

**Wisconsin Department of Natural Resources  
Natural Resources Board Agenda Item**

**SUBJECT:** Ratification of Department decision to issue a Stewardship grant that will prohibit one nature-based outdoor activities (NBOA) on non-department land: City of Eau Claire, Eau Claire County.

**FOR:** February 2013 Board meeting

**TO BE PRESENTED BY:** Lavane Hessler, Stewardship Local Governments Grant Manager

**SUMMARY:**

The Department is requesting that the Board ratify the Department's determination that the prohibition of one NBOA (hunting) is necessary for public safety on 1.2 acres in the City of Eau Claire, Eau Claire County. The parcel will expand Mount Simon Park.

The Department has made the determination that the prohibition of hunting is necessary to protect public safety because:

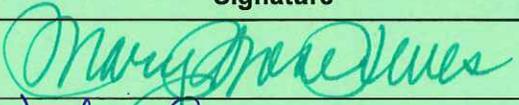
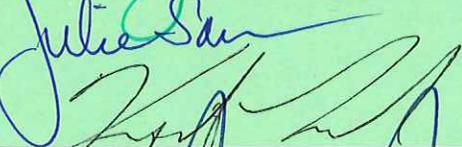
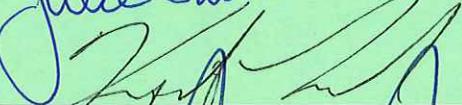
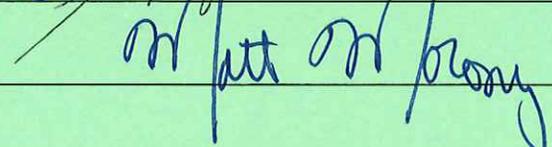
- \* The parcel is located within the city limits;
- \* The parcel is adjacent to roads;
- \* The parcel is near homes, recreational facilities, and other structures;
- \* Of the size, shape and location of the parcel;
- \* The parcel will be visited by users who have an exception of no hunting and trapping on the property; and
- \* There is a city ordinance prohibiting the discharge of weapons.

The proposed grant of \$166,000 will be from the Acquisition and Development of Local Parks subprogram of the Stewardship Program.

**RECOMMENDATION:** Ratify the Department's determination that the NBOA prohibition is necessary for the City of Eau Claire, Eau Claire County Stewardship project.

**LIST OF ATTACHED MATERIALS (check all that are applicable):**

- Background memo  Type name of attachment or type N/A if not applicable  
 Type name of attachment or type N/A if not applicable  Type name of attachment or type N/A if not applicable

Approved by	Signature	Date
Mary Rose Teves, Bureau Director		Jan 17, 2013
Julie Sauer, Administrator		1/18/13
Kurt Thiede, Administrator		1/18/13
Cathy Stepp, Secretary		1/30/13

# Table of Contents

	Page #
<ul style="list-style-type: none"><li>• <b>Appendix A – Compliance Memo</b> A compliance memo is required by s. NR 52.04(2)(e), the Department must summarize the procedure followed to reach any determination to approve an NBOA prohibition and provide that summary to the Board.</li></ul>	4
<ul style="list-style-type: none"><li>• <b>Appendix B - Project Maps</b></li></ul>	6
<ul style="list-style-type: none"><li>• <b>Appendix C – Staff Analysis of NBOA Prohibitions</b> The staffs’ analysis of any proposed NBOA prohibitions, including a signature from the regional Public Safety Warden who reviewed prohibitions proposed as necessary to protect public safety. The format of this analysis is a standard checklist, approved by DNR Legal Services, and completed for all Stewardship grant projects with an NBOA prohibition for safety reasons. Any relevant ordinances and statutes are also included.</li></ul>	9
<ul style="list-style-type: none"><li>• <b>Appendix D – Public Comment Certification Memo</b> This confirms that regional grant staff have completed the requirements for public notice set forth in s. NR 52.04 and summarizes any comment/s received.</li></ul>	20
<ul style="list-style-type: none"><li>• <b>Appendix E – News Release.</b> The Department is required by s. NR 52.04, Wis. Adm. Code, to give notice to the public of our intentions to award grant funds to purchase property on which any NBOAs will be prohibited. The news releases also follow an approved template. Because of the timing of these news releases in our grant cycle (often before appraisals have been completed and certified) and per the department’s obligations to protect the confidentiality of incomplete real estate transactions, news releases do not identify the exact location of the property, name of the seller, or any information about project financing.</li></ul>	21
<ul style="list-style-type: none"><li>• <b>Appendix F – NR 52</b> A copy of NR 52 for your reference.</li></ul>	22

## CORRESPONDENCE/MEMORANDUM

**DATE:** January 18, 2013

**TO:** Natural Resources Board

**FROM:** Cathy Stepp, Secretary

**SUBJECT: RATIFICATION OF THE DEPARTMENT'S DETERMINATION THAT THE PROHIBITION OF ONE NATURE-BASED OUTDOOR ACTIVITY (NBOA) IS NECESSARY ON NON-DEPARTMENT STEWARDSHIP LAND**

The Department requests that the Board ratify a determination that the prohibition of one nature-based outdoor activity is necessary on 1.2 acre purchase of land in the City of Eau Claire, Eau Claire County. The Department proposes to award a grant in the amount of \$166,000 to the City of Eau Claire for the purchase of land on which hunting will be prohibited to protect public safety.

## I. PROJECT DETAILS

**Project Sponsor:** City of Eau Claire  
**Seller:** John & Susan Glenz  
**Grant sub-program:** Acquisition and Development of Local Parks

**Project Description:** The City of Eau Claire seeks Stewardship – Acquisition and Development of Local Parks subprogram funds for the acquisition of 1.2 acres to expand Mount Simon Park. The acquisition will include 215 feet of frontage on the Chippewa River. Additionally, the expansion will further enhance Eau Claire's efforts to preserve and protect the city's urban waterways. Appendix B shows the project boundary map for this project.

**Project Goals:** The 925 Addison Avenue land acquisition project meets the following goals:

- Provides new public land for nature-based outdoor recreation.
- Protects the waterways of the Chippewa River
- Implements recommendations from the following local plans:
  - ❖ *City of Eau Claire 2008-2012 Park & Open Space Plan*
  - ❖ *Eau Claire Comprehensive Plan*
  - ❖ *West Central Wisconsin Comprehensive Plan 2010-2030*
  - ❖ *Eau Claire Waterways Plan*
  - ❖ *City of Eau Claire Waterway Historic Sites Report*

**Current Use of Property:** The property is a private residence. It is not open to public use.

**Proposed Public Uses:** The property will be available to the public from 8:00 a.m. to 11:00 p.m., 7 days per week, and 365 days per year. Park users will be able to fish, swim, trap, hike, picnic, canoe, kayak and boat offshore. It is anticipated that approximately 3200 visitors will enjoy this property annually.

Recreation opportunities include fishing, swimming, trapping hiking, biking, picnicking, cross-country skiing, snowshoeing, playground use, canoeing, kayaking, and nature enjoyment. The Department's analysis of the allowed nature-based outdoor activities is attached in Appendix C.

Hunting will be prohibited on the property by city ordinance. The Department has determined that the prohibition of hunting is necessary to protect public safety. See Appendix A for a summary of the

Department's determination concerning this prohibition. The memo attached from Mary Rose Teves, as required by s. NR 52.04(2)(e), Wis. Adm. Code, describes the procedure followed by the Department to make this determination.

**Property Management:** Mount Simon Park is operated and maintained by the City of Eau Claire, consistent with their management policy.

**Timetable:** The City of Eau Claire plans to close on this property no later than May 2013.

**II. PROJECT FINANCES**

**A. Partnerships:**

- City of Eau Claire
- Department of Natural Resources

**B. Appraisals**

As required by s. 23.0917(7)(e)2., Wis. Stats., one appraisal was used to determine the fair market value of this parcel.

Appraisal 1	\$331,000.00
Value certified by Department	\$331,000.00

**C. Grant Calculation**

As required by s. NR 51.006(1), Wis. Adm. Code, financial assistance is limited to 50% of acquisition and associated costs.

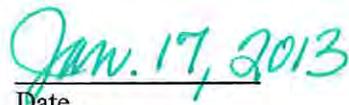
Certified appraised value	\$331,000.00
Associated eligible real estate cost (estimate)	\$ 1,000.00
<b>Total Maximum Project Costs</b>	<b>\$332,000.00</b>

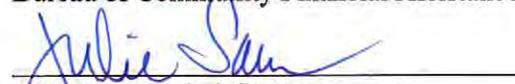
**D. Funding Sources**

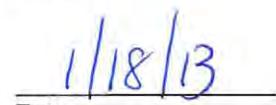
City of Eau Claire	\$166,000.00
Stewardship Grant Award	\$166,000.00

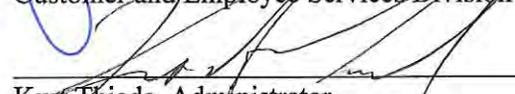
**III. RECOMMENDED:**

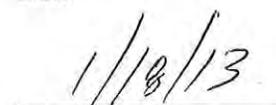
  
 \_\_\_\_\_  
 Mary Rose Teves, Director  
 Bureau of Community Financial Assistance

  
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 Date

  
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 Julie Sauer, Administrator  
 Customer and Employee Services Division

  
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 Date

  
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 Kurt Thiede, Administrator  
 Lands Division

  
 \_\_\_\_\_  
 Date

## CORRESPONDENCE/MEMORANDUM

DATE: January 18, 2013

APPENDIX A

TO: Natural Resources Board

FROM: Mary Rose Teves, Director  
Bureau of Community Financial Assistance

SUBJECT: **Summary of Department's Determination to Prohibit One Nature-based Outdoor Activities on the 925 Addison Avenue Land Purchase, City of Eau Claire, Eau Claire County**

I recommend that the NRB exercise its authority under s. 23.0916(2), Wis. Stats., and s. NR 52.05, Wis. Adm. Code, to ratify the Department's decision to award a Stewardship grant of \$166,000 to the City of Eau Claire for the acquisition of 1.2 acres located within the City of Eau Claire, Eau Claire County, even though the prohibition of hunting will be necessary to protect public safety and accommodate usership patterns.

#### PROJECT BACKGROUND

The City of Eau Claire is eligible to receive grant funds from the Acquisition and Development of Local Parks sub-program of the Knowles-Nelson Stewardship Program and has requested a Stewardship grant for the acquisition of this parcel to expand Mount Simon Park for the purpose of providing outdoor recreation opportunities.

Nature-based outdoor activities (NBOAs) are defined in s. NR 52.02(7), Wis. Adm. Code, as hunting, trapping, fishing, hiking, or cross-country skiing. The City of Eau Claire proposes to prohibit hunting on this parcel. Review under ch. NR 52 was undertaken to determine whether this prohibition it is necessary to prohibit hunting to protect public safety.

A copy of the City of Eau Claire's ordinance is attached to this Green Sheet as Appendix C. A copy of the prohibition team review is attached to this Green Sheet as Appendix C.

#### PUBLIC NOTICE AND COMMENTS

I certify that public notice requirements identified in s. NR 52.04, Wis. Adm. Code, have been followed for this Stewardship project. Public notice about this proposed project was posted on GovDelivery on December 12, 2012. One (1) comment was received opposing the grant due to budgetary concerns of the local government.

The public notice and a summary of the comments submitted may be found in Appendices D and E attached to this Green Sheet.

#### DETERMINATION

The City of Eau Claire has as an ordinance that prohibits hunting within the city limits. The DNR regional Recreational Safety Warden determined that the prohibition of hunting was necessary to protect public safety. The warden reviewed the following factors:

1. The primary purpose of the project
2. An ordinance prohibiting the discharge of weapons within the city limits
3. User conflicts
4. The size of the parcels
5. Proximity to homes
6. Proximity to roads
7. Recreational use of adjacent properties

We believe that the hunting prohibition on this property is necessary to protect public safety because the parcel:

- is located within the city limits
- is less than two acres in size
- is adjacent to park land with similar recreational uses
- has proximity to homes and roads
- will be visited by users who have a reasonable expectation of no hunting or trapping on a property of this type

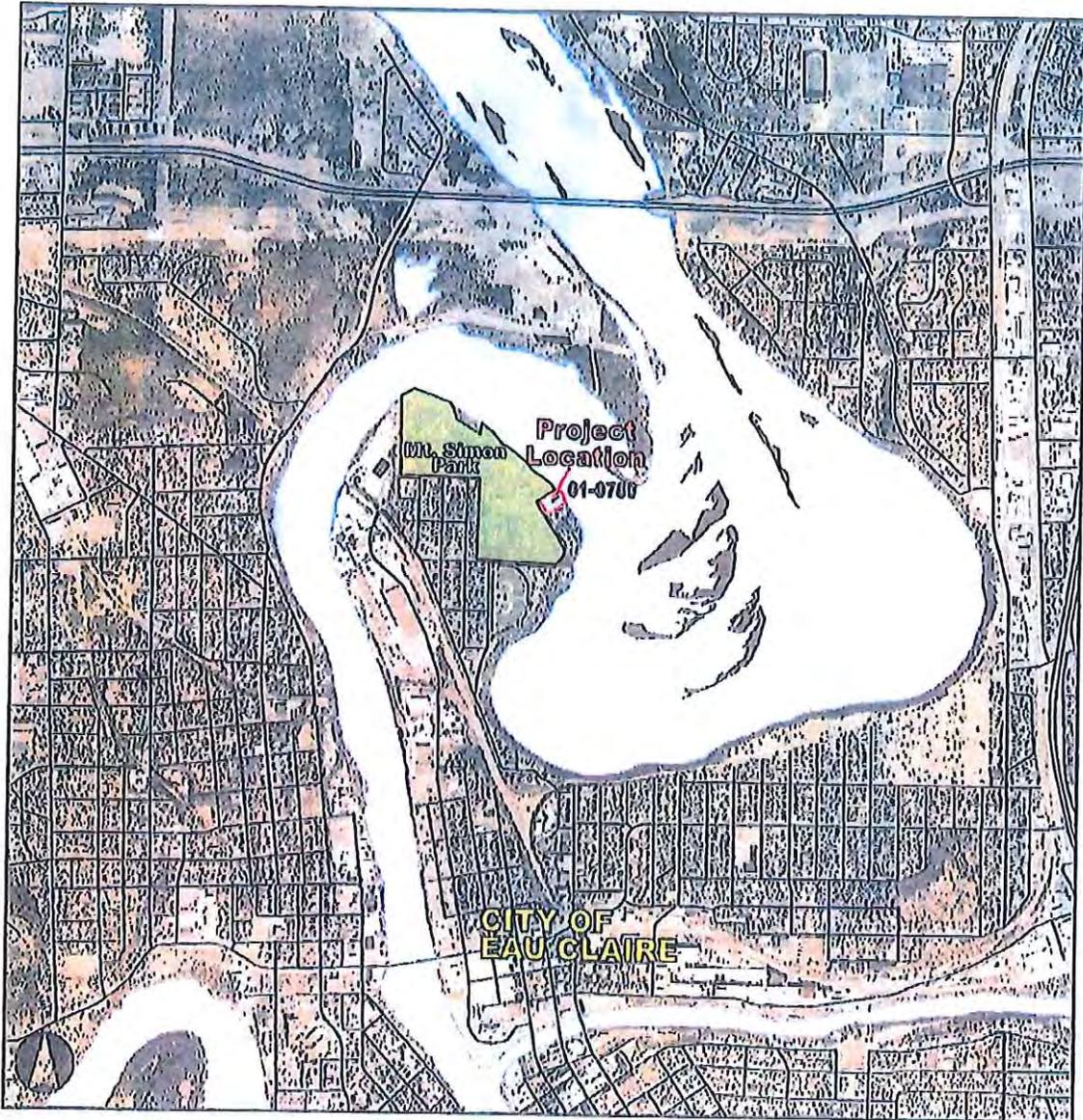
#### FINAL ACTIONS

Per s. NR 52.04(2)(d), Wis. Adm. Code, a copy of this determination will be provided to the individuals who objected to a Stewardship grant award.

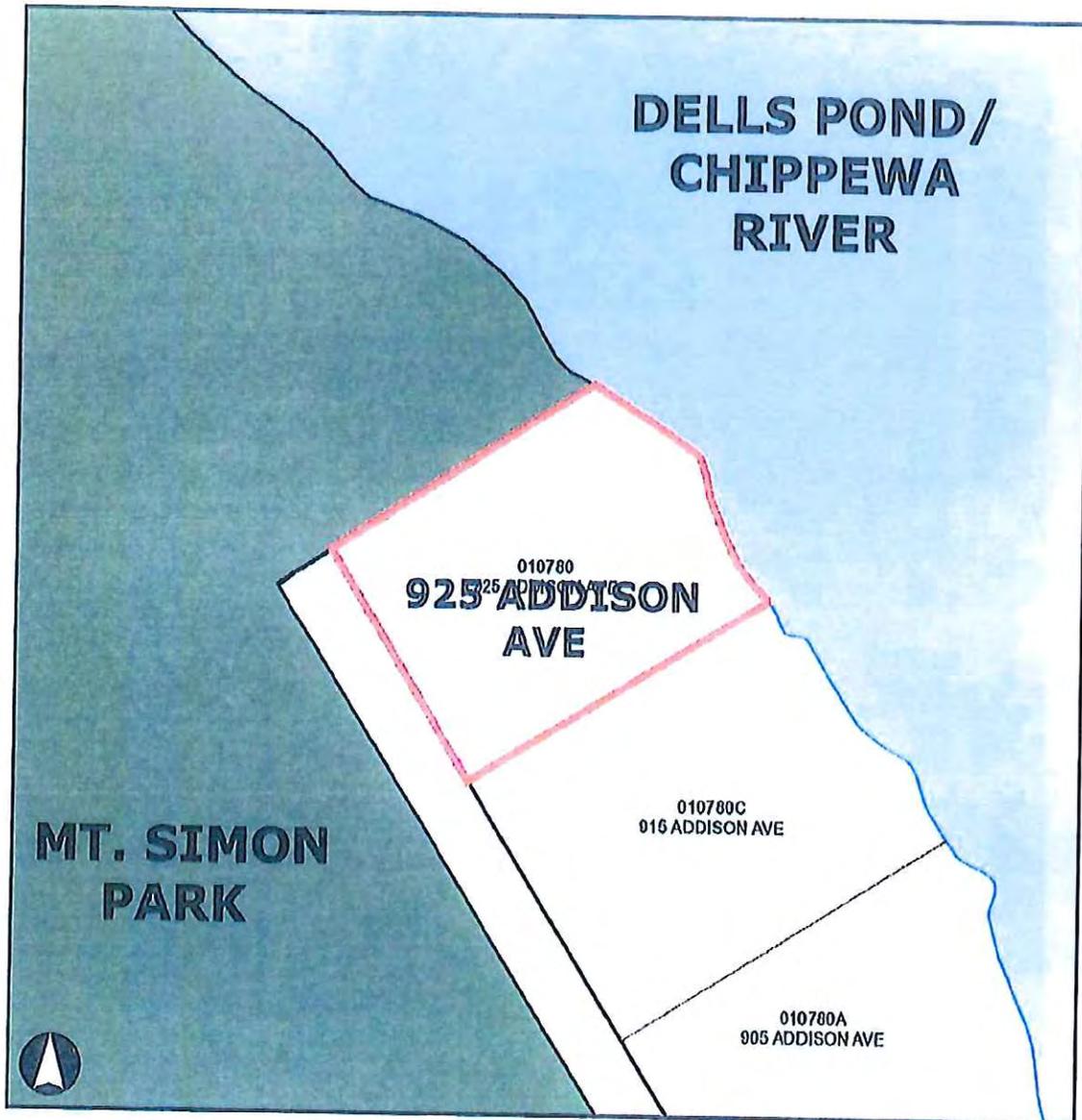
This determination is submitted to the Natural Resources Board as required in s. NR 52.04(2)(e), Wis. Adm. Code.

Appendix B

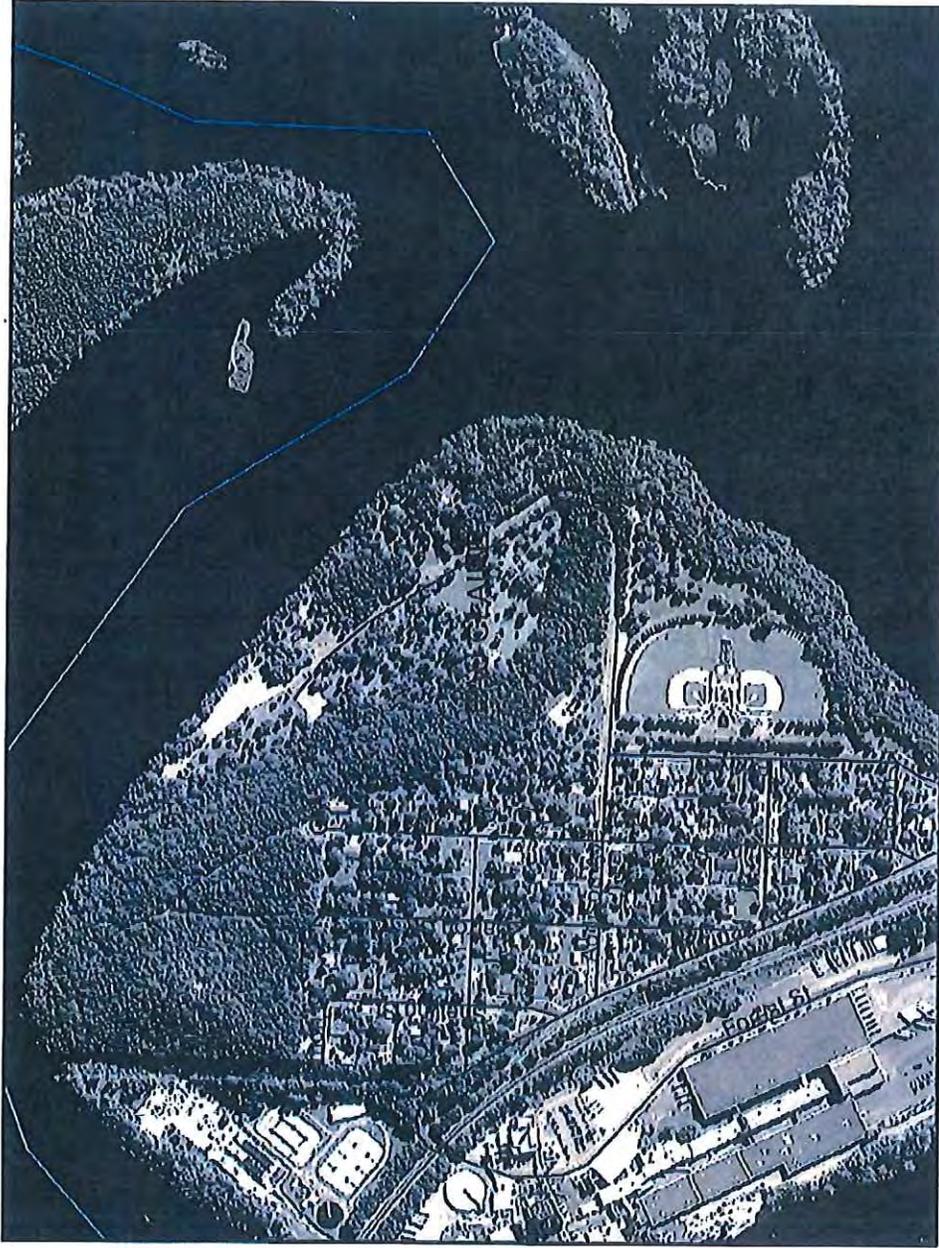
MAP 1  
PROJECT LOCATION MAP



**MAP 2  
PROJECT BOUNDARY MAP**



Map Created on Dec 14, 2012



**Legend**

- Major Highways
  - Interstate
  - State Highway
  - U.S. Highways
- County Roads
- Local Roads
- 24K County Boundaries
- Civil Towns
- Civil Town
- 24K Rivers and Shorelines
  - Intermittent
  - Fluctuating
  - Perennial



Scale: 1:7,190



This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

# Appendix C

Knowles-Nelson Stewardship Grant Program



## Public Safety Team Analysis of Nature Based Outdoor Activities on Projects Purchased with Stewardship Grant Funds

Rev. April 2011

**NOTE TO DNR STAFF:** This completed form will be attached to the WEPANBOA notice that the DNR will publish when considering a request for Stewardship grant funding. Do not list location information for the subject property or the seller name because WI courts have held that this information is confidential and land ownership has changed hands. DNR Staff completes the project proposal section prior to submitting to public safety team for review.

**PUBLIC SAFETY REVIEW TEAM**

 Regional Recreational Safety Warden Date: 11/2/12	 Regional Warden Supervisor Date: 11/5/12
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**PROJECT DESCRIPTION**

Applicant/ Sponsor: City of Eau Claire		Year of Application: 2012
Project Name: 925 Addison Ave, Eau Claire, to expand the existing Mt. Simon Park.	Primary Purpose:	<input type="checkbox"/> Habitat Areas <input type="checkbox"/> Natural Areas <input type="checkbox"/> State Trails <input type="checkbox"/> Streambank Protection <input checked="" type="checkbox"/> Local Parks <input type="checkbox"/> Urban Rivers <input type="checkbox"/> Urban Greenspace
Project Description:  City of Eau Claire 2008-2012 Park & Open Space Plan, page 36, The Eau Claire Comprehensive Plan 2005-2025 pages 6-8 & 14-9, The 2005-2010 Wisconsin Statewide Comprehensive Outdoor Recreation Plan pages 7-2 & 7-4, West Central Wisconsin Comprehensive Plan 2010-2030 page 61, The Eau Claire Waterway Plan pages 7, 12, 14, 18, 37, 63, & 74.		

**FINDINGS OF FACT**

The only NBOA to be prohibited is hunting. Hunting is prohibited within the City of Eau Claire WI by local ordinance. Upon purchase this 1.2 acre parcel will become part of Mount Simon park. The existing park is 70 + acres and is entirely within the city limits of Eau Claire WI and as such is under the city ordinance which prohibits hunting. As the parcel currently exist, there is a home on the property and state law prohibits the discharge of a firearm within 100 yards of the home. To allow hunting of any type on such a small parcel of land that is part of a much larger parcel that prohibits hunting would be very confusing and would be a safety hazard to the public because of the small size.

**Proposed NBOA Prohibition or Restrictions**

HUNTING			
	Gun Prohibition/Restriction	Archery Prohibition/Restriction	List Dates/Sessions (opening and closing)
Waterfowl	Hunting Prohibited	Hunting Prohibited	
Small Game	Hunting Prohibited	Hunting Prohibited	
Turkey	Hunting Prohibited	Hunting Prohibited	
Large Game	Hunting Prohibited	Hunting Prohibited	
<p><b>Public Safety Team Narrative:</b> This property would be a 1.2 acre addition to a 70 + acre existing park within the city limits of Eau Claire WI. Hunting is prohibited on the current park acreage by city ordinance. To allow hunting on this 1.2 acre parcel and not on any of the adjoining land within the park would be confusing to the public. The small size of the parcel of land would not make hunting practical and it would be a hazard to public safety and welfare.</p>			
<p><b>Parcel Size, Shape, and Topography:</b> Describe the size, shape, and topography of the parcel and how it relates to public safety for this activity on this site. City Lot of 1.2 acre with home on lot.</p>			
<p><b>Public Safety Factors Considered:</b> Check all that apply.</p> <p><input checked="" type="checkbox"/> The sponsor is within its own municipally boundary</p> <p><input checked="" type="checkbox"/> Parcel is within 100 yards of building devoted to human occupancy</p> <p><input type="checkbox"/> Parcel is within 50 feet of the center line of highways &amp; roads</p> <p><input type="checkbox"/> Parcel is within 1700 feet of school grounds, hospital, or sanatorium</p> <p><input checked="" type="checkbox"/> Ordinance exists –</p> <p><input type="checkbox"/> Discharge or carrying a weapon <input type="checkbox"/> Hunting within a park <input type="checkbox"/> Throwing or shooting missiles, arrows, spears, etc.</p> <p><input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance</p> <p><input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists.</p> <p><input checked="" type="checkbox"/> Parcel is adjacent to a public waterway.</p> <p><input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:</p> <p><input type="checkbox"/> Other _____</p>			
<p><b>Prohibition or Restriction Necessary to Protect Public Safety:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>			

TRAPPING		
Location	Prohibition/Restriction	Applicable Dates/Seasons (opening and closing)
Upland	No Prohibition	According to State law
Water	No Prohibition	According to State law
Public Safety Team Narrative:		
Parcel Size, Shape, and Topography: Describe the size, shape, and topography of the parcel and how its relates to public safety for this activity.		
<input type="checkbox"/> No Water On Site <b>Public Safety Factors Considered: Check all that apply.</b> <input checked="" type="checkbox"/> The sponsor is within its own municipality boundary. <input checked="" type="checkbox"/> Parcel is within 100 yards of building devoted to human occupancy and per s. NR 13.(1)(b)(12), the following traps are prohibited: conibear body gripping traps (with jaws wider than 60 sq. inches) and cable restraints. <input type="checkbox"/> Ordinance exists that prohibits trapping or some type of trapping. <input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance <input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists. <input checked="" type="checkbox"/> Parcel is adjacent to a public waterway. <input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:  <input type="checkbox"/> Other _____		
Prohibition or Restriction Necessary to Protect Public Safety:		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

FISHING		
Method	Prohibition/Restriction	List Dates/Seasons (opening and closing)
Shore	No Prohibition	According to State law
Boat	No Prohibition	According to State law
Public Safety Team Narrative:		
Parcel Size, Shape, and Topography: Describe the size, shape, and topography of the parcel and how it relates to public safety for this activity.		
<input type="checkbox"/> No Water on Site <input type="checkbox"/> Public Safety Factors Considered: Check all that apply. <input type="checkbox"/> Ordinance exists - <input type="checkbox"/> _____ <input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance <input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists. <input checked="" type="checkbox"/> Parcel is adjacent to a public waterway. <input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:  <input type="checkbox"/> Other _____		
Prohibition or Restriction Necessary to Protect Public Safety: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

HIKING		
Location	Prohibition/Restriction	List Dates (opening and closing)
On-Trail	No Prohibition	
Off-Trail	No Prohibition	
Public Safety Team Narrative:		
Parcel Size, Shape, and Topography: Describe the size, shape, and topography of the parcel and how it relates to public safety for this activity.		
Public Safety Factors Considered: Check all that apply. <input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance <input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists. <input checked="" type="checkbox"/> Parcel is adjacent to a public waterway. <input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:  <input type="checkbox"/> Other _____		
Prohibition or Restriction Necessary to Protect Public Safety: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

CROSS-COUNTRY SKIING		
Type of Trail	Prohibition/Restriction	Use Date (opening and closing)
Off-Trail (un-groomed)	No Prohibition	
On-Trail (un-groomed)	No Prohibition	
On-Trail (groomed)	No Prohibition	
Public Safety Team Narrative:		
Parcel Size, Shape, and Topography: Describe the size, shape, and topography of the parcel and how it relates to public safety for this activity.		
<p>Public Safety Factors Considered: Check all that apply.</p> <input type="checkbox"/> Parcel is subjected to a non-sponsor ordinance <input type="checkbox"/> Parcel is adjacent to a parcel where the NBOA's to be prohibited already exists. <input checked="" type="checkbox"/> Parcel is adjacent to a public waterway. <input type="checkbox"/> Visitor's expectations of safety at the site, which includes user conflicts that may create public safety issues and impact one or more NBOA's activities. Describe:  <input type="checkbox"/> Other _____		
Prohibition or Restriction Necessary to Protect Public Safety:		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**9.32.024 Sale to minors.** It shall be unlawful for any person, firm or corporation to sell any type of pyrotechnic composition device, as described in section 9.32.010, subsections F, G, I, J, L, M, and N, to any minor under the age of 18 years. (Ord. 6691, 2006; Ord. 6437, 1994).

**9.32.025 Discharging fireworks.** No person shall discharge any fireworks within the city unless permitted under section 9.32.020. (Ord. 4738 §3, 1987).

**9.32.030 Discharging firearms.** A. For the purpose of this chapter, "firearms" means any rifle, shotgun, handgun, spring gun, pellet gun, air gun, bow and arrow device or any other weapon from which a shot is discharged by an explosive or propellant.

B. It is unlawful for any person to fire or discharge any type of firearm in the city. This section shall not apply to the following:

1. Law enforcement officers when acting in the normal course of their employment;
2. Any bona fide safety training course or practice firing held at a location approved by the chief of police or that person's designee, or other governmental agency;
3. Bow and arrow hunting of deer when it has been determined by the director of parks and recreation that such hunting is necessary for proper game management or to protect parks or other property. Additionally, a permit for such hunting must be issued by the chief of police stating that the activity would not pose a threat to health and safety in the area where such hunting shall take place.
4. Spearfishing or other rough fish by bow and arrow in any waters except Half Moon Lake, pursuant to NR 20.09, 20.20, and any other applicable Department of Natural Resources regulation.

The chief of police or that person's designee may also authorize other firing or discharge of firearms in the city under special circumstances, provided that it has been established that such conduct will not jeopardize the safety or welfare of the public. The decision of the chief of police shall be final. (Ord. 6545 §2, 2004; Ord 5266 §2, 1992; Ord. 4777, 1987; Ord. 4738 §1, 1987; Ord. 4488 §1, 1984; Ord. 4420 §1, 1984; Ord. 4327 §3, 1983; Ord. 4065 §3, 1980).

**9.32.040 Firearms restricted in certain buildings.** A. Definitions. The following definitions shall apply in the interpretation and the enforcement of this chapter:

1. "Firearm" means a weapon that acts by force of gunpowder.
2. "Law enforcement" means any person employed by the State of Wisconsin or any political subdivision of this state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.
3. "Weapon" means a handgun, an electronic weapon as defined at Wis. Stats. §941.295, a knife other than a switchblade under Wis. Stats. §941.24, or a billy club.
4. "Controlled-access facility" means a facility or area that has designated entrances for ingress and egress controlled by a door, gate, attendant or other means to limit entry while the facility is open and can be locked or secured when closed, or in the instance of temporary events of less than three weeks, designated entrances may be either secured when closed or the controlled-access facility removed at the termination of the temporary event.

B. In addition to the provisions of Wisconsin Statutes enumerating places where the carrying of a weapon or a firearm is prohibited, including exceptions thereto, it shall be unlawful for any person other than a law enforcement officer or other City officer or official designated by the Eau Claire Chief of Police to enter the following City of Eau Claire municipal buildings, facilities or locations while carrying a weapon or a firearm:

1. City Hall;
2. L.E. Phillips Memorial Public Library;
3. Fire Stations;
4. Police Station;
5. Fairfax Park Pool;
6. Carson Park football, softball, and baseball stadiums and facilities;
7. Chippewa Valley Museum and related buildings within Carson Park;
8. Paul Bunyan Museum and related buildings within Carson Park;

9.76.110-9.76.167

**9.76.110 Parks--Hazardous activities prohibited.** No person shall, in any park, fly a model engine-powered airplane, or shoot an air rifle, firearm, hard ball, such as in golf, except in appropriate areas designated therefor by the director of parks and recreation. (Ord. 3336 §(part), 1973; Prior code §13.055(d)).

**9.76.120 Parks--Wildlife.** No person shall kill, injure, harm, worry or trap any fur-bearing animal, snake, frog, toad or bird, including water fowl, in any park or within Half Moon Lake or any other navigable water within the city, or destroy, injure or harm the dens, nest or nest contents of said creatures. This section shall not apply to any such activity when undertaken by, or with the permission of, the director of parks and recreation solely for the necessary and proper management of game and wildlife or to protect the parks or other property. (Ord. 3730, 1977; Ord. 3336 §(part), 1973; Prior code §13.055(e)).

**9.76.130 Parks--Camping.** No person shall establish or maintain any temporary or permanent camp or other lodging place in any park except by prior permission of the city council. (Ord. 3336 §(part), 1973; Prior code §13.055(f)).

**9.76.140 Parks--Swimming.** No person shall swim in any area other than those designated as public swimming areas and only during such hours as specified. (Ord. 3336 §(part), 1973; Prior code §13.055(g)).

**9.76.150 Parks--Dogs and horses.** Dogs shall be restrained at all times and shall not be permitted to run at large. Horses shall be permitted only on roadways or pathways in parks designated by the director of parks and recreation for such purpose. (Ord. 3336 §(part), 1973; Prior code §13.055(h)).

**9.76.165 Parks--Intoxicants.** A. No person shall possess or consume any fermented malt beverage, as defined in Section 125.02(6) of the Wisconsin Statutes, or intoxicating liquor, as defined in Section 125.02(8) of the Wisconsin Statutes, in any park other than Carson Park, Lower Mount Simon Park, Riverview Park, or Rod and Gun Park. The city council may, by resolution, limit or prohibit the possession or consumption of fermented malt beverages or intoxicating liquor within all or any part of Carson Park, Lower Mount Simon Park, Riverview Park or Rod and Gun Park during such times as are specified by the council.

B. No person or group of persons may possess any receptacle containing fermented malt beverages in excess of one gallon in volume in any city park without first securing a permit from the director of parks and recreation or that person's designee. Denial of such a permit may be appealed to the city council.

C. 1. A person may possess or consume any fermented malt beverage, as defined in Section 125.02(6) of the Wisconsin Statutes, or intoxicating liquor, as defined in Section 125.02(8) of the Wisconsin Statutes, in Phoenix Park, only within the amphitheater or pavilion, and only during times when an event is occurring that has been approved by the Director of Parks and Recreation. No person or group may possess any receptacle containing a fermented malt beverage or intoxicating liquor in excess of one gallon within the amphitheater or pavilion in Phoenix Park.

2. A person may possess or consume any fermented malt beverage, as defined in Section 125.02(6) of the Wisconsin Statutes, or intoxicating liquor, as defined in Section 125.02(8) of the Wisconsin Statutes, in the Phoenix Park pavilion if a license is issued under s. 9.76.100 or if a permit is issued under subsection B.

3. Possession of said intoxicants shall be further limited to the hours of 11:00 a.m. to sunset. (Ord. 6755 §1, 2007; Ord. 5345, 1993; Ord. 5263, 1992; Ord. 4627 §5, 1986; Ord. 4404 §2, 1980; Ord. 3769, 1977).

**9.76.167 Parks--Hours.** All parks, including all parking lots and park drives therein, excepting public streets, shall remain open daily to the public only between the hours of four a.m. and eleven p.m. of each day, and the director of parks and recreation is authorized to post appropriate signs giving notice thereof. It is unlawful for any person, other than city personnel conducting city business therein, to occupy or be present in a park during the hours the park is not open to the public. Such prohibition shall not apply to athletic facilities, regularly scheduled athletic events authorized and approved by the director of parks and recreation, or to public celebrations or events authorized or sponsored by the city. (Ord. 4044 §3, 1980).

6.20.010-6.25.010

Chapter 6.20

SQUIRRELS\*

Sections:

- 6.20.010 Protection.
- 6.20.020 Nest--Molesting unlawful.
- 6.20.030 Dogs--Hunting squirrels prohibited.
- 6.20.040 Traps--Unlawful.

6.20.010 Protection. No person shall at any time or place within the city kill or injure any squirrel of any kind, except for the activities undertaken by, or with permission of, the director of parks and recreation pursuant to Section 9.76.120, with required permission having been obtained from appropriate authorities. (Ord. 3827, 1977; Ord. 3462 §1, 1974; Prior code §12.08(a)).

6.20.020 Nest--Molesting unlawful. No person shall at any time destroy, injure or in any manner interfere with the nest, whether natural or artificial, or the box or house of any squirrel of any kind. (Prior code §12.08(b)).

6.20.030 Dogs--Hunting squirrels prohibited. No person shall knowingly permit any dog, within his charge or control, to hunt, worry, injure or in any manner molest any squirrel of any kind within the city. (Prior code §12.08(c)).

6.20.040 Traps--Unlawful. No person shall at any time set, lay or prepare any trap or other contrivance or device whatever with the intent to kill any squirrel of any kind within the city, whether the same are caught or not. (Ord. 3462 §2, 1974; Prior code §12.08(d)).

Chapter 0.25

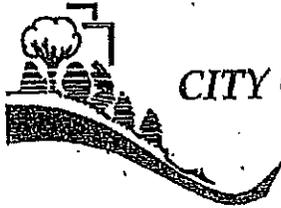
HUNTING

Sections:

- 6.25.010 Hunting.

6.25.010 Hunting. No person shall hunt any fur-bearing animal or bird within the city limits. This section shall not apply to bow and arrow hunting of deer when it has been determined by the director of parks and recreation that such hunting is necessary for proper game management or to protect parks or other property. Additionally, a permit for such hunting must be issued by the chief of police stating that the activity would not pose a threat to health and safety in the area where such hunting shall take place. (Ord. 5222, 1992).

\* For statutory provisions punishing cruelty to animals, see WSA 94B.



## CITY OF EAU CLAIRE

Office of the City Attorney  
Phone: (715) 839-6006  
Fax: (715) 839-6177

October 29, 2012

Ms Beth Norquist  
WI Department of Natural Resources  
1330 West Clairemont Avenue  
Eau Claire WI 54703

Dear Ms Norquist:

Thank you for the recent notification that the City of Eau Claire has been selected to tentatively receive a \$166,000 grant from the State of Wisconsin Department of Natural Resources Stewardship Fund for the acquisition of a 1.2 acre parcel located at 925 Addison Avenue in Eau Claire. We understand the assessed value of the property is \$332,000, and that the City of Eau Claire will be responsible for the balance of the funding required to purchase the property.

This property is contiguous to Mount Simon Park, a 70 acre community park, located in central Eau Claire, with amenities such as playgrounds, boat landing, disc golf course, picnic areas, trails and Babe Ruth Baseball diamonds. The park also has two additional residential homes adjacent to the property.

We understand that the Natural Resources Board, the funding approval body for Stewardship Grants, now requires all Stewardship grant acquired parcels located on waterfront property, to allow five nature-based outdoor activities (NBOA's) – cross country skiing, trapping, fishing, hiking and hunting. Unfortunately, the City of Eau Claire prohibits, by ordinance, hunting and trapping, for safety reasons, in its public parks as noted here:

### Chapter 6.25

### HUNTING

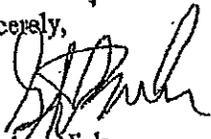
Section: 6.25.010 Hunting. No person shall hunt any fur-bearing animal or bird within the city limits. This section shall not apply to bow and arrow hunting of deer when it has been determined by the director of parks and recreation that such hunting is necessary for proper game management or to protect parks or other property. Additionally, a permit for such hunting must be issued by the chief of police stating that the activity would not pose a threat to health and safety in the area where such hunting shall take place. (Ord. 5222, 1992).

Beth Norquist  
October 29, 2012  
Page two

The City desires to continue with the process of receiving the grant, but desires an exemption from the requirement to allow hunting and trapping on this 1.2 acre parcel of land which is in the middle of a 70 acre park in central Eau Claire, and adjacent to two residences, for safety reasons.

We look forward to working with you in securing the Stewardship Grant with the condition that hunting and trapping not be allowed.

Sincerely,



Stephen Nick  
Eau Claire City Attorney

SCN:jw

Cc: Lavane J.Hessler, WI DNR  
Rebecca Noland, City of Eau Claire

Appendix D

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: January 9, 2013

TO: Lavane Hossler – CF/2

FROM: Beth Norquist

SUBJECT: NBOA News Release/Announcement Comment Period Closure and Approval

PROJECT NAME: City of Eau Claire – 925 Addison Avenue Land Acquisition

The 925 Addison Avenue land acquisition Stewardship grant proposal was required to meet the public notice requirements in ch. NR 52.04. The public notice was posted on GovDelivery on 12/12/2012 and the fifteen day public review period ended on 1/8/2013.

The Department received one (1) comment concerning this proposal which are summarize below:

Summary of comments: general opposed due to budgetary concerns. No mention of NBOAs.

In conclusion, the Department has met the public notice requirements for Stewardship land acquisition grant proposals.

Beth Norquist  
Signature of Contact Person

1/9/13  
Date

NBOA Approved with Prohibition Certification:

Mary Rose Teyes  
Mary Rose Teyes, CF Bureau Director

January 17, 2013  
Date



Wisconsin Department of Natural Resources

Appendix E

## City of Eau Claire seeks grant for acquisition of land

News Release Published: December 12, 2012 by the Central Office

Contact(s): Beth Norquist, Community Service Specialist, 715-839-3751

EAU CLAIRE, Wis. – The City of Eau Claire has applied for a 50 percent matching grant from the Knowles-Nelson Stewardship Program to help buy 1.2 acres in the City of Eau Claire in Eau Claire County. The City of Eau Claire will provide match to the grant award.

The property is being acquired to expand the existing Mt. Simon Park and will enhance Eau Claire's efforts to preserve and protect the city's urban waterways. This property will provide a place for hiking, fishing, trapping, cross-county skiing and biking.

The Department of Natural Resources is proposing to make the determination that the prohibition of hunting is necessary to protect public safety after examining the size and location of the property; the proximity of homes, buildings and roads; surrounding development; expectations of visitors; and city ordinances.

DNR's initial assessment of allowed Nature Base Outdoor Activities (pdf) may be downloaded from the Stewardship Public Notice Website or you may request a hard copy by contacting the project contact listed below.

Public written comments on the proposed acquisition can be mailed to Julie Sauer, Administrator, Division of Customer and Employee Services, care of Beth Norquist, Community Service Specialist, Wisconsin Department of Natural Resources, PO Box 4001, Eau Claire, WI 54702-4001 or sent by email to Elizabeth.Norquist@Wisconsin.gov.

If you have questions about this project, Beth Norquist can be reached by phone at 715-839-3751. Written comments will be accepted through Jan. 8, 2013. In accordance with s. NR 52.04 (2) (b), Wis. Adm. Code, objections about the prohibited activities on this property must show the proposed prohibition to be inconsistent with s. 23.0916 (2) (b), Stats., and s. NR 52.05, Wis. Adm. Code.

To receive e-mail notices of Stewardship Grant project news releases, please subscribe by putting a check mark by DNR Stewardship News under the News & Announcements heading.

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The Official Internet site for the Wisconsin Department of Natural Resources

101 S. Webster Street . PO Box 7921 . Madison, Wisconsin 53707-7921 . 608.266.2621

# Appendix F

470-1

DEPARTMENT OF NATURAL RESOURCES

NR 52.03

## Chapter NR 52

### STEWARDSHIP LAND ACCESS

NR 52.01 Purpose and applicability.  
NR 52.02 Definitions.  
NR 52.03 General provisions.

NR 52.04 Public notice.  
NR 52.05 Natural resources board determinations.

**NR 52.01 Purpose and applicability.** (1) Pursuant to s. 23.0916, Stats., lands acquired in whole or in part with funding from the stewardship program are open for public hunting, trapping, hiking, fishing and cross country skiing unless public access is prohibited pursuant to this chapter. Decisions to prohibit public access for these activities will be reviewed by the department using professional judgment and will be based on sound science, legitimate safety issues, factual data and relevant information. A restriction of a nature based outdoor activity may be considered a prohibition if the restriction prevents a major or a significant amount of the nature based activity from occurring.

(2) The purpose of this chapter is to implement s. 23.0916, Stats., which directs the department to establish standards and criteria for prohibiting public access for hunting, fishing, trapping, hiking and cross-country skiing, defined as nature based outdoor activities under s. 23.0916 (1) (b), Stats. This chapter applies to land acquired in whole or in part with funding from the stewardship program under ss. 23.0915 and 23.0917, Stats. The rules in this chapter are intended to maximize the number of compatible users and uses, to the extent practical, on lands subject to s. 23.0916, Stats.

(3) Pursuant to s. 23.0916 (5) (a), Stats., the natural resources board has determined that ss. NR 1.61 and 51.07 (3) (c) govern public access on all other lands funded in whole or in part with funding from the stewardship program under ss. 23.0915 and 23.0917, Stats., that are not referred to in sub. (1) or (2).

History: CR 09-077; cr. Register July 2010 No. 655, eff. 8-1-10.

#### NR 52.02 Definitions. In this chapter

(1) "Accommodate usership patterns" means to consider the factors found in s. NR 52.05 (1) (c) when making a determination to prohibit an NBOA.

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

(3) "Department land" means land acquired by the department in fee title, or with an easement on former managed forest land on or after October 27, 2007, with stewardship program funds under s. 23.0917, Stats.

(4) "Former managed forest land" has the meaning given in s. 23.0916 (1) (a), Stats.

(5) "Hunting" means shooting, shooting at, taking, catching or killing any wild animal, other than by trapping, or pursuing for the purpose of shooting, shooting at, taking, catching or killing any wild animal.

(6) "Natural values" has the meaning given in s. 23.27 (1) (f), Stats.

(7) "NBOA" means the nature based public outdoor activity of hunting, fishing, trapping, hiking or cross-country skiing as described in s. 23.0916 (1) (b), Stats.

(8) "Non-department land" means land acquired in fee title, or with an easement on former managed forest land on or after October 27, 2007, by a non-profit conservation organization or local unit of government with the assistance of a stewardship program grant under s. 23.0917, Stats.

(9) "Primary purpose" means the recreational or conservation purpose for which the property is being acquired as guided by ss. 23.09 (2), (20) (am), 23.0915, and 23.0917, Stats., by s. NR 51.05, and by state, regional or local plans that support the project.

(10) "Prohibit access for an NBOA" means not to allow the activity in its entirety, or to restrict the activity so that a major or significant amount of the activity is not allowed.

Note: A temporary restriction of an NBOA for department approved land management practices is not considered a prohibition of an NBOA.

(11) "Stewardship program" means the Knowles-Nelson Stewardship Program authorized under ss. 23.0915 and 23.0917, Stats.

(12) "Unique animal or plant community" means a natural community composed of different plant and animal species, along with their associated geological and archeological features, that exist together in a specific area, time and habitat. A unique animal or plant community is one identified as endangered, threatened, rare or ecologically sensitive. A unique plant or animal community may also be critical species habitat or an ecological reference area. The sources for identifying unique animal and plant communities include reports or databases, such as the natural heritage inventory, wildlife action plan, regional planning commission reports or other publications routinely referenced by conservation biologists. Individual game species shall not be considered as unique animal species for purposes of this chapter.

Note: References for, or copies of such databases, publications and reports may be viewed or obtained at the Department of Natural Resources, Bureau of Endangered Resources, 101 S. Webster Street, PO Box 7921, Madison, WI 53707-7921.

History: CR 09-077; cr. Register July 2010 No. 655, eff. 8-1-10.

**NR 52.03 General provisions.** (1) **DEPARTMENT LAND.** (a) All department land transactions are subject to s. NR 1.41.

(b) The department shall incorporate an evaluation of the requirements of s. 23.0916 (3), Stats., in master plans under ch. NR 44, feasibility studies and other planning documents that include land acquisition as an implementation strategy. This paragraph applies to new plans as well as any plan updates that may be undertaken for existing department projects that are subject to s. 23.0916 (3), Stats.

(2) **NON-DEPARTMENT LAND.** In addition to the requirements of ch. NR 51, stewardship program grant applications to acquire non-department lands subject to s. 23.0916 (2), Stats., shall include all of the following:

(a) A description of the public uses proposed for the property being acquired and a checklist indicating which of the specific NBOAs shall be permitted on the property. The checklist shall be in a format determined by the department and shall include at a minimum:

1. An indication as to whether a specific NBOA shall be allowed on the property.

2. For hunting, the checklist shall include information for allowing waterfowl, small game, turkey and big game hunting and shall include gun and archery hunting.

3. For trapping, the checklist shall include information for allowing water trapping and upland trapping.

4. For fishing, the checklist shall include information for permitting shore fishing and boat fishing.

5. For hiking, the checklist shall include information for allowing trail hiking and biking off-trail.

6. For cross-country skiing, the checklist shall include information for allowing groomed trail skiing and off-trail skiing.

(b) An explanation of the primary purpose for the acquisition. The primary purpose for the acquisition shall be based on s. 23.09 (2), (20) (am), 23.0915, or 23.0917, Stats., and s. NR 51.05 and on state, regional or local plans that support the acquisition. The application shall include the name of the plan being used and a description of the formal or informal public input received.

(c) A description of the NBOAs to be prohibited on the property and the reason for the prohibition. The reason for the prohibition shall be consistent with s. NR 52.05 and the applicant shall address in the application the specific factors in s. NR 52.05 that apply.

(3) DETERMINATIONS MADE IN ACCORDANCE WITH s. 23.0916, STATS., AND s. NR 52.05. (a) When a determination has been made in accordance with s. 23.0916, Stats., and s. NR 52.05 to prohibit one or more NBOAs on department land the feasibility study and master plan for the project where the NBOA will be prohibited shall be amended to describe the prohibited activity and a rule change may be initiated to enforce it.

(b) The stewardship grant contracts executed between the department and sponsor under s. NR 51.07 that are subject to s. 23.0916, Stats., and this chapter, shall describe any determination to prohibit one or more NBOAs and require the sponsor to contact the department if any of the factors identified in s. NR 52.05 changes such that a prohibition may be necessary, or is no longer necessary. The department shall evaluate those changes to determine the applicability to this chapter.

(4) Public use of lands purchased in whole or in part with funding from the stewardship program under s. 23.0917, Stats., shall be subject to all applicable federal, state and local laws; including but not limited to the public trust doctrine.

(5) Contributions of separate property used as sponsor match under subch. I of ch. NR 51, are not subject to this chapter.

(6) An organization with an identified policy prohibiting or restricting one or more NBOAs must comply with the provisions of this chapter regardless of the organization's policies.

History: CR 09-077; cr. Register July 2010 No. 655, eff. 8-1-10.

**NR 52.04 Public notice.** (1) In addition to the public notice requirements of ch. NR 150, the department shall provide individual notification over the Internet to any person requesting to receive a notice of any proposal to prohibit an NBOA on department or non-department land subject to s. 23.0916 (2) or (3), Stats. Any public notice regarding a proposal to prohibit an NBOA shall include all of the following:

(a) The name, address and phone number of the department's contact person for the project.

(b) The checklist described in s. NR 52.03 (2) (a).

(c) A summary of the NBOAs to be prohibited and the factors that were considered under s. NR 52.05.

(d) The department's initial assessment of the proposal to prohibit the NBOA pursuant to s. 23.0916 (2) (b) or (3) (b), Stats. The department's assessment shall include an evaluation of s. NR 52.05 (1) (a) to (c) and shall involve the department's resource management professionals at the local, regional and statewide level.

(2) (a) Public comments concerning the proposal to prohibit an NBOA shall be submitted in writing to the department. The comment period shall be 15 business days beginning on the day immediately following the day the department sends out the notice electronically.

(b) Objections must show the proposed prohibition of an NBOA to be inconsistent with s. 23.0916 (2) (b) or (3) (b), Stats., and s. NR 52.05.

(c) If an objection is received during the 15 business day comment period the department shall have up to 15 additional business days following the close of the comment period to evaluate the public comment, including any objections. The department shall contact anyone that submitted an objection under par. (a) and the person that requested the stewardship program funding to notify them that the objection was received and to gain more information about the proposal to prohibit an NBOA.

(d) The department shall create a written summary of its determination on the proposal to prohibit one or more NBOAs at the conclusion of the public comment and evaluation periods in par. (c) and (d). The department's written determination shall be based on s. 23.0916 (2) (b) or (3) (b), Stats., and s. NR 52.05 and the department shall provide the written summary to anyone that submitted an objection in accordance with par. (a), and to the person that requested the stewardship program funding.

(e) The department shall submit to the natural resources board for each regularly scheduled meeting a report that summarizes determinations made under par. (d). The report shall contain the information made available to the public under s. NR 52.04 (1), public comments, including any objections, gathered under s. NR 52.04 (2), and the department's written determination made under par. (d). The department shall deliver the report to the natural resource board and make the information available to the public over the Internet at least five working days preceding the next regularly scheduled meeting of the board. The natural resources board shall allow public participation to receive public testimony regarding the department's determinations and vote whether to ratify prohibitions on non-department land that appear on the monthly report.

History: CR 09-077; cr. Register July 2010 No. 655, eff. 8-1-10.

**NR 52.05 Natural resources board determinations.**

(1) In accordance with s. 23.0916, Stats., the natural resources board has determined that it is necessary to prohibit one or more NBOAs on department or non-department land for one or more of the following reasons listed below. In accordance with s. 15.05 (1) (b), Stats., the department shall make administrative determinations for each individual proposal to prohibit an NBOA, under the direction of the board, utilizing the process established in ss. NR 52.03 and 52.04, and based on the following reasons and factors.

(a) To protect public safety. One or more of the factors to consider when evaluating a proposal to prohibit an NBOA to protect public safety include:

1. The primary purpose for the project.

2. Laws and ordinances that may impact one or more NBOAs on the property.

*Note:* NBOAs may be affected by local laws or ordinances and may change as local laws or ordinances change.

3. User conflicts that may create public safety issues and impact one or more NBOAs on the property.

4. The physical characteristics of the property including size, shape, groundcover, topography or proximity to inhabited buildings that create public safety issues and influence NBOAs on the property.

5. A proposal to prohibit one or more NBOAs on a parcel 5 acres or smaller, located within the boundaries of cities and villages, shall be determined to be necessary in order to protect public safety and shall not be subject to s. NR 52.04 unless:

a. The parcel is adjacent to a parcel where the NBOAs to be prohibited already exist or;

b. The parcel is adjacent to a public waterway.

(b) To protect a unique animal or plant community. One or more of the factors to consider when evaluating a proposal to pro-

hibit an NBOA to protect a unique animal or plant community include:

1. The primary purpose for the project.
2. The necessity to prohibit an NBOA to protect and enhance the biological diversity, composition and ecological functions of natural communities exhibiting relatively little human disturbance or that have the capacity to be easily restored to such conditions.
3. The potential for an NBOA to impact the natural values of the site, according to s. 23.28 (3), Stats.
4. The potential for an NBOA to accolemie or increase over time and cause damage to the natural values of a site.
5. The potential for an NBOA to increase the risk of poaching rare plant or animal species, or the removal or destruction of rare geological or archeological features.

(c) To accommodate usership patterns. One or more of the factors to consider when evaluating the necessity to prohibit an NBOA to accommodate usership patterns include:

1. The primary purpose for the project.
2. User incompatibility and how this incompatibility may lead to the primary purpose of the project being significantly altered or curtailed.
3. The complexity, feasibility, practicality and cost effectiveness of separating activities by time and space or any other manner that might mitigate user incompatibility and or reduce the need for enforcement.
4. The size, shape and location of the property as well as surrounding land uses, including the use of public lands immediately adjacent to the property which may or may not have been funded with stewardship funds. The use of adjacent lands shall not be used as the sole factor in making a determination to prohibit an NBOA to accommodate usership patterns.
5. The mix of NBOAs at the location of the property that, to the extent practicable, will provide a quality experience for all compatible users and uses.

History: CR 09-077; cr. Register July 2010 No. 655, eff. 8-1-10.