

## **NEW MINNESOTA NOXIOUS WEED LAW**

Minnesota Statutes Chapter 18, Sections 18.75 to 18.88

### **18.75 PURPOSE.**

It is the policy of the legislature that residents of the state be protected from the injurious effects of noxious weeds on public health, the environment, public roads, crops, livestock, and other property. Sections 18.76 to 18.88 contain procedures for controlling and eradicating noxious weeds on all lands within the state.

### **18.76 CITATION.**

Sections 18.76 to 18.88 may be cited as the "Minnesota Noxious Weed Law."

### **18.77 DEFINITIONS.**

Subdivision 1. **Scope.** The definitions in this section apply to sections 18.76 to 18.88.

Subd. 2. Repealed, 1996 c 310 s 1

Subd. 3. **Control.** "Control" means to destroy the aboveground growth of noxious weeds by a lawful method that prevents the maturation and spread of noxious weed propagating parts from one area to another.

Subd. 4. **Eradicate.** "Eradicate" means to destroy the aboveground growth and the roots of noxious weeds by a lawful method that prevents the maturation and spread of noxious weed propagating parts from one area to another.

Subd. 5. **Growing crop.** "Growing crop" means an agricultural, horticultural, or forest crop that has been planted or regularly maintained and intended for harvest.

Subd. 6. **Land.** "Land" means a parcel or tract of real estate including wetlands and public waters but not including buildings unless they are a place of business and open to the general public.

Subd. 7. **Municipality.** "Municipality" means a home rule charter or statutory city or a township.

Subd. 8. **Noxious weed.** "Noxious weed" means an annual, biennial, or perennial plant that the commissioner designates to be injurious to public health, the environment, public roads, crops, livestock, or other property.

Subd. 9. **Occupant.** "Occupant" means a person who uses land as a principal residence or who leases land or both.

Subd. 10. **Permanent pasture, hay meadow, woodlot, and other noncrop area.** "Permanent pasture, hay meadow, woodlot, and other noncrop area" means an area of predominantly native or seeded perennial plants that can be used for grazing or hay purposes but is not harvested on a regular basis and is not considered to be a growing crop.

Subd. 11. **Person.** "Person" means an individual, partnership, corporation, society, association, firm, public agency, or an agent for one of those entities.

Subd. 12. **Propagating parts.** "Propagating parts" means plant parts, including seeds, that are capable of producing new plants.

### **18.78 Control or eradication of noxious weeds.**

Subdivision 1. **Generally.** A person occupying land, or a person responsible for the maintenance of public land shall control or eradicate all noxious weeds on the land at a time and in a manner ordered by the county agricultural inspector, or a local weed inspector.

Subd. 2. **Control of purple loosestrife.** An owner of nonfederal lands underlying public waters or wetlands designated under section 103G.201 is not required to control or eradicate purple loosestrife below the ordinary high water level of the public water or wetland. The commissioner of natural resources is responsible for control and eradication of purple loosestrife on public waters and wetlands designated under section 103G.201, except those located upon lands owned in fee title or managed by the United States. The officers, employees, agents, and contractors of the commissioner of natural resources may enter upon public waters and wetlands designated under section 103G.201 and, after providing notification to the occupant or owner of the land, may cross adjacent lands as necessary for the purpose of investigating purple loosestrife infestations, formulating methods of eradication, and implementing control and eradication of purple loosestrife. The commissioner of natural resources shall, by June 1 of each year, compile a priority list of purple loosestrife infestations to be controlled in designated public waters. The commissioner of natural resources must distribute the list to county agricultural inspectors, local weed inspectors, and their appointed agents. The commissioner of natural resources shall control listed

purple loosestrife infestations in priority order within the limits of appropriations provided for that purpose. This procedure shall be the exclusive means for control of purple loosestrife on designated public waters by the commissioner of natural resources and shall supersede the other provisions for control of noxious weeds set forth elsewhere in this chapter. The responsibility of the commissioner of natural resources to control and eradicate purple loosestrife on public waters and wetlands located on private lands and the authority to enter upon private lands ends ten days after receipt by the commissioner of a written statement from the landowner that the landowner assumes all responsibility for control and eradication of purple loosestrife under sections 18.76 to 18.88. State officers, employees, agents, and contractors of the commissioner of natural resources are not liable in a civil action for trespass committed in the discharge of their duties under this section and are not liable to anyone for damages, except for damages arising from gross negligence.

#### **18.79 Duties of the commissioner.**

- Subdivision 1. **Authorized agents.** County agricultural inspectors may administer and enforce sections 18.76 to 18.88.
- Subd.2. **Entry upon land.** To administer and enforce sections 18.76 to 18.88, county agricultural inspectors, and local weed inspectors may enter upon land without consent of the owner and without being subject to an action for trespass or any damages.
- Subd.3. **Rules.** The commissioner may adopt necessary rules under chapter 14 for the proper enforcement of sections 18.76 to 18.88.
- Subd.4. **Order for control or eradication of noxious weeds.** A county agricultural inspector, or a local weed inspector may order the control or eradication of noxious weeds on any land within the state.
- Subd.5. **Initial Training for control or eradication of noxious weeds.** The commissioner shall conduct initial training considered necessary for weed inspectors in the enforcement of the Noxious Weed Law. The director of the Minnesota extension service may conduct educational programs for the general public that will aid compliance with the noxious weed law.
- Subd. 6. **Meetings and reports.** The commissioner shall designate by rule the reports that are required to be made and the meetings that must be attended by weed inspectors.
- Subd. 7. **Prescribed forms.** The commissioner shall prescribe the forms to be used by weed inspectors in the enforcement of sections 18.76 to 18.88.
- Subd.8. **Injunction.** If the county agricultural inspector applies to a court for a temporary or permanent injunction restraining a person from violating or continuing to violate sections 18.76 to 18.88, the injunction may be issued without requiring a bond.
- Subd.9. **Prosecution.** On finding that a person has violated sections 18.76 to 18.88, the county agricultural inspector may start court proceedings in the locality in which the violation occurred. The county attorney may prosecute actions under sections 18.76 to 18.88 within the county attorney's jurisdiction.
- Subd.10. **Noxious-weed-free forage and mulch certification agency.** The official certification agency for noxious-weed-free forage and mulch shall be determined by the commissioner of agriculture in consultation with the director of the Minnesota agricultural experiment station.

#### **18.80 Inspectors.**

- Subdivision 1. **County agricultural inspectors.** The county board shall appoint one or more county agricultural inspectors that meet the qualifications prescribed by rule. The appointment must be for a period of time which is sufficient to accomplish the duties assigned to this position. A notice of the appointment must be delivered to the commissioner within ten days of the appointment and it must establish the initial number of hours to be worked annually.
- Subd. 2. **Local weed inspectors.** The supervisors of each town board and the mayor of each city shall act as local weed inspectors within their respective municipalities.
- Subd. 3. **Assistant weed inspectors.** A municipality may appoint one or more assistants to act on behalf of the appointing authority as a weed inspector for the municipality. The appointed assistant or assistants have the power, authority, and responsibility of the town board members or the city mayor in the capacity of weed inspector.

#### **18.81 Duties of inspectors.**

- Subdivision 1. **County agricultural inspectors.** It is the duty of county agricultural inspectors:
- (1) to see that sections 18.76 to 18.88 and rules (1) adopted under those sections are carried out within their jurisdiction;
  - (2) to see that sections 21.80 to 21.92 and rules adopted under those sections are carried out within their jurisdiction;
  - (3) to see that sections 21.71 to 21.78 and rules adopted under those sections are carried out within their jurisdiction;

- (4) to participate in the control programs for feed, fertilizer, pesticide, and insect pests when requested, in writing, to do so by the commissioner;
- (5) to participate in other agricultural programs under the control of the commissioner when requested to do so, subject to veto by the county board;
- (6) to administer the distribution of funds allocated by the county board to the county agricultural inspector for noxious weed control and eradication within the county;
- (7) to submit reports and attend meetings that the commissioner requires; and
- (8) to publish a general weed notice of the legal duty to control noxious weeds in one or more legal newspapers of general circulation throughout the county.

Subd. 2. **Local weed inspectors.** Local weed inspectors shall:

- (1) examine all lands, including highways, roads, alleys, and public ground in the territory over which their jurisdiction extends to ascertain if section 18.78 and related rules have been complied with;
- (2) see that the control or eradication of noxious weeds is carried out in accordance with section 18.83 and related rules;
- (3) issue permits in accordance with section 18.82 and related rules for the transportation of materials or equipment infested with noxious weed propagating parts; and

Subd. 3. **Nonperformance by inspectors; reimbursement for expenses.** (a) If local weed inspectors neglect or fail to do their duty as prescribed in this section, the county agricultural inspector shall issue a notice to the inspector providing instructions on how and when to do their duty. If, after the time allowed in the notice, the local weed inspector has not complied as directed, the county agricultural inspector may perform the duty for the local weed inspector. A claim for the expense of doing the local weed inspector's duty is a legal charge against the municipality in which the inspector has jurisdiction. The county agricultural inspector doing the work may file an itemized statement of costs with the clerk of the municipality in which the work was performed. The municipality shall immediately issue proper warrants to the county for the work performed. If the municipality fails to issue the warrants, the county auditor may include the amount contained in the itemized statement of costs as part of the next annual tax levy in the municipality and withhold that amount from the municipality in making its next apportionment.

#### **18.82 Transportation of noxious weed propagating parts in infested material or equipment.**

Subdivision 1. **Permits.** Except as provided in section 21.74, if a person wants to transport along a public highway materials or equipment containing the propagating parts of weeds designated as noxious by the commissioner, the person must secure a written permit for transportation of the material or equipment from a local weed inspector or county agricultural inspector. Inspectors may issue permits to persons residing or operating within their jurisdiction. If the noxious weed propagating parts are removed from materials and equipment or devitalized before being transported, a permit is not needed.

Subd. 2. **Conditions of permit issuance.** The following conditions must be met before a permit under subdivision 1 may be issued:

- (1) any material or equipment containing noxious weed propagating parts that is about to be transported along a public highway must be in a container that is sufficiently tight and closed or otherwise covered to prevent the blowing or scattering of the material along the highway or on other lands or water; and
- (2) the destination for unloading and the use of the material or equipment containing noxious weed propagating parts must be stated on the permit along with the method that will be used to destroy the viability of the propagating parts and thereby prevent their being dumped or scattered upon land or water.

Subd. 3. **Duration of permit; revocation.** A permit under subdivision 1 is valid for up to one year after the date it is issued unless otherwise specified by the weed inspector issuing the permit. The permit may be revoked if a county agricultural inspector or local weed inspector determines that the applicant has not complied with this section.

#### **18.83 Controlling or eradicating noxious weeds; notices; expenses.**

Subdivision 1. **General weed notice.** A general notice for noxious weed control or eradication must be published on or before May 15 of each year and at other times the commissioner directs. Failure of the county agricultural weed inspector to publish the general notice does not relieve a person from the necessity of full compliance with sections 18.76 to 18.88 and related rules. The published notice is legal and sufficient notice when an individual notice cannot be served.

Subd. 2. **Individual notice.** A weed inspector may find it necessary to secure more prompt or definite control or eradication of noxious weeds than is accomplished by the published general notice. In these special or individual instances, involving one or

a limited number of persons, the weed inspector having jurisdiction shall serve individual notices in writing upon the person who owns the land and the person who occupies the land, or the person responsible for or charged with the maintenance of public land, giving specific instructions on when and how named noxious weeds are to be controlled or eradicated. Individual notices provided for in this section must be served in the same manner as a summons in a civil action in the district court or by certified mail. Service on a person living temporarily or permanently outside of the weed inspector's jurisdiction may be made by sending the notice by certified mail to the last known address of the person, to be ascertained, if necessary, from the last tax list in the county treasurer's office.

**Subd. 3. Appeal of individual notice; appeal committee.** (1) A recipient of an individual notice may appeal, in writing, the order for control or eradication of noxious weeds.

This appeal must be filed with a member of the appeal committee in the county where the land is located within two working days of the time the notice is received. The committee must inspect the land specified in the notice and report back to the recipient and the inspector who issued the notice within five working days, either agreeing, disagreeing, or revising the order. The decision may be appealed in district court. If the committee agrees or revises the order, the control or eradication specified in the order, as approved or revised by the committee, may be carried out.

(2) The county board of commissioners shall appoint members of the appeal committee. The membership must include a county commissioner or municipal official and a landowner residing in the county. The expenses of the members may be reimbursed by the county upon submission of an itemized statement to the county auditor.

**Subd. 4. Control or eradication by inspector.** If a person does not comply with an individual notice served on the person or an individual notice cannot be served, the weed inspector having jurisdiction shall have the noxious weeds controlled or eradicated within the time and in the manner the weed inspector designates.

**Subd. 5. Control or eradication by inspector in growing crop.** A weed inspector may consider it necessary to control or eradicate noxious weeds along with all or a part of a growing crop to prevent the maturation and spread of noxious weeds within the inspector's jurisdiction. If this situation exists, the weed inspector may have the noxious weeds controlled or eradicated together with the crop after the appeal committee has reviewed the matter as outlined in subdivision 3 and reported back agreement with the order.

**Subd. 6. Authorization for person hired to enter upon land.** The weed inspector may hire a person to control or eradicate noxious weeds if the person who owns the land, the person who occupies the land, or the person responsible for the maintenance of public land has failed to comply with an individual notice or with the published general notice when an individual notice cannot be served. The person hired must have authorization, in writing, from the weed inspector to enter upon the land.

**Subd. 7. Expenses; reimbursements.** A claim for the expense of controlling or eradicating noxious weeds, which may include the costs of serving notices, is a legal charge against the county in which the land is located. The officers having the work done must file with the county auditor a verified and itemized statement of cost for all services rendered on each separate tract or lot of land. The county auditor shall immediately issue proper warrants to the persons named on the statement as having rendered services. To reimburse the county for its expenditure in this regard, the county auditor shall certify the total amount due and, unless an appeal is made in accordance with section 18.84, enter it on the tax roll as a tax upon the land and it must be collected as other real estate taxes are collected.

If public land is involved, the amount due must be paid from funds provided for maintenance of the land or from the general revenue or operating fund of the agency responsible for the land. Each claim for control or eradication of noxious weeds on public lands must first be approved by the commissioner of agriculture.

## **18.84 Liability; appeals.**

**Subdivision 1. Counties and municipalities.** Counties and municipalities are not liable for damages from the noxious weed control program for actions conducted in accordance with sections 18.76 to 18.88.

**Subd. 2. Appeal to county board.** A person who is ordered to control noxious weeds under sections 18.76 to 18.88 and is charged for noxious weed control may appeal the cost of noxious weed control to the county board of the county where the noxious weed control measures were undertaken within 30 days after being charged. The county board shall determine the amount and approve the charge and filing of a lien against the property if it determines that the owner, or occupant if other than the owner, responsible for controlling noxious weeds did not comply with the order of the inspector.

**Subd. 3. Court appeal of costs; petition.** (a) A landowner who has appealed the cost of noxious weed control measures under subdivision 2 may petition for judicial review. The petition must be filed within 30 days after the conclusion of the hearing before the county board. The petition must be filed with the court administrator in the county in which the land where the noxious weed control measures were undertaken is located, together with proof of service of a copy of the petition on the county auditor. No responsive pleadings may be required of the county, and no court fees may be charged for the appearance of the county in this matter.

(b) The petition must be captioned in the name of the person making the petition as petitioner and respective county as respondents. The petition must include the petitioner's name, the legal description of the land involved, a copy of the notice to control noxious weeds, and the date or dates on which appealed control measures were undertaken.

(c) The petition must state with specificity the grounds upon which the petitioner seeks to avoid the imposition of a lien for the cost of noxious weed control measures.

Subd. 4. **Hearing.** (a) A hearing under subdivisions 3 to 5 must be held at the earliest practicable date, and in no event later than 90 days following the filing of the petition of objection. The hearing must be before a district judge in the county in which the land where the noxious weed control measures were undertaken is located, and must be conducted in accordance with the district court rules of civil procedure.

(b) The court shall either order that a lien representing part or all of the costs for noxious weed control measures be imposed against the land or that the landowner be relieved of responsibility for payment of noxious weed control measures undertaken.

Subd. 5. **Further appeal.** A party aggrieved by the decision of the reviewing court may appeal the decision as provided in the rules of appellate procedure.

#### **18.86 Unlawful acts.**

No person may:

- (1) hinder or obstruct in any way the county agricultural inspectors or local weed inspectors in the performance of their duties as provided in sections 18.76 to 18.88 or related rules;
- (2) neglect, fail, or refuse to comply with section 18.82 or related rules in the transportation and use of material or equipment infested with noxious weed propagating parts;
- (3) sell material containing noxious weed propagating parts to a person who does not have a permit to transport that material or to a person who does not have a screenings permit issued in accordance with section 21.74; or
- (4) neglect, fail, or refuse to comply with a general notice or an individual notice to control or eradicate noxious weeds.

#### **18.87 Penalty.**

A violation of section 18.86 or a rule adopted under that section is a misdemeanor. County agricultural inspectors, local weed inspectors, or their appointed assistants are not subject to the penalties of this section for failure, neglect, or refusal to perform duties imposed on them by sections 18.76 to 18.88.

#### **18.88 Noxious weed program funding.**

Subdivision 1. **County.** The county board shall pay, from the general revenue or other fund for the county, the expenses for the county agricultural inspector position, for noxious weed control or eradication on all land owned by the county or on land that the county is responsible for the maintenance of, for the expenses of the appeal committee, and for necessary expenses as required for quarantines within the county.

Subd. 2. **Municipality.** The municipality shall pay, from the general revenue or other fund for the municipality, the necessary expenses of the local weed inspector in the performance of duties required for quarantines within the municipality, and for noxious weed control or eradication on land owned by the municipality or on land for which the municipality is responsible for its maintenance.