

**Noxious weed, defined--designation of noxious weed by director of department of agriculture.**

263.450. As used in sections 263.450 to 263.474, the term "noxious weed" includes bindweed (*Convolvulus arvensis*), Johnson grass (*Sorghum halepense*), multiflora rose (*Rosa multiflora*) except when cultivated for or used as understock for cultivated roses, Canada thistle (*Cirsium arvense*), musk thistle (*Carduus nutans* L.), Scotch thistle (*Onoprodum acanthium* L.), purple loosestrife (*Lythrum salicaria*), and any other weed designated as noxious by rules and regulations promulgated by the director of the department of agriculture.

(L. 1992 H.B. 1199 § 1, A.L. 1993 S.B. 52)

**Declaration of commission, when--election, procedure.**

263.452. 1. Upon motion of the county commission, or upon the petition of one hundred landowners in any county, the county commission shall declare that a threat exists to the agricultural economy of the county by reason of the growth and infestation of noxious weeds. After such declaration there shall be submitted to the qualified voters of the county at the next general election, the question of enforcing the provisions of sections 263.450 to 263.474. The question shall be submitted substantially as follows:

Shall the county of ..... become a "Noxious Weed Control Area" by adopting the provisions of sections 263.450 to 263.474, RSMo, providing for the control of noxious weeds, and authorizing the county commission to levy a tax of up to fifteen cents on each one hundred dollars of assessed valuation to provide funds for the control of noxious weeds?

YES  NO

(Place an X in the square opposite the one for which you wish to vote.)

2. The election thereon shall be conducted, votes canvassed, and the results declared in the manner provided in chapter 115, RSMo, for county general elections. If a majority of the votes cast at the election are in favor of enforcing the law controlling noxious weeds, the clerk of the county commission shall enter upon the commission records the result of the election and, within ten days after the election, shall notify the state director of agriculture of the result of the election. If a majority of the votes cast at the election are not in favor of enforcing such law, the question shall not be resubmitted for at least two years after the election.

(L. 1992 H.B. 1199 § 2)

**Declaration as noxious weed control area, notice, duties of property owners--county weed control board, appointment, members, duties, compensation, terms.**

263.454. 1. The state director of agriculture shall within thirty days after receipt of the notice from the clerk of the county commission as provided in subsection 2 of section 263.452 declare such county a "Noxious Weed Control Area" and the county commission shall cause suitable notice to be published in a newspaper of general circulation in the county for three consecutive weeks. The notice shall contain the fact that the county has been declared a noxious weed control area, a list of all noxious weeds and a statement that all property owners in the county shall, not later than the April thirtieth immediately following the publication of the notice, take steps toward controlling noxious weeds on all lands owned by them or under their control.

2. The county commission of any county declared a noxious weed control area shall, within ten days after such declaration, appoint a county weed control board, composed of three citizens of the county, to serve as advisors and to assist in the administration of sections 263.450 to 263.474, and to perform such other duties related to the control of noxious weeds as prescribed by the county commission. Members of the board shall receive no salary but shall be fairly reimbursed by the county commission for actual and necessary expenses incurred in performance of their duties. Appointments to the county weed control board shall be for terms of

three years, except that of the initial appointments, one person shall be appointed for one year, one person shall be appointed for two years and one person shall be appointed for three years. Each year thereafter, one person shall be appointed to fill the expired term.

(L. 1992 H.B. 1199 § 3)

**Duties of county weed control board--director of agriculture to cooperate with governmental agencies--inspection of lands, notice, immunity, liability, indemnification, landowner duty of care--expenses of control, special tax, lien--notice to prosecutor.**

263.456. 1. Each county weed control board shall have the following duties:

(1) To control noxious weeds and to prevent their regrowth and reinfestation, by means of appropriate chemical control or biological control or both, on all lands in the county other than lands owned by a public utility and lands, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad, the department of transportation, the department of natural resources or the department of conservation;

(2) To employ methods of control and for the prevention of the regrowth and reinfestation of noxious weeds as directed by the county commission;

(3) To comply with all orders promulgated by the county commission pursuant to the provisions of sections 263.450 to 263.474;

(4) To inspect all lands in the county for compliance with the provisions of sections 263.450 to 263.474;

(5) To inform itself of the origin, nature and appearance of noxious weeds and the manner in which they are spread, and shall follow recommendations of the University of Missouri college of agriculture as to the best and approved method to control and prevent the spread of noxious weeds.

2. The director of agriculture may cooperate with and may enter into cooperative agreements with state and federal agencies and departments for the furtherance of the control of noxious weeds. The county commission shall make orders following a public hearing for carrying out the provisions and requirements of sections 263.450 to 263.474, including orders which designate a weed as noxious.

3. The county weed control board, under the supervision of the county commission, shall inspect or cause to be inspected all lands of the county each year during which the county is classed as a noxious weed control area. The board shall publish notice of such inspection at least once and at least one week prior to such inspection in a newspaper of general circulation within the county. The county weed control board or the designated representative of the board may enter or exit all lands in the county in making an inspection or performing any other duties imposed by sections 263.450 to 263.474, and for these purposes the county weed control board, or its agents, servants, or employees may enter on such lands without being liable to an action of trespass, and shall have such official immunity as exists at common law for any misfeasance or damages occurring in connection with the execution of the duties imposed by sections 263.450 to 263.474. Notwithstanding any provision of law to the contrary, the county weed control board shall be liable for any misfeasance or damages caused by its agents, servants, or employees in connection with the execution of the duties imposed by sections 263.450 to 263.474; and the agents, servants, or employees of\* the weed control board shall be entitled to indemnification from the noxious weed fund for any misfeasance or damages occurring in connection with the execution of the duties imposed by sections 263.450 to 263.474. The landowner shall owe no duty of care to such persons, except that which the landowner owes to trespassers. If the landowner will not control the noxious weeds, the county commission may enter the land and control such weeds, and the

county commission shall keep an accurate record of the expenses incurred in controlling noxious weeds, and shall verify such statement under seal of the county commission, and transmit the same to the officer whose duty it is or may be to extend state and county taxes on tax books or bills against real estate and such officer shall extend the aggregate expenses so charged against each tract of land as a special tax, which shall then become a lien on the lands and be collected as state and county taxes are collected by law and paid to the county commission and credited to the county control fund. All failures to comply with the provisions of sections 263.450 to 263.474 shall be reported to the prosecuting attorney of the county and it shall be his duty to prosecute all violations of sections 263.450 to 263.474 in the manner provided in section 263.460.

(L. 1992 H.B. 1199 § 4)

**Public utilities, department of transportation, department of natural resources, department of conservation, United States government, and railroads duties in noxious weed control areas.**

263.458. It shall be the duty of public utilities on all land they own, and the department of transportation, the department of natural resources, the department of conservation, and the United States government and any agency thereof, and railroads on all lands, rights-of-way and easements owned, occupied or controlled by them, in noxious weed control areas:

- (1) To control noxious weeds and to prevent their regrowth and reinfestation;
- (2) To employ methods of control and for the prevention of the regrowth and reinfestation of noxious weeds as directed by the county weed control board;
- (3) To comply with all orders, rules and regulations promulgated by the county commission pursuant to the provisions of sections 263.450 to 263.474.

(L. 1992 H.B. 1199 § 5)

**Noxious weeds as public nuisance--action to enjoin nuisance, venue, parties, notice.**

263.460. The existence or growth of noxious weeds in a noxious weed control area is hereby declared to be a public and common nuisance and the prosecuting attorney for each county declared a noxious weed control area may bring an action in the circuit court of the county to enjoin such nuisance. The action shall be in the name of the state of Missouri and shall be tried as a suit in equity before the court, and shall be against all persons permitting or maintaining such nuisance. The complaint in the action shall recite that fifteen days' advance notice of the action has been served upon the defendants thereto, and that the defendants have taken no suitable action to comply with the provisions of the law prior to the filing of the complaint.

(L. 1992 H.B. 1199 § 6)

CROSS REFERENCE: Nuisance abatement ordinances authorized for debris or noxious weeds on property, effect of failure to remove nuisance, penalty, RSMo 67.398

**Tax may be assessed by county commission, township board and special road district--transportation department property, costs--county commission may share costs with landowners.**

263.462. The county commission, township board and special road district of any county declared a noxious weed control area, in addition to any and all taxing powers which it may possess, may levy upon all property subject to its authority a tax in an amount not to exceed fifteen cents on each one hundred dollars assessed valuation, for the purpose of paying the expenses of the county weed control board or the agent of the board in making the inspection required under the

provisions of section 263.456, and for the expense of controlling noxious weeds on county roads, rights-of-way, and at other places where noxious weeds may be found. All of the cost of control of noxious weeds on all lands and highways owned or supervised by the department of transportation shall be paid by the department of transportation out of funds appropriated for its use, and the county commission may share costs pursuant to contract with the landowners of property where noxious weeds may be found.

(L. 1992 H.B. 1199 § 7)

**Chemicals and biological agents, approval of required.**

263.464. All public utilities, the department of transportation, the department of conservation, the county commission, railroads, drainage districts, township boards, special road districts and other public and quasi-public corporations shall use only EPA approved chemicals or biological agents labeled to control the targeted noxious weeds. The University of Missouri college of agriculture may serve as an advisor if expertise is required by the applicator.

(L. 1992 H.B. 1199 § 8)

**Termination of classification as noxious weed control area.**

263.466. Classification of a county as a noxious weed control area shall be terminated by an order of the county commission of such county and an election conducted in the manner and form prescribed for classifying such county as a noxious weed control area. Elections covered under this section may not be presented to the qualified voters more often than once every two years.

(L. 1992 H.B. 1199 § 9)

**County noxious weed fund may be established--program required --funding--orders.**

263.468. 1. The governing body of any county of this state not declared a noxious weed control area may opt to establish a "County Noxious Weed Fund" for the purpose of making grants on a cost share basis for the control of any noxious weed.

2. Any eligible county opting to establish a county noxious weed fund shall establish a noxious weed control program. No resident or owner of land of any county shall be required to participate in such a county noxious weed control program. Any resident or landowner making application for cost share grants under this section shall participate in such program.

3. For the purpose of administering the county noxious weed fund, the county governing body shall have sole discretion of awarding cost share grants under this section.

4. For the purpose of funding the county noxious weed fund, the county governing body may appropriate county funds, or solicit municipality, state agency, and federal agency funds. All such funds shall be deposited in the county noxious weed fund to be expended for the sole purpose of controlling noxious weeds.

5. Any county opting to establish a county noxious weed control program under this section may make orders governing the program, and any county opting to establish a county noxious weed fund under this section may establish a cost share ratio on an annual basis beginning with the creation of the fund for all landowners, other than railroads, public utilities, the department of transportation, the department of conservation, and all other state agencies.

(L. 1992 H.B. 1199 § 10)

**Prohibition, Johnson grass extermination area.**

263.470. No county may elect to declare itself a Johnson grass extermination area pursuant to sections 263.255 to 263.267, after August 28, 1992.

(L. 1992 H.B. 1199 § 11)

**Conversion of Johnson grass extermination area to noxious weed control program-- election, procedure.**

263.472. 1. Upon the motion of the county commission or upon the petition of one hundred landowners in any county which has elected to declare itself a Johnson grass extermination area pursuant to sections 263.255 to 263.267, there shall be submitted to the qualified voters of the county at the next general election the question of converting a Johnson grass extermination program, established pursuant to sections 263.255 to 263.267, to a noxious weed control program pursuant to sections 263.450 to 263.474. The question shall be submitted substantially as follows:

Shall the county of ..... convert its Johnson grass extermination program to a noxious weed control program pursuant to sections 263.450 to 263.474, RSMo, and authorize the county commission to levy a tax of up to fifteen cents on each one hundred dollars of assessed valuation to provide funds for the control of noxious weeds, and to use taxes already collected under the Johnson grass extermination law for these purposes?

YES  NO

(Place an X in the square opposite the one for which you wish to vote.)

2. The election thereon shall be conducted, votes canvassed, and the results declared in the manner provided in chapter 115, RSMo, for county general elections.

(L. 1992 H.B. 1199 § 12)

**Public and private standards of control.**

263.474. No local governing body shall provide for or compel the control of undesirable plants on private property pursuant to sections 263.450 to 263.474 without first applying the same or greater control measures to any land or rights-of-way owned or controlled by the local governing body that are adjacent to the private property.

(L. 1992 H.B. 1199 § 13)