

RESOLUTION # 2019-26

**To Amend: Illegal Transportation of Aquatic Plants and Invasive Animals Ordinance**

1 To the Honorable members of the Burnett County Board of Supervisors;  
2  
3 **WHEREAS**, Burnett County has ordinance 2008-01, Illegal Transportation of Aquatic Plants and  
4 Invasive Animals to prevent aquatic invasive species (AIS) from spreading throughout the county; and  
5  
6 **WHEREAS**, Burnett County now has lakes infested with zebra mussels; and  
7  
8 **WHEREAS**, protection of Burnett County lakes and rivers requires pre-approved decontamination  
9 procedures when available at waterbody accesses; and  
10  
11 **WHEREAS**, decontamination of watercraft and associated water equipment provides a higher level of  
12 protection from the spread of zebra mussels and other AIS; and  
13  
14 **WHEREAS**, proper enforcement and citation of this ordinance is necessary to slow the spread of AIS  
15 throughout Burnett County; and  
16  
17 **WHEREAS**, current citation amounts are not sufficient enough to discourage offenders of this ordinance;  
18 and  
19  
20 **WHEREAS**, Burnett County desires to have citation amounts comparable to the Wisconsin Department of  
21 Natural Resources (WDNR) for the department's similar AIS violations.  
22  
23 **NOW, THEREFORE BE IT RESOLVED**, that Burnett County amend the Illegal Transportation of  
24 Aquatic Plants and Invasive Animals Ordinance 2008-01, Section 18-236 (Citation and Enforcement) to  
25 reflect the proposed fine amounts for first and subsequent offenses and Section 18-232 (Definitions) will  
26 have minor word revisions.  
27  
28 Respectfully submitted by the Natural Resources Committee.  
29 Signed and dated this 14<sup>th</sup> day of November, 2019.

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Edgar Peterson, Chair

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Norman Bickford, Vice Chair

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Craig Conroy, Secretary

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Chuck Anderson

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Steve Austin

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Gene McLain

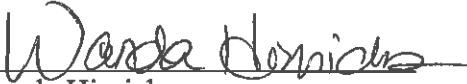
\_\_\_\_\_  
Gene Olson

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Mike Chell, Farm Service Agency

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Roger Noe, Lake Shore Association

State of Wisconsin  
County of Burnett

I, Wanda Hinrichs, the duly elected and qualified County Clerk in and for Burnett County, do hereby certify that the attached Resolution 2019-26, "To Amend: Illegal Transportation of Aquatic Plants and Invasive Animals Ordinance" was adopted by the Burnett County Board of Supervisors at a legally assembled meeting at which a quorum was present and acted throughout. The date of passage was December 19, 2019.

  
Wanda Hinrichs,  
Burnett County Clerk

## ARTICLE V. - AQUATIC PLANTS AND INVASIVE ANIMALS

### Sec. 18-231. - Purpose.

The purpose of this article is to prevent the spread of aquatic invasive species in the county and surrounding water bodies.

(Ord. No. 2008-01, § 1, 3-20-2008)

### Sec. 18-232. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal* means all vertebrate and invertebrate species, including but not limited to mammals, birds, reptiles, amphibians, fish and shellfish, or their eggs, larvae or young, but excluding humans.

*Aquatic animal* means all animals that live in, on, or near the water. This includes all vertebrate and invertebrate species, including but not limited to reptiles, amphibians, fish and shellfish, or their eggs, larvae or young.

*Aquatic invasive species* has the meaning given in Wis. Admin. Code ch. NR 40.02(3m), that aquatic invasive species are any invasive species that dwells in water or wetlands.

*Aquatic plant* means a nonwoody submergent, emergent, free-floating, or floating-leaf plant that normally grows in or near water and includes any part thereof. The term "aquatic plant" does not mean wild rice when being harvested with a permit issued under Wis. Admin. Code ch. NR 19.09 or any rights proffered by the Treaty of 1838.

*Decontamination* is the process of removing invasive species, including aquatic invasive species or materials that may contain or transmit any type of invasive species by disinfection or other methods.

*Decontamination station* means a device provided at a public or private lake access to remove all potential invasive species. The station may consist of high temperature water (140 degrees or more) applied with a pressure washer ~~by trained personnel~~, a recommended chemical solution applied with a low pressure sprayer, or other techniques or devices approved by the Burnett County Land Services Department.

*Invasive* means all pathogens, plants, vertebrate and invertebrate species including zebra mussel, quagga mussel, rusty crayfish, spiny water flea, or any other aquatic invasive prohibited by the state.

*Invasive species* has the meaning given it in Wis. Stats. § 23.22(1)(c), and Wis. Admin. Code ch. NR 40.02(24), where invasive species means nonnative species including hybrid, cultivars, sub taxa, and genetically modifies variants whose introduction causes or is likely to cause economic or environmental harm or harm to human health, and includes individual species, eggs, larvae, seeds, propagules and any other viable life-stages of such species. For invasive fish, Wis. Admin. Code ch. NR 40.04(12a), and Wis. Admin. Code, includes all nonnative species, but excludes established nonnative fish species.

*Terrestrial plant* means a plant that normally lives or grows on land and includes wetland species.

(Ord. No. 2008-01, § 2, 3-20-2008; Res. No. 2018-01, 1-18-2018)

### Sec. 18-233. - Prohibited transport of plants and aquatic animals.

- (a) Except as provided in section 18-234, 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 a public

highway if aquatic plants, terrestrial plants, or aquatic animals are attached. All plants and aquatic animals shall be removed prior to entry onto a public highway or launching a boat or placing equipment or trailers into navigable water.

- (b) If a decontamination station is available for use at a public or private access, the boater shall decontaminate per posted directions using the decontamination station provided.
- (c) This section shall not apply to bait used on that particular body of water in accordance with department of natural resources (DNR) rules and regulations.

(Ord. No. 2008-01, § 3, 3-20-2008; Res. No. 2018-01, 1-18-2018)

**Sec. 18-234. - Exceptions to transport of plants and aquatic animals.**

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

- (1) For disposal as part of a harvest or control activity conducted under an aquatic plant management permit issued under Wis. Admin. Code ch. NR 109 or as authorized by the county.
- (2) 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.
- (3) When conducting an aquatic plant study for the purposes of vouchering specimens or conducting an educational workshop.
- (4) When harvested for personal or commercial use, such as to be used as compost or mulch, and in a closed container.

(Ord. No. 2008-01, § 4, 3-20-2008)

**Sec. 18-235. - Liability of owner or lessee.**

- (a) If a watercraft, trailer, or plant harvesting equipment is placed in waters in violation of section 18-234, the owner or lessee of the watercraft, trailer, or plant harvesting equipment shall pay a forfeiture in accordance with the penalty provisions contained in section 18-236. An owner or lessee may not be penalized as set forth in this subsection if either of the following apply:
  - (1) Another person was cited for or convicted of a violation of section 18-234 arising out of the same incident; or
  - (2) The watercraft, trailer or plant harvesting equipment was stolen.
- (b) Subsection (a) of this section does not apply to a lessor of a watercraft, trailer, or plant harvesting 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) Subsection (a) of this section does not prohibit or limit the prosecution of the operator of a watercraft, trailer, or plant harvesting equipment for violations of section 18-234.

(Ord. No. 2008-01, § 5, 3-20-2008)

**Sec. 18-236. - Citation and enforcement.**

- (a) Any person who violates a provision of this article shall be subject to a forfeiture plus court costs as follows:
  - (1) For the first offense, a forfeiture ~~not to exceed \$25.00~~ of not less than \$125.00, nor more than \$225.00, plus costs.

- (2) For the second offense, a forfeiture of ~~not less than \$25.00 nor more than \$100.00~~ not less than \$250.00, nor more than \$350.00 plus costs.
  - (3) For the third and subsequent offenses, a forfeiture of ~~not less than \$100.00 nor more than \$250.00~~, not less than \$350.00, nor more than \$450.00 plus costs.
- (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 Wis. Stats. § 66.0113(1)(a). This citation may be issued by a law enforcement officer of the county.
- (d) The citation shall contain the following:
- (1) The name and address of the alleged violator.
  - (2) The factual allegations describing the alleged violation.
  - (3) The time and place of the offense.
  - (4) The section of the article violated.
  - (5) A description of the offense in a manner that can be readily understood by a person making a reasonable effort to do so.
  - (6) The time at which the alleged violator may appear in court.
  - (7) A statement which in essence informs the alleged violator:
    - a. That the alleged violator may make a cash deposit for the amount of the applicable penalty, to be mailed to the county clerk of courts prior to the initial appearance on the citation.
    - b. That if the alleged violator makes such a deposit, he or she need not appear in court unless subsequently summoned.
    - c. That, if the alleged violator makes a cash deposit and does not appear in court, he or she either will be deemed to have tendered a plea of no contest and submitted to the forfeiture plus costs or will be summoned into court to answer the complaint if the court does not accept the plea of no contest.
    - d. That, if the alleged violator does not make a cash deposit and does not appear in court at the time specified, the court may consider the nonappearance to be a plea of no contest and enter judgment for the amount of the penalty listed on the citation, and that the county may commence an action against the alleged violator to collect this penalty.
  - (8) A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement which accompanies the citation to indicate that he or she read the statement required under subsection (d)(7) of this section and shall send the signed statement with the cash deposit.
  - (9) Such other information as may be deemed necessary.
- (e) Wis. Stats. § 66.0113(3), relating to violator's options and procedures on default, is hereby adopted and incorporated herein by reference.

(Ord. No. 2008-01, § 6, 3-20-2008)

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