasive animals shall be removed before entering a roadway open to the public or before launching a boat or equipment or trailer in navigable water.
- C. If in the course of removing a boat from water, the temporary existence of a boat and trailer creates a safety hazard if not immediately transported along a public roadway, a person may transport without violation of this ordinance to the first suitable and safe location and there clean and remove any remaining aquatic plants or invasive animals consistent with this ordinance.

Section 4 Liability of Owner or Lessor

- A. If a vehicle, watercraft, trailer, or equipment that is the subject of a violation Section 3, the owner or lessee of the vehicle, watercraft, trailer or equipment shall pay forfeiture in accordance with the penalty provisions contained in Section 6, notwithstanding any forfeiture that may be required to be paid by the person operating or using a vehicle, watercraft, trailer or equipment in violation of Section 3. An owner or lessee may not be penalized as set forth above if either of the following apply:
 - 1. Another person was cited for or convicted of a violation of Section 3 arising out of the same incident; or
 - 2. The vehicle, watercraft, trailer or equipment was stolen.
- B. Paragraph A does not apply to a lessor of a vehicle, watercraft, trailer or equipment if the lessor keeps a record of the name and address of the lessee and provides the same to law enforcement upon request.
- C. Paragraph A does not prohibit or limit the prosecution of the operator of a vehicle, watercraft, trailer or equipment for violations of Section 3.

Section 5 Exceptions to Transport of Aquatic Plants and Invasive Animals.

Unless otherwise prohibited by law, a person may transport aquatic plants:

- A. for disposal as part of a harvest or control activity conducted under an aquatic plant management permit issued under ch. NR 109.

- B. when transporting commercial aquatic plant harvesting equipment away from any water body to a suitable location for purposes of cleaning any remaining aquatic plants or animals.
- C. when conducting an aquatic plant study for the purposes of vouchering specimen or conducting an educational workshop and in a closed container.
- D. when harvested for personal or commercial use, such as to be used as compost or mulch, and in a closed container.
- E. for purposes of shooting or observation blinds for waterfowl hunting during the waterfowl season, if the aquatic plants used for these blinds are emergent, cut above the waterline, and contain no aquatic invasive species. All other equipment shall have aquatic plants and invasive animals removed before entering a roadway open to the public.

Section 6 Citation and Enforcement.

- A. Any person who violates a provision of this ordinance shall be subject to a forfeiture of not less than \$200 and not more than \$500 for the first offense and each subsequent offense. Said person shall be also subject to court costs for such violation.
- B. Each violation shall be considered a separate offense.
- C. Legal action may be initiated against a violator by the issuance of a citation pursuant to Sec. 66.0113(1)(a)(2005). Said citation may be issued by a law enforcement officer of Polk County.
- D. The citation shall contain the following:
 - (1) The first, middle, and last name, address, and date of birth of the alleged violator.
 - (2) Factual allegations describing the alleged violation.
 - (3) The date, time and place of the offense.
 - (4) The ordinance and section of the violation.
 - (5) A description of the offense in such a manner as can be readily understood by a person making a reasonable effort to do so.
 - (6) The date and time at which the alleged violator may appear in court.
 - (7) A statement which, in essence, informs the alleged violator:
 - (a) That a cash deposit based on the schedule established by this section may be made which shall be delivered to the Clerk of Courts prior to the time of the scheduled court appearance.
 - (b) That if a deposit is made, no appearance in court is necessary unless subsequently summoned.
 - (c) That if a cash deposit is made and the alleged violator does not appear in court, they will be deemed to have entered a plea of no contest or, if the court does not accept the plea of no contest, a summons will be issued commanding them to appear in court to answer the complaint.
 - (d) That if no cash deposit is made and the alleged violator does not appear in court at the time specified, an action may be commenced to collect the forfeiture.
 - (e) A direction that if the alleged violator elects to make a cash deposit, the statement which accompanies the citation shall be signed to indicate that

the statement required under Paragraph D.(7), above, has been read. Such statement shall be brought with the cash deposit.

(f) Such other information as the County deems necessary.

E. Any person who receives a citation shall be subject to the penalty provision under Section 35.50 (3).

F. Section 66.0113(3), Wis. Stats. relating to violator's options and procedure on default, is hereby adopted and incorporated herein by reference.

Funding Amount: Not Applicable Funding Source: Not Applicable
Date Finance Committee Advised: Not Applicable
Finance Committee Recommendation: Not Applicable
Effective Date: Upon Passage and Publication
Date Submitted to County Board: May 17, 2011
Submitted and Sponsored By the Public Protection and Judicial Committee Board:

[Handwritten signature]
[Handwritten signature] 5/3/11
[Handwritten signature]
[Handwritten signature]

Review By County Administrator:

- Recommended
- Not Recommended
- Reviewed Only

[Handwritten signature]
Dana Frey, County Administrator

Review By Corporation Counsel:

- Approved as to Form
- Recommended
- Not Recommended
- Reviewed Only

[Handwritten signature]
Jeffrey B. Fuge, Corporation Counsel

At its regular business meeting on June 21, 2011, the Polk County Board of Supervisors adopted the above-entitled ordinance, Ordinance No. 29 -11: Amended Illegal Transport of Aquatic Plants and Invasive Animals Ordinance, by a simple majority vote of ___ in favor and ___ against. *Unanimous voice vote*

[Handwritten signature] Dated: 06.24.2011
William Johnson, IV, County Board Chair

Attest: *[Handwritten signature]* Dated: 6-24-11
Carole Wondra, Polk County Clerk

