

# **South Bend Venues Parks and Art's Ecological Advocacy Committee**

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# **Triannual Report**

**For the Period Covering:  
October 24, 2019, to March 11, 2020**

**Submitted by**

Steve Sass  
2020 Chair

**Additional 2020 committee members:**

Jo Borer  
Lindsay Chadderton  
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John DiTillo  
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Ally Pudlo  
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## **Summary**

With an increase in the frequency of meetings, the task of expanding the Natural Resource Management Plan, and providing support for two proposed ordinance changes, 2020 promises to be the busiest and most challenging period in the four-year history of the Ecological Advocacy Committee (EAC). Despite these challenges, the EAC remains committed to aiding in the creation of sound policies that will continue to position South Bend as a regional environmental leader.

## **Introduction**

This document is the first of three scheduled formal reports by the EAC to the South Bend Park Board of Commissioners in 2020. The other reports will be submitted and presented on July 20 and December 14. The PARC Committee of the South Bend Common Council will also receive copies of all three scheduled reports.

## **Elbel/Mud Lake Proposal**

As mentioned in the EAC's October report, in September of 2019, the committee reviewed a proposal submitted by members of the community related to Mud Lake, the wetland adjacent to Elbel Park. The document (see appendix A) requested that South Bend initiate the process of obtaining State Dedicated Nature Preserve status for Mud Lake, which is not city-owned.

The EAC formed a standing subcommittee to study and make recommendations on matters related to Elbel Park and Mud Lake. In response to the proposal, the consensus opinion of the subcommittee and subsequently of the full EAC was to strike the sole goal of Dedicated Nature Preserve, and instead offer the following recommendation:

*“Mud Lake is an important ecological resource. As an owner of adjacent property, the City of South Bend VPA should strive to ensure that Mud Lake and its contributing watershed are protected and restored; including but not limited to pursuing easements, working with landowners, researching property ownership and association opportunities, and engaging other partners such as DNR and land trusts.”*

The Elbel/Mud Lake Subcommittee remains in place to advise on future matters related to these properties.

## **Natural Resource Management Plan (NRMP)**

The initial NRMP was authored in 2017 by VPA staff with input from the EAC. One of the sections of the 2017 NRMP outlined the "Identified Topics of Concern," and another listed "Sensitive Park Properties." The 2020 version of the NRMP added to both of these sections.

The primary objective of the 2020 EAC is to work with VPA staff to expand the "Identified Topics of Concern" into strategies. Once completed, the 2021 goal will be to form actionable items from these strategies.

To obtain the 2020 goals, the EAC has formed six additional subcommittees, one for each of the "Identified Topics of Concern." As outlined in the 2020 application form, the EAC expects each member to participate in a minimum of two subcommittees.

Over the course of the next five months, borrowing from other established plans, and consulting with local and regional experts as resources, the subcommittees will draft these strategies. Following the committee's work, all potential stakeholders will have the opportunity to vet the proposed additions before the park board of commissioners receives the completed draft.

### **Expected Timeline**

- February - EAC forms subcommittees to study and write strategies for the six topics of concern indicated in the 2020 NRMP.
- March-July - Subcommittees produce rough-drafts of proposed strategies.
- August-October: VPA staff and other stakeholders vet and revise proposed strategies.
- November: VPA staff presents a completed draft of 2021 NRMP to the park board.

## **South Bend Code of Ordinance Chapter 19**

On March 11, 2019, EAC Chair Sass presented to the PARC Committee two proposed changes to the South Bend Code of Ordinances: Chapter 19-13 and Chapter 19-14 (see appendix B). The amendments to these sections, last updated in 1962, provided two primary updates:

- Update the list of prohibited tree and lawn area trees to meet contemporary needs.
- Removed obsolete ban on Berberis (barberry), and replaced it with all species of officially invasive vegetation as maintained by the Indiana Invasive Species Council.

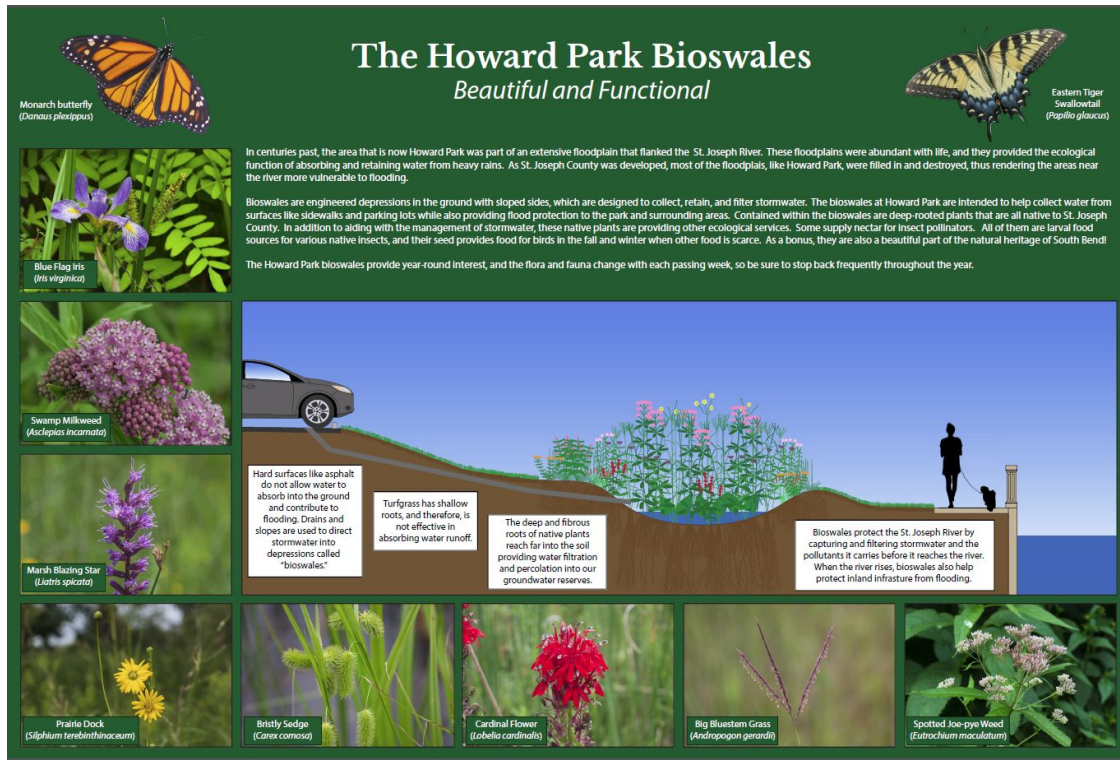
After nearly a year, the legal department has approved the proposed changes. Beginning on March 23, the revised ordinance drafts will return to the PARC Committee for further discussion and consideration.

## Outreach

Community outreach is a significant element of the EAC. As such, the committee strives to have a presence at relevant community functions, including the Leeper and Boland Park dedications and the Best Week Ever Kick-off Rally.

In addition to these events, Committee Chair Sass attended and represented VPA/EAC at Notre Dame's annual Sustainability Minor Community Luncheon. At this event, community stakeholders presented opportunities for students to incorporate into capstone projects.

The interpretive sign designed by Steve Sass and Amanda Smith, was incorporated into the final design and installed near the Howard Park bioswales.



Original Design



Finished Sign

## Development

### 35th Street Wetlands

EAC members Alicia Czarnecki, Steve Sass, and Andrew Tucker continue to work with Eric Horvath's Notre Dame civil engineering class. Since September 2019, EAC members have met with the students on-site three times to advise on ecological features and invasive vegetation. Czarnecki and Sass were also present to ask questions and comment at the student's group presentations of their 10% design plans.

Sass has significantly expanded a baseline botanical list conducted in 2017 by Scott Namestnik and Andrew Tucker. The running inventory, which now includes birds, mammals, amphibians, and insects, is currently available at

<https://www.indiananature.net/pages/SouthBendVPA/35thStreetWetlands.php>.

### Fredrickson Prairie

On Friday, March 13, VPA Project Engineer Patrick Sherman and EAC Chair Sass are meeting with representatives from the LaSalle Council of the Boy Scouts of America and Notre Dame. The purpose of this meeting is to discuss STEM opportunities for Fredrickson Prairie.

## **Interdepartmental Communication**

Since the last report, Therese Dorau (Sustainability), Andy Forst (horticulture), Jonathan Jones (Director of Recreation), John Martinez (Facilities and Grounds), Patrick Sherman (engineering), and Brent Thompson (forestry) have all attended EAC meetings.

## **Inventory and Monitoring**

As a headstart on this objective, some EAC members and VPA staff have begun to discuss methods and measures of implementation.

- EAC liaison Garry Harrington along with Steve Sass and Andrew Tucker have discussed the potential for amphibian monitoring at park properties containing wetlands.
- Beginning in the summer of 2019, Sass has kept a running inventory of plants, birds, and insects at Pinhook Park.
- In the fall of 2019, Sass visited Elbel Park with a project coordinator from the National Audubon Society, Great Lakes Region. Beginning in 2020, volunteers from the South Bend Audubon Society will begin conducting marsh bird surveys of the wetlands surrounding Elbel Park.
- Beginning in 2020, Sass will begin conducting breeding bird surveys at some South Bend park locations.

## **Conclusions**

2020 is poised to be the busiest and most impactful year in the history of the Ecological Advocacy Committee. The expansion of the Natural Resource Management Plan, and the educational campaign that must accompany the proposed ordinance changes will test the strength and commitment of the committee. Monumental tasks requiring significant amounts of work are ahead. However, the potential reward is great.

## **Recommendations**

The ongoing support that the EAC has received from VPA, the PARC Committee, and other officials is appreciated and needed as we work together to improve our community. As this relationship matures, and as South Bend continues to establish itself as a regional leader in sound ecological policies, VPA should continue to leverage the expertise of the EAC.

## **Appendix A**

### **Mud Lake Proposal Submitted to the EAC for Review**

## **Proposal for the City of South Bend Venues Parks & Arts Department to commit to pursuing protection for Mud Lake as a state-dedicated nature preserve**

On Monday, September 9, the Ecological Advocacy Committee (EAC) of Venue Parks & Arts (VPA) will have the opportunity to review and consider for endorsement a proposal for the VPA to commit to working with the Indiana Department of Natural Resources (DNR) to protect Mud Lake as a state-dedicated nature preserve. Mud Lake is a high-quality wetland in Northwestern St. Joseph County. It forms the northern border of Elbel Park and is the largest natural lake in the county. This document shares information about this proposal in advance of the meeting, addressing the history behind the proposal, the proposal's specific language, and its implications for the future of Mud Lake and Elbel Park.

### **History**

The high quality and value of Mud Lake as a natural area has only recently been recognized. Golfers of Elbel have long known of its beauty, of course, and the birding community has long known that Mud Lake is one of the best spots for birding in St. Joseph County, but it was only three and a half years ago, in February of 2016, that Steve Sass and Scott Namestnik brought public attention to the natural values of Mud Lake in their presentation on the Kettle Lakes Corridor in Northwestern St. Joseph County, "When Glaciers Collide." Following their discovery of Lydick Bog (part of which is now protected as a state-dedicated nature preserve owned and stewarded by Shirley Heinze Land Trust), they had investigated the natural values of the rest of the wetlands in the Kettle Lakes Corridor, including Mud Lake, and their presentation shared their findings. Their brief initial survey of Mud Lake found that it was probably a high-quality wetland.

This early valuation was confirmed and amplified by a comprehensive floristic survey of the southern half of Mud Lake undertaken by Orbis Consulting (investigator, Scott Namestnik) during the 2016 growing season. This survey was undertaken at the request of the VPA as part of its study of the significance of Elbel Park and the best management practices for it.



That study, whose results were submitted in March of 2017, found that Mud Lake was indeed a natural area of very high quality. The survey found 20 plant species that are either state-endangered, state-threatened, state-rare, or state-watch-listed in the Mud Lake wetlands & surrounding uplands (see Attachment 1). Equally important, it documented the presence of 20 highly conservative plant species: species that are found almost exclusively in landscapes that have never been disturbed by development, as they are intolerant of disturbance and thus are among the first species to disappear when a native ecosystem is disrupted. The presence of these species shows that Mud Lake is a remnant natural area (see Attachment 2). Indeed, the survey found that almost the whole of the wetland's open water is of an A rating as a natural area, and that Mud Lake contains several floating islands that are proto-bogs. The slow process of bog-formation is in progress at Mud Lake, and many rare bog plant species are established on these islands, some of which are also A rated (see Attachment 3). On the basis of these discoveries, the report from Orbis made the following management recommendations for Mud Lake:

*The presence of high quality natural communities and plant and animal species of conservation concern at Mud Lake at Elbel Park warrant protection, conservation, and restoration of the plant communities within the study area. As a result, recommendations for the site include a variety of activities, including contacting adjacent property owners and working with them towards common restoration targets, conducting invasive species control/removal, removing trash and debris, creating additional buffers between the golf course and Mud Lake, and planting and maintaining native landscaping areas. In addition, because of the interest from the population of South Bend and St. Joseph County in the park, recommendations also include creating recreational trails, overlooks and educational signage for multi- seasonal park use. Mud Lake also presents various opportunities for local primary and secondary education classrooms. (Natural Features Inventory and Management Plan: Mud Lake at Elbel Park, p. 40)*

Since this report was issued, the VPA has implemented or investigated several of these recommendations with respect to the management of the Elbel grounds and the establishment of recreational trails, many of which are documented in the EAC Natural Resource Management Plan. During that same time period, Elbel for Everyone has investigated the options and the mechanisms for achieving the permanent protection for Mud Lake needed for the *conservation*

*and restoration of the plant communities.* From those explorations, we concluded that the best method of protecting the lake would be for it to be dedicated as a state nature preserve, joining Lydick Bog, Chamberlain Lake, and Deer Lake as unique, high-quality, *protected* wetlands in the Kettle Lakes Corridor. We learned from Tom Swinford at the Indiana Department of Natural Resources that for the DNR to consider Mud Lake for nature preserve status, the DNR would need a formal request by a relevant landowner. Because the City of South Bend owns approximately the southern half of the lakeshore (ownership of the lake itself is still uncertain—see Attachment 4 for a property map) and because there is strong public interest in protecting Mud Lake as part of the city’s park system, we approached VPA Director Aaron Perri to ask if the VPA would be willing to request nature-preserve status for Mud Lake, so that the DNR could initiate the process of protecting it.

We met with Aaron Perri in late June of this year. He gave us his verbal support for the goal of protecting Mud Lake as a state-dedicated nature preserve. He requested that we begin the process of moving toward this goal by meeting with the EAC, who would have the role of formally vetting and endorsing the project proposal. Thus, we offer the proposal below for your consideration. Our sense is that there is a strong synergy between this proposal and the vision for South Bend parks laid out in the EAC’s Natural Resource Management Plan (we note especially the section on *insuring availability of natural resources for future generations*), so we are hopeful that you will find this proposal worthy of endorsement.

## **Proposal**

*The Department of Venues Parks & Arts of the City of South Bend commits to the goal of protecting that portion of Mud Lake and its upland surroundings that are in a natural condition and belong to the City of South Bend as a state-dedicated nature preserve. The VPA will work with the Indiana DNR to achieve this goal, and it will lend support to a process that could lead to the protection of the entirety of Mud Lake as a state-dedicated nature preserve through the involvement of the other landowners whose properties border or contain other portions of Mud Lake.*

## **Future Implications**

By committing to this process, the VPA will take an essential step toward the ultimate goal of protecting the entirety of Mud Lake as a nature preserve, along with as much of the natural uplands around it as is feasible. (See Attachment 5 for the preserve's proposed boundaries.) Although the request would not guarantee that the DNR would elect to protect Mud Lake, the floristic quality assessment shows clearly that this is a landscape of nature-preserve quality: it is part of the less than 1% of land remaining in Indiana that is in much the same condition that it was prior to European settlement. We are confident that the DNR will conclude that Mud Lake is a landscape worth protecting if the owners are willing to protect it.

The VPA's commitment would provide a solid starting point from which to begin outreach to additional landowners. Most of the lakeshore that is not owned by the City of South Bend is the property of a single owner, who has left her land bordering the lake mainly in a natural state. With that owner's commitment, most of the rest of the lake could be protected. The seven residential property owners on the northwest corner of the lake have a lively interest in seeing Mud Lake protected from development, so they may be a receptive audience as well. The VPA would not be responsible for undertaking this outreach: Elbel for Everyone is committed to our role in facilitating the stakeholder partnerships needed to establish and maintain a Mud Lake nature preserve. However, we would welcome active partnership from the VPA in engaging other owners.

The VPA's commitment to having Mud Lake dedicated as a state nature preserve would not commit or encourage the City of South Bend to relinquish ownership of any part of the Elbel Park property. No change of ownership is needed for Mud Lake to be dedicated as a state nature preserve. Although in some cases the land of a preserve is transferred to state ownership, that is not a necessary condition, and when a government entity owns the land as part of a public park, the land typically remains within the public park system. For example, St. Joseph County owns the nature preserves within Bendix Woods and Spicer Lake County Parks. For Mud Lake to become a nature preserve, the VPA would simply be committing to limit its uses of the land to those that are compatible with its protected status.

The VPA's commitment to limit the use of the land in a Mud Lake nature preserve would not disrupt the continued use of Elbel Park for golf on lands adjacent to the preserve. The history of the ecological interaction between Elbel Park and Mud Lake already shows, however, that management of the course can readily protect Mud Lake: Mud Lake remains a high-quality natural area after more than 50 years of cohabitation with the golf course. Moreover, many management adjustments to make the golf course at Elbel more environmentally friendly have already been implemented without any disruption to golf. Critical for the preservation of Mud Lake and its flourishing as a high quality natural area is the continued management of upland areas around the lake that are not in a natural condition.

What the VPA's commitment will do is initiate a process that will lead to protection of half of Mud Lake and could lead onward to the protection of the whole lake. Although we aim to protect the whole lake, protecting even half the lake is a worthy goal. We hope that this explanation of the future process that could lead onward from this first step to the protection of all of Mud Lake will add to the EAC's sense of the value in taking this step of protecting the part of Mud Lake over which the VPA has authority. We believe that the highest and best use of this land is as a nature preserve. This protection will conserve the inherent values of its irreplaceable biodiversity and wild beauty, from which current and future generations of South Bend residents can benefit.

Thank you for your time in considering this proposal.

Jennifer Betz

Mark Blassage

Chris Cobb

for Elbel for Everyone

### **Attached Documents**

Attachment 1: List of Endangered, Threatened, or State Watch List Plant Species found at Mud Lake

Attachment 2: List of Conservative Species found at Mud Lake

Attachment 3: Floristic Quality Map prepared by Orbis Consulting

Attachment 4: Property parcels surrounding Mud Lake

Attachment 5: Intended boundaries for Mud Lake Nature Preserve

**Table 6 - Plant Species of Conservation Concern.**

Latin Name	Common Name	Status
<i>Carex alata</i>	Winged oval sedge	Indiana watch list
<i>Carex atherodes</i>	Hairy-leaved lake sedge	Indiana endangered
<i>Carex cephaloidea</i>	Rough clustered sedge	Indiana endangered
<i>Ceratophyllum echinatum</i>	Spiny coontail	Indiana rare
<i>Drosera rotundifolia</i>	Round-leaved sundew	Indiana watch list
<i>Fuirena pumila</i>	Umbrella sedge	Indiana threatened
<i>Hydrastis canadensis</i>	Golden seal	Indiana watch list
<i>Liparis loeselii</i>	Green twayblade	Indiana watch list
<i>Myriophyllum verticillatum</i>	Whorled water milfoil	Indiana rare
<i>Panax quinquefolius</i>	Ginseng	Indiana watch list
<i>Pinus strobus</i> *	White pine	Indiana rare
<i>Platanthera clavellata</i>	Small green wood orchid	Indiana watch list
<i>Pogonia ophioglossoides</i>	Rose pogonia	Indiana watch list
<i>Potamogeton pusillus ssp. tenuissimus</i>	Broad-leaved small pondweed	Indiana watch list
<i>Rhynchospora macrostachya</i>	Horned beak rush	Indiana rare
<i>Sparganium androcladum</i>	Branched bur reed	Indiana threatened
<i>Utricularia minor</i>	Small bladderwort	Indiana threatened
<i>Utricularia purpurea</i>	Purple bladderwort	Indiana rare
<i>Viola pubescens</i>	Downy yellow violet	Indiana watch list
<i>Wolffiella gladiata</i>	Blade duckweed	Indiana endangered

\* Likely planted or an escape from planting

* <i>Platanthera lacera</i>	Green fringed orchid	Indiana watch list
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\* Discovered 6.23.18 after completion of the Orbis report

In addition to the ETR plant species documented at the site, 20 plant species with C values of 9 or 10 (including nine not listed as ETR) were documented during the surveys (Table 7). Rothrock (2004) states that plants with C values of 9 or 10 are restricted to remnant landscapes that appear to have suffered very little post-settlement trauma. Nearly all of the species present with C values of 9 or 10 are found in the submergent marsh or on floating islands within the submergent marsh, adding to evidence that the wetland portion of the site consists of a remnant natural area.

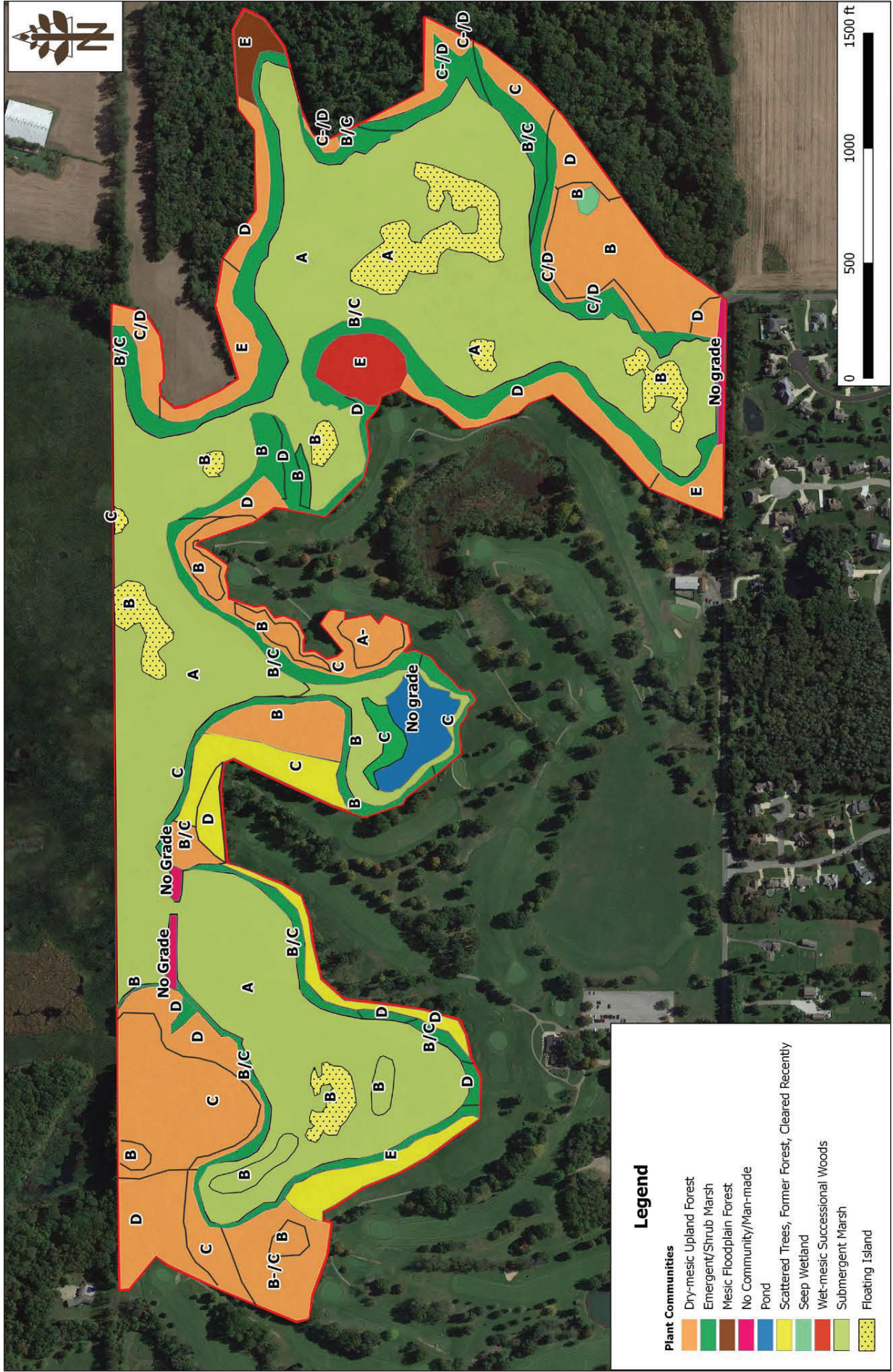
Table 7 - Conservative Plant Species (C≥9).

Scientific Name	Common name	C Value
<i>Carex alata</i>	Winged oval sedge	10
<i>Ceratophyllum echinatum</i>	Spiny coontail	10
<i>Comarum palustre</i>	Marsh cinquefoil	9
<i>Drosera rotundifolia</i>	Round-leaved sundew	9
<i>Dulichium arundinaceum</i>	Three-way sedge	10
<i>Eleocharis flavescens</i> var. <i>olivacea</i>	Wrinkle-sheathed spike rush	10
<i>Fuirena pumila</i>	Umbrella sedge	10
<i>Glyceria canadensis</i>	Rattlesnake manna grass	10
<i>Myriophyllum verticillatum</i>	Whorled water milfoil	10
<i>Panicum tuckermanii</i>	Tuckerman's panic grass	10
<i>Platanthera clavellata</i>	Small green wood orchid	9
<i>Pogonia ophioglossoides</i>	Rose pogonia	10
<i>Rhynchospora macrostachya</i>	Horned beak rush	10
<i>Sparganium americanum</i>	American bur reed	10
<i>Sparganium androcladum</i>	Branched bur reed	9
<i>Toxicodendron vernix</i>	Poison sumac	10
<i>Triadenum virginicum</i>	Marsh St. John's wort	10
<i>Utricularia minor</i>	Small bladderwort	10
<i>Utricularia purpurea</i>	Purple bladderwort	10
<i>Viola pallens</i>	Smooth white violet	10
<i>Calopogon tuberosus</i> *	Grass Pink Orchid	10

\* Discovered 6.23.18 after completion of the Orbis report

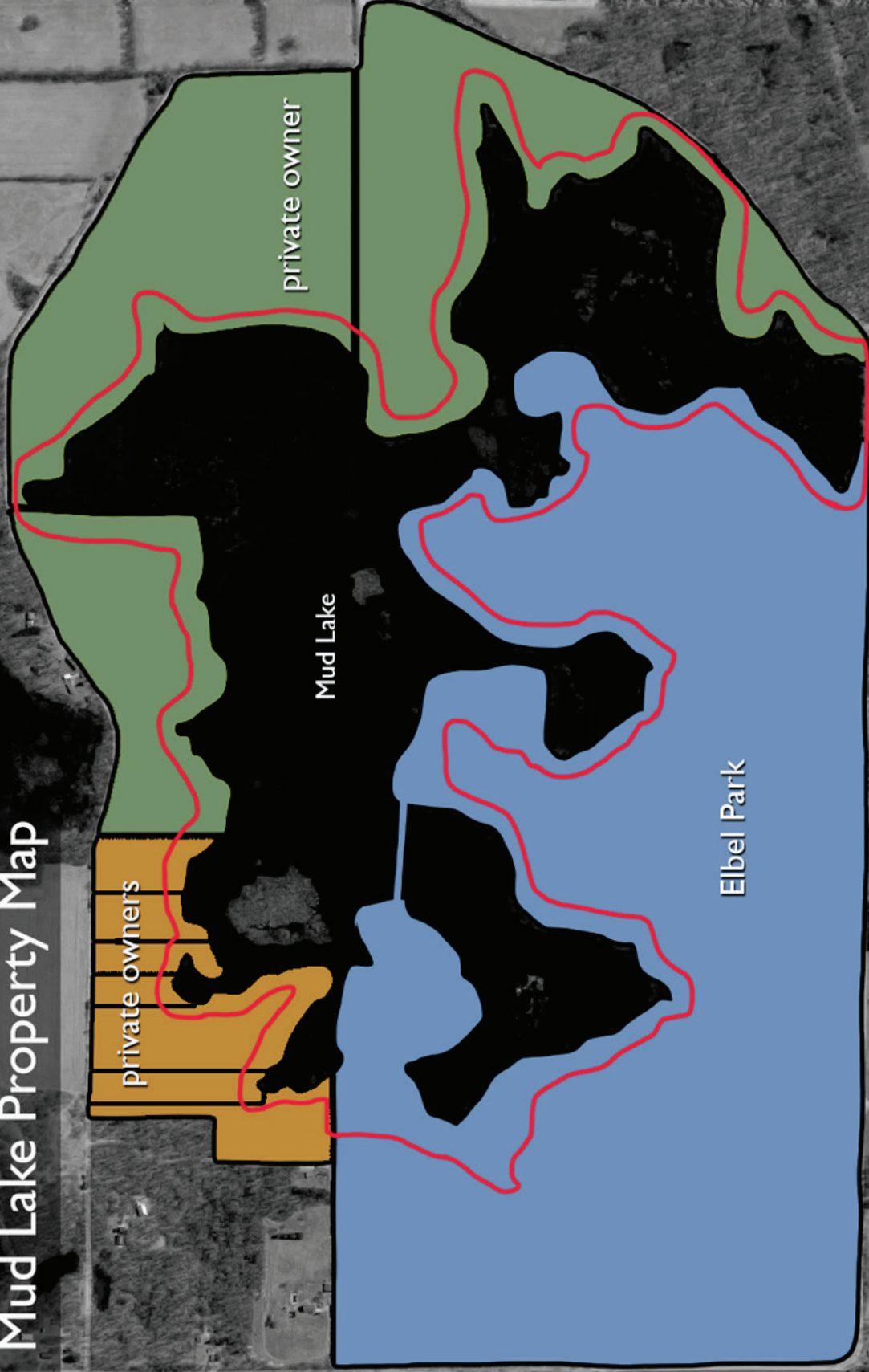


Figure 6 - Plant Communities/Vegetation Assemblages and Quality Grades.





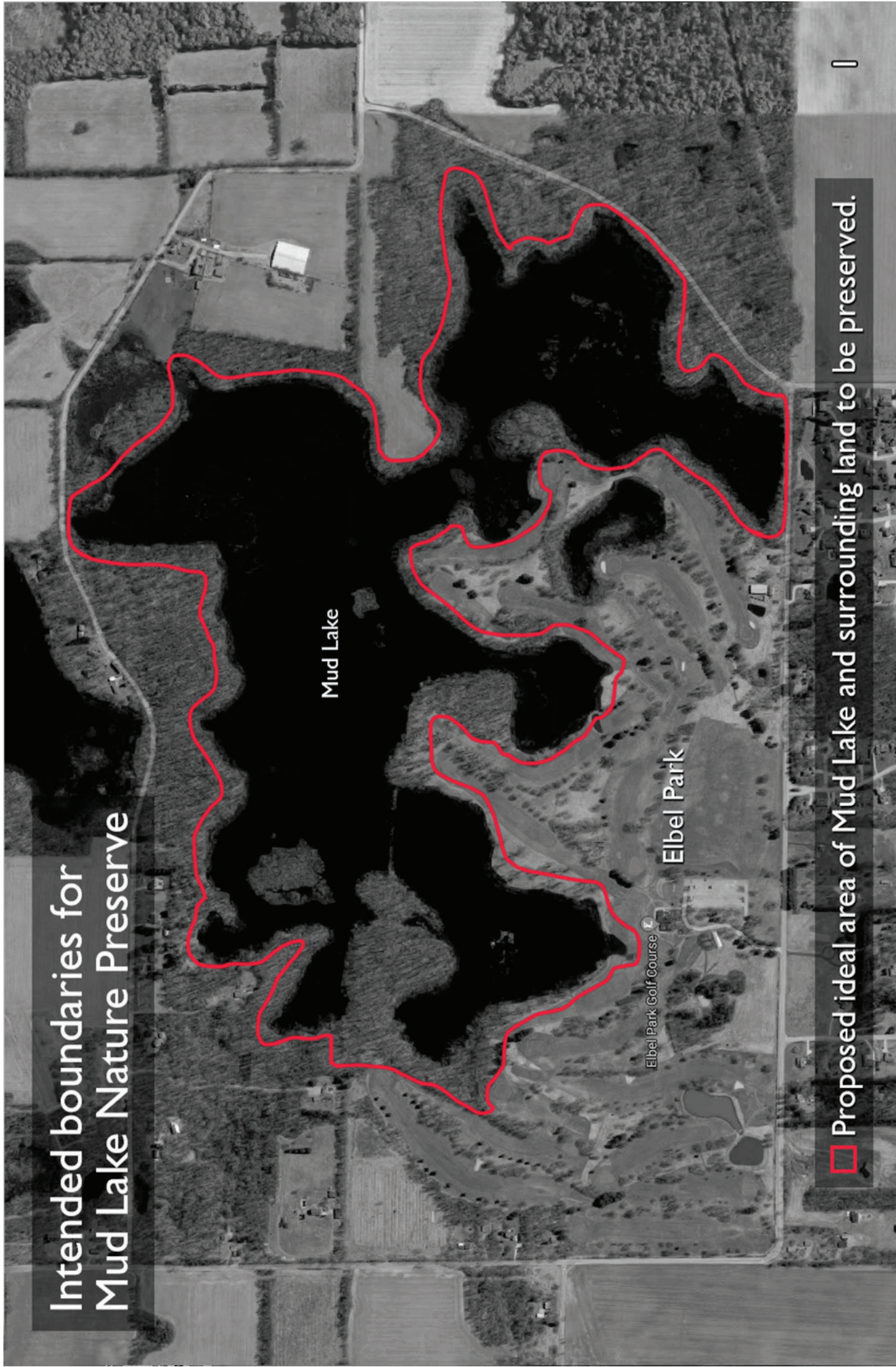
# Mud Lake Property Map



□ Proposed ideal area of Mud Lake and surrounding land to be preserved.



Intended boundaries for  
Mud Lake Nature Preserve



Proposed ideal area of Mud Lake and surrounding land to be preserved.

## **Appendix B**

**Packet Pertaining to Proposed Ordinance Changes  
Submitted to PARC Committee March 11, 2019**

# Overview - Updating South Bend Municipal Code Chapter 9 Sections 19-13 and 19-14

## 1. Why an update is needed?

- a. Address the problems of propagation, selling, and installation of exotic, invasive ornamental plants
  - i. Economic damage - A 2012 survey of 120 agencies and landowners in Indiana found \$5.7 million was spent to manage invasive species and protect natural areas. The cost grows every year. - *Indiana Economic Digest*
  - ii. Biologists estimate that up to 80% of invasive plant species are garden escapees - (*Niemiera et al. Invasive Plants— A Horticultural Perspective, 2009*)
  - iii. 57 years since the last update - Invasive plants were much less of a known issue in 1962.
- b. Usage of common names is vague. The proposed changes provide the scientific names of invasive and otherwise undesirable trees.
- c. Sec. 19-14 regarding *Berberis* is antiquated. *Berberis* was banned because it was at one point a threat to agriculture (alternate host to Wheat Rust Fungus).

## 2. What other initiatives have been done in Indiana to combat the spread of invasive plants?

- a. Establishment of Indiana Invasive Species Council (IISC) (copy of legislation included)
- b. DNR Rule (NRC draft included)
- c. Knox County Commissioner's Ordinance (ordinance included)

## 3. Additional benefits from the ordinance changes

- a. South Bend has the opportunity to lead the state by becoming the first city in Indiana to invoke such an ordinance, and the first locale to prohibit all of the species identified by the IISC.
- b. Restricting the sale and planting of these invasive species will have positive impacts on the regional ecosystem including creating greater insect/pollinator diversity, and promoting an ecosystem that is more sustainable and more adaptive to climate change.

## 4. Potential pitfalls/setbacks

- a. Possible kickback from the nursery/landscape trade
  - i. VPA/EAC to launch an educational/outreach campaign to mitigate.

## Proposed Changes to Ordinances 19-13 and 19-14

### Overview of changes

The existing Section 19-13 pertains to trees planted within the "tree and lawn areas" as previously defined in Section 19. The proposed amendments change 19-13 to represent all vegetation planted within city limits, and it ties the prohibited list to the official IISC list of invasive plants.

The existing Section 19-14 pertains to species of prohibited shrubs citywide. The proposed amendment removes the antiquated Berberis ban and reassigns the section to pertain to the "tree and lawn area." The amendment also defines prohibited species of non-invasive plants, which are considered by the City Forester to be unsuitable for planting in the "tree and lawn area," and identifies them by their taxonomic names.

### Current Ordinances

#### Sec. 19-13. - Prohibited species of trees.

No catalpa, soft maple, box elder, cottonwood, poplar, ailanthus, mountain ash, horse chestnut, birch, mulberry, willow, Carolina poplar, basswood, Chinese elm, nut-bearing trees or conifers, or any tree having weeping or pendulous branches, shall be planted in any tree and lawn area or upon, along or within the limits of any public street.

(Code 1962, § 38-8)

#### Sec. 19-14. - Prohibited species of shrubs.

No person shall sell or plant within the City the "berberis vulgaris," commonly known as the tall barberry, or the "berberis purpurea," commonly known as the purple barberry.

(Code 1962, § 38-9)

### Proposed Amended Ordinances

#### Sec. 19-13. - Prohibited species of vegetation

No person shall sell, plant or knowingly propagate within the City any species of aquatic or terrestrial tree, shrub, vine or other vascular plants that are listed on the Official Invasive Plant List as created and maintained by the Indiana Invasive Species Council.

#### Sec. 19-14. - Prohibited species of vegetation in the "tree and lawn area"

No species of vegetation as defined by Chapter 9, Section 19-13 shall be planted in any tree and lawn area or upon, along or within the limits of any public street. Additional prohibited trees and shrubs in this area shall include Boxelder (*Acer negundo*), Silver Maple (*Acer saccharinum*), Paper Birch (*Betula papyrifera*), Ash (*Fraxinus* spp.), Ginkgo (*Ginkgo biloba* - female only), Osage Orange (*Maclura pomifera*), White Poplar (*Populus alba*), Cottonwood (*Populus deltoides*), Lombardy Poplar (*Populus nigra*), Black Locust (*Robinia pseudoacacia*), Willow (*Salix* spp.), Mountain Ash (*Sorbus americana*), Black Walnut (*Juglans nigra*), conifers and any trees with pendulous or weeping branches, and other vegetation deemed inappropriate by the City Forester and the Citizen's Tree Board."

## **IC 15-16-10 Chapter 10. Invasive Species Council**

[15-16-10-1](#)"Council"

[15-16-10-2](#)"Fund"

[15-16-10-3](#)Council established

[15-16-10-4](#)Council's duties

[15-16-10-5](#)Membership; appointments; chairperson

[15-16-10-6](#)Terms of members; removal

[15-16-10-7](#)Vacancies

[15-16-10-8](#)Travel expenses

[15-16-10-9](#)Quorum

[15-16-10-10](#)Meetings

[15-16-10-11](#)Administrative assistance to council

[15-16-10-12](#)Invasive species council fund

[15-16-10-13](#)Expiration of chapter

### **IC 15-16-10-1 "Council"**

Sec. 1. As used in this chapter, "council" refers to the invasive species council established by section 3 of this chapter.

*As added by P.L.23-2009, SEC.1.*

### **IC 15-16-10-2 "Fund"**

Sec. 2. As used in this chapter, "fund" refers to the invasive species council fund established by section 12 of this chapter.

*As added by P.L.23-2009, SEC.1.*

### **IC 15-16-10-3 Council established**

Sec. 3. The invasive species council is established within the Purdue University College of Agriculture.

*As added by P.L.23-2009, SEC.1. Amended by P.L.27-2015, SEC.1.*

### **IC 15-16-10-4 Council's duties**

Sec. 4. (a) The council has the following duties:

(1) Recommend:

- (A) priorities for projects;
- (B) funding; and
- (C) rules and laws;

concerning invasive species to the appropriate governmental agencies and legislative committees.

(2) Recommend a lead state agency to:

- (A) develop an invasive species inventory for each invasive species taxon; and
- (B) develop and maintain a data management system for invasive species in Indiana.

(3) Communicate with other states, federal agencies, and state and regional organizations to enhance consistency and effectiveness in:

- (A) preventing the spread of;
- (B) early detection of;
- (C) response to; and
- (D) management of;

invasive species.

(4) Coordinate invasive species education and outreach programs.

(5) Convene or support an invasive species meeting at least once per biennium to provide information on best practices and pertinent research findings.

(6) Assist governmental agencies in:

- (A) reviewing current invasive species policies and procedures; and
- (B) addressing any deficiencies or inconsistencies concerning invasive species policies and procedures.

(7) Assist state agencies in reviewing the agencies' performance measures for accountability concerning the agencies' invasive species actions.

(8) Receive reports from any governmental agency regarding actions taken on recommendations of the council.

(9) Apply for grants.

(10) Provide grants for education concerning or management of invasive species.



(b) The council does not have any regulatory authority over invasive species or the authority to hear appeals of grievances.

(c) The council may create advisory committees to provide information and recommendations to the council.

(d) Beginning July 1, 2011, the council shall issue a report to the interim study committee on agriculture and natural resources established by [IC 2-5-1.3-4](#) in an electronic format under [IC 5-14-6](#) in every odd-numbered year. The report must include a summary of:

- (1) the council's activities;
- (2) the performance of the council's duties; and
- (3) efforts in the state to identify and manage invasive species.

The report may include recommendations of the council.

*As added by P.L.23-2009, SEC.1. Amended by P.L.53-2014, SEC.133.*

#### **IC 15-16-10-5 Membership; appointments; chairperson**

Sec. 5. (a) The council consists of the following eleven (11) members:

- (1) The dean of the Purdue University College of Agriculture or the dean's designee, who shall act as secretary of the council.
  - (2) The director of the Indiana state department of agriculture or the director's designee.
  - (3) The commissioner of the Indiana department of transportation or the commissioner's designee.
  - (4) The state veterinarian or the state veterinarian's designee.
  - (5) An employee of the division of fish and wildlife who is designated by the director of the division of fish and wildlife to serve as the aquatic invasive species coordinator.
  - (6) An employee of the division of entomology and plant pathology who is designated by the director of the division of entomology and plant pathology to serve as the terrestrial invasive species coordinator.
  - (7) One (1) individual representing research on invasive species.
  - (8) Two (2) individuals who represent organizations that are primarily concerned with any of the following:
    - (A) The hardwood tree industry.
    - (B) The horticulture industry.
    - (C) The agriculture industry.
    - (D) The aquaculture industry.
  - (9) Two (2) individuals who represent organizations or local governmental agencies primarily concerned with any of the following:
    - (A) Land trusts.
    - (B) Biodiversity conservation.
    - (C) Aquatic conservation.
    - (D) Local parks and recreation.
- (b) The governor shall appoint the members under subsection (a)(7) through (a)(9).
- (c) The council shall annually elect a member to serve as chairperson of the council.

*As added by P.L.23-2009, SEC.1.*

#### **IC 15-16-10-6 Terms of members; removal**

Sec. 6. (a) The term of a member of the council appointed under this chapter is three (3) years.

(b) The term of each member of the council continues until a successor has been appointed.

(c) The appointing authority who appointed a member of the council may remove the member for cause.

*As added by P.L.23-2009, SEC.1.*

#### **IC 15-16-10-7 Vacancies**

Sec. 7. (a) If there is a vacancy on the council, the appointing authority who appointed the member whose position is vacant shall appoint an individual to fill the vacancy. The appointing authority shall appoint a member not later than sixty (60) days after the vacancy occurs.

(b) The member appointed under this section shall fill the vacancy for the remainder of the unexpired term.

*As added by P.L.23-2009, SEC.1.*

#### **IC 15-16-10-8 Travel expenses**

Sec. 8. Members of the council shall serve without compensation. Subject to the availability of money in the fund, members who are not state or county employees are entitled to reimbursement for traveling expenses as

provided in the Purdue University travel policies and procedures established by the Purdue University department of transportation and approved by the Purdue University vice president of business services.  
*As added by P.L.23-2009, SEC.1.*

#### **IC 15-16-10-9Quorum**

Sec. 9. Six (6) members of the council constitute a quorum.

*As added by P.L.23-2009, SEC.1.*

#### **IC 15-16-10-10Meetings**

Sec. 10. (a) The council shall hold at least one (1) regular meeting each year at a date, place, and time to be set by the chairperson.

(b) The chairperson may call special meetings of the council.

*As added by P.L.23-2009, SEC.1.*

#### **IC 15-16-10-11Administrative assistance to council**

Sec. 11. The Purdue University College of Agriculture shall provide administrative assistance to the council.

*As added by P.L.23-2009, SEC.1. Amended by P.L.27-2015, SEC.2.*

#### **IC 15-16-10-12Invasive species council fund**

Sec. 12. (a) The invasive species council fund is established as a separate fund in the Purdue University treasury to carry out the purposes of this chapter. The fund shall be administered by the council.

(b) The fund consists of any of the following:

- (1) Grants.
- (2) Appropriations.
- (3) Gifts and donations.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The Purdue University treasurer shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments must be deposited in the fund.

(e) Money in the fund may be used for purposes set forth in this chapter and to meet the expenses of administering this chapter.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

*As added by P.L.23-2009, SEC.1.*

#### **IC 15-16-10-13Expiration of chapter**

Sec. 13. This chapter expires July 1, 2023.

*As added by P.L.23-2009, SEC.1. Amended by P.L.27-2015, SEC.3.*

# Indiana Invasive Plant List

Approved by Indiana Invasive Species Council 10/11/2013

For more information, go to <http://www.entm.purdue.edu/iisc/invasiveplants.php>

Common Name	Latin Name	Rank	Common Name	Latin Name	Rank
<b>Aquatic</b>			poison hemlock	<i>Conium maculatum</i>	H
anchored water hyacinth	<i>Eichhornia azurea</i>	H	Queen Anne's lace	<i>Daucus carota</i>	M
arrowhead	<i>Sagittaria sagittifolia</i>	FN	St. John's wort	<i>Hypericum perforatum</i>	L
Asian marshweed	<i>Limnophila sessiliflora</i>	H	spiny plumeless thistle	<i>Carduus acanthoides</i>	H
Brazilian elodea	<i>Egeria densa</i>	H	spreading hedge parsley	<i>Torilis arvensis</i>	C
brittle naiad	<i>Najas minor</i>	H	spotted knapweed	<i>Centaurea stoebe</i>	H
caulerpa	<i>Caulerpa taxifolia</i>	FN	striate lespedeza	<i>Kummerowia striata</i>	M
Chinese waterspinach	<i>Ipomoea aquatic</i>	H	white sweet clover	<i>Melilotus alba</i>	M
curly-leaved pondweed	<i>Potamogeton crispus</i>	H	wild parsnip	<i>Pastinaca sativa</i>	M
duck lettuce	<i>Ottelia alismoides</i>	H	yellow sweet clover	<i>Melilotus officinalis</i>	M
Eurasian watermilfoil	<i>Myriophyllum spicatum</i>	H	<b>Shrub</b>		
European frogbit	<i>Hydrocharis morsus-ranae</i>	H	Amur honeysuckle	<i>Lonicera maackii</i>	H
exotic bur-reed	<i>Sparganium erectum</i>	FN	Amur privet	<i>Ligustrum amurense</i>	C
flowering rush	<i>Butomus umbellatus</i>	H	autumn olive	<i>Elaeagnus umbellata</i>	H
giant salvinia	<i>Salvinia auriculata</i>	FN	Bell's honeysuckle	<i>Lonicera x bella</i>	H
giant salvinia	<i>Salvinia biloba</i>	FN	bicolor lespedeza	<i>Lespedeza bicolor</i>	M
giant salvinia	<i>Salvinia herzogii</i>	FN	blunt leaved privet	<i>Ligustrum obtusifolium</i>	H
giant salvinia	<i>Salvinia molesta</i>	FN	burning bush	<i>Euonymus alatus</i>	M
heartshape	<i>Monochoria vaginalis</i>	FN	California privet	<i>Ligustrum ovalifolium</i>	C
hydrilla	<i>Hydrilla verticillata</i>	H	Chinese privet	<i>Ligustrum sinense</i>	C
miramar weed	<i>Hygrophilla polysperma</i>	H	common barberry	<i>Berberis vulgaris</i>	C
monochoria	<i>Monochoria hastata</i>	FN	common buckthorn	<i>Rhamnus cathartica</i>	H
mosquito fern	<i>Azolla pinnata</i>	FN	common privet	<i>Ligustrum vulgare</i>	C
narrow-leaved cattail	<i>Typha angustifolia</i>	H	glossy buckthorn	<i>Frangula alnus</i>	H
oxygen weed	<i>Lagarosiphon major</i>	FN	highbush cranberry	<i>Viburnum opulus v. opulus</i>	C
parrotfeather	<i>Myriophyllum aquaticum</i>	H	Japanese barberry	<i>Berberis thunbergii</i>	H
purple loosestrife	<i>Lythrum salicaria</i>	H	Japanese meadowsweet	<i>Spiraea japonica</i>	C
water chestnut	<i>Trapa natans</i>	H	jetbead	<i>Rhodotypos scandens</i>	C
yellow floating hearts	<i>Nymphoides peltata</i>	H	Morrow's honeysuckle	<i>Lonicera morrowii</i>	H
yellow iris	<i>Iris pseudacorus</i>	H	multiflora rose	<i>Rosa multiflora</i>	H
<b>Grass</b>			porcelain berry	<i>Ampelopsis brevipedunculata</i>	C
Chinese maiden grass	<i>Miscanthus sinensis</i>	M	Russian olive	<i>Elaeagnus angustifolia</i>	M
common reed	<i>Phragmites australis</i>	H	sericea lespedeza	<i>Lespedeza cuneata</i>	H
giant reed	<i>Arundo donax</i>	C	Tatarian honeysuckle	<i>Lonicera tatarica</i>	H
Japanese stiltgrass	<i>Microstegium vimineum</i>	H	wine raspberry	<i>Rubus phoenicolasius</i>	C
Johnson grass	<i>Sorghum halepense</i>	H	<b>Tree</b>		
lyme grass	<i>Leymus arenarius</i>	C	Amur cork tree	<i>Phellodendron amurense</i>	H
miscanthus hybrid	<i>Miscanthus x gigantea</i>	C	black alder	<i>Alnus glutinosa</i>	H
reed canarygrass	<i>Phalaris arundinacea</i>	H	callery pear	<i>Pyrus calleryana</i>	H
small carpgrass	<i>Arthraxon hispidus</i>	H	Norway maple	<i>Acer platanoides</i>	H
tall fescue	<i>Schedonorus arundinaceus</i>	M	princess tree	<i>Paulownia tomentosa</i>	C
<b>Herbaceous</b>			sawtooth oak	<i>Quercus acutissima</i>	C
bouncing bet	<i>Saponaria officinalis</i>	M	Siberian elm	<i>Ulmus pumila</i>	M
bull thistle	<i>Cirsium vulgare</i>	H	tree of heaven	<i>Ailanthus altissima</i>	H
Canada thistle	<i>Cirsium arvense</i>	H	white mulberry	<i>Morus alba</i>	H
common teasel	<i>Dipsacus fullonum</i>	H	<b>Vine</b>		
crown vetch	<i>Coronilla varia</i>	H	Asian bittersweet	<i>Celastrus orbiculatus</i>	H
cut-leaved teasel	<i>Dipsacus laciniatus</i>	H	black swallow-wort	<i>Cynanchum louiseae</i>	H
dame's rocket	<i>Hesperis matronalis</i>	H	Chinese yam	<i>Dioscorea polystachya</i>	H
garlic mustard	<i>Alliaria petiolata</i>	H	creeping Charlie	<i>Glechoma hederacea</i>	M
giant hogweed	<i>Heracleum mantegazzianum</i>	M	English ivy	<i>Hedera helix</i>	M
goatsrue	<i>Galega officinalis</i>	M	field bindweed	<i>Convolvulus arvensis</i>	H
hybrid cattail	<i>Typha x glauca</i>	C	Japanese honeysuckle	<i>Lonicera japonica</i>	H
Japanese chaff flower	<i>Achyranthes japonica</i>	H	Japanese hops	<i>Humulus japonicus</i>	H
Japanese hedge parsley	<i>Torilis japonica</i>	C	kudzu	<i>Pueraria montana</i>	H
Japanese knotweed	<i>Fallopia japonica</i>	H	large-leaved periwinkle	<i>Vinca major</i>	C
Korean lespedeza	<i>Kummerowia stipulacea</i>	M	mile-a-minute vine	<i>Polygonum perfoliatum</i>	H
leafy spurge	<i>Euphorbia esula</i>	H	pale swallow-wort	<i>Cynanchum rossicum</i>	H
lesser celandine	<i>Ranunculus ficaria</i>	C	periwinkle	<i>Vinca minor</i>	M
mugwort	<i>Artemisia vulgaris</i>	H	sweet autumn clematis	<i>Clematis terniflora</i>	C
musk thistle	<i>Carduus nutans</i>	H	vetch	<i>Vicia cracca</i>	M
narrowleaf bittercress	<i>Cardamine impatiens</i>	M	wintercreeper	<i>Euonymus fortunei</i>	H
pepperweed	<i>Lepidium latifolium</i>	H	wisteria	<i>Wisteria sinensis</i>	C

Ranks: H=High, M=Medium, L=Low, C=Caution, FN = Federal Noxious Aquatic List



## TITLE 312 NATURAL RESOURCES COMMISSION

### Proposed Rule LSA Document #16-\_\_\_(F)

Adds 312 IAC 18-3-25 to designate as pests or pathogens, certain invasive terrestrial plants and to prohibit and restrict the sale, distribution, and transport of these invasive terrestrial plants. Effective 30 days after filing with the Publisher.

#### 312 IAC 18-3-25

##### SECTION 1. 312 IAC 18-3-25 IS ADDED TO READ AS FOLLOWS:

#### 312 IAC 18-3-25 Prohibited invasive terrestrial plants

Authority: IC 14-10-2-4; IC 14-24-3

Affected: IC 14-24

Sec. 25. (a) The following are prohibited invasive terrestrial plants and are declared pests or pathogens regulated under this section:

- (1) *Achyranthes japonica* (Japanese chaff flower).
- (2) *Ailanthus altissima* (tree of heaven).
- (3) *Alliaria petiolata* (garlic mustard).
- (4) *Alnus glutinosa* (black alder).
- (5) *Artemisia vulgaris* (mugwort).
- (6) *Arthraxon hispidus* (small carpgrass).
- (7) *Berberis thunbergii* (Japanese barberry).
- (8) *Carduus acanthoides* (spiny plumeless thistle).
- (9) *Carduus nutans* (musk thistle).
- (10) *Celastrus orbiculatus* (Asian bittersweet).
- (11) *Centaurea stoebe* (spotted knapweed).
- (12) *Cirsium vulgare* (bull thistle).
- (13) *Conium maculatum* (poison hemlock).
- (14) *Convolvulus arvensis* (field bindweed).
- (15) *Coronilla varia* (crown vetch).
- (16) *Dioscorea polystachya* (*oppositifolia*) (Chinese yam).
- (17) *Dipsacus fullonum* (common teasel).
- (18) *Dipsacus laciniatus* (cut-leaved teasel).
- (19) *Elaeagnus umbellata* (autumn olive).
- (20) *Euonymus fortunei* (wintercreeper).
- (21) *Euphorbia esula* (leafy spurge).
- (22) *Frangula alnus* (glossy buckthorn).
- (23) *Humulus japonicus* (Japanese hops).
- (24) *Hesperis matronalis* (dame's rocket).
- (25) *Lespedeza cuneata* (sericea lespedeza).
- (26) *Lepidium latifolium* (pepperweed).
- (27) *Ligustrum obtusifolium* (blunt leaved privet).

- (28) *Lonicera japonica* (Japanese honeysuckle).
- (29) *Lonicera maackii* (Amur honeysuckle).
- (30) *Lonicera morrowii* (Morrow's honeysuckle).
- (31) *Lonicera tatarica* (Tatarian honeysuckle).
- (32) *Lonicera x bella* (Bell's honeysuckle).
- (33) *Microstegium vimineum* (Japanese stiltgrass).
- (34) *Morus alba* (white mulberry).
- (35) *Phalaris arundinacea* (reed canarygrass).
- (36) *Phellodendron amurense* (Amur cork tree).
- (37) *Phragmites australis* subspecies *australis* (common reed).
- (38) *Polygonum perfoliatum* (mile-a-minute vine).
- (39) *Reynoutria japonica* (Japanese knotweed).
- (40) *Reynoutria sachalinensis* (giant knotweed).
- (41) *Reynoutria x bohemica* (Bohemian knotweed).
- (42) *Rhamnus cathartica* (common buckthorn).
- (43) *Vincetoxicum nigrum* (black swallow-wort).
- (44) *Vincetoxicum rossicum* (pale swallow-wort).

(b) This section applies to any part or life stage of the species identified in subsections (a).

(c) Except as provided in subsection (d), with respect to any species identified in subsection (a) a person must not:

- (1) Sell, offer or grow for sale, gift, barter, exchange, or distribute a species;
- (2) Transport or transfer a species; or
- (3) Introduce a species.
- (4) Subdivisions (1) and (2) of this subsection are effective one year after the effective date of this rule.

(d) Exempted from this section are the following:

- (1) A person who possesses a species identified in subsection (a) under a permit issued by the state entomologist.
- (2) A person engaged in a project approved by the state entomologist for the destruction of a species.

(e) A person who discovers a species identified in subsection (a) may do the following:

- (1) Report the discovery to the state entomologist or to the following address:

Department of Natural Resources  
Division of Entomology and Plant Pathology  
402 West Washington Street, Room W290  
Indianapolis, IN 46204

- (2) Include in the report provided under subdivision (1):

- (A) The location of the discovery, including the name of the county.
- (B) The date of the discovery.
- (C) Contact information for the person making the report, including telephone number and address.

**KNOX COUNTY, INDIANA  
BOARD OF COMMISSIONERS**

**ORDINANCE NO. 11 - 2018**

**AN ORDINANCE PROHIBITING THE SALE AND PLANTING  
OF CERTAIN INVASIVE PLANT SPECIES (NOT SEEDS)  
IN  
KNOX COUNTY, INDIANA**

**BE IT ORDAINED** by the Knox County Commissioners, Knox County, Indiana that:

**WHEREAS**, the Knox County Commissioners recognize the detrimental effect that invasive plant species have on Knox County agriculture, forests, natural habitats and to animal and human health in general; and

**WHEREAS**, the Indiana Invasive Species Council has warned that landowners are spending significant funds managing the impact of invasive species in Indiana; and

**WHEREAS**, the Knox County Commissioners desire to mitigate the impact of invasive plants by preventing their purposeful introduction into Knox County, Indiana; and

**WHEREAS**, invasive species are exotic plants that cause harm to human health, economic harm, and harm to our natural areas and ecosystems; and

**WHEREAS**, invasive species with a rating of medium or high on the Indiana Invasive Species Council list (located at [www.indianainvasivespecies.org](http://www.indianainvasivespecies.org)) are causing harm to the natural ecosystem of Knox County, Indiana; and

**WHEREAS**, the Indiana Invasive Plant Advisory Committee determines the ratings of the invasive plants and that listing, as may be amended from time to time, may be found at [www.indianainvasivespecies.org](http://www.indianainvasivespecies.org); and

**WHEREAS**, the Knox County Commissioners find that the attached list of plants, not seeds (**Exhibit A**) as amended by the State of Indiana or the Hearing Authority created herein, with noted exceptions crossed out, should no longer be sold, traded or imported into Knox County; and

**NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD OF COMMISSIONERS OF KNOX COUNTY, INDIANA**, as follows:

**Section 1. INVASIVE SPECIES.** Invasive species are non-native plants, animals or microbes that pose serious threats to human health and well-being, the environment, or our economy. Invasive plants are capable of rendering forests unrecognizable, by shading out native plants, saplings and wildflowers. Particular invasive plants are capable of hybridizing native plants and can negatively affect soil chemistry.

**Section 2. PROHIBITION OF SALE OF PLANTS (not seeds).** Invasive plant species identified on **Exhibit A (with exceptions)** shall not be sold in Knox County, Indiana by nurseries, retailers, grocery stores, chain stores or any other vendor (collectively "Vendor(s)") beginning **January 1, 2020**. Other potential invasive species identified in **Exhibit B** shall not be regulated at this time, but nurseries, retailers, etc. are encouraged to avoid selling them due to some invasive tendencies in the surrounding area. If the species in **Exhibit B** or other plant species become ranked Medium or High on the Indiana Invasive Plant list, they may be regulated by this ordinance.

**Section 3. INVASIVE SPECIES ALREADY PLANTED.** For those landowners who have invasive species already located on their property, this Ordinance does not require that they be removed as this Ordinance is not retroactively applied.

**Section 3.1.** Landowners are encouraged to remove invasive species and can contact the Cooperative Invasive Species Management Authority (CISMA), currently located at 604 South Quail Run Road, Vincennes, Indiana 47591, Phone Number 812-882-8210 for technical and advisory support.

**Section 4. ENFORCING AUTHORITY.** The Knox County Natural Resource Specialist, or another appointee of the Knox County Commissioners shall be the enforcing authority and shall be authorized to inspect points of sale to determine if any Vendors are operating in violation of this Ordinance. The Enforcing Authority shall be authorized to administer and to proceed under the provisions of the law in ordering the removal and disposal of any of the invasive species as specified herein.

**Section 4.1.** The Knox County Commissioners will address the compensation for the Enforcing Authority during the budget process in 2019 for the 2020 budget and for each year thereafter.

**Section 5. CONTENTS OF ORDER AND NOTICE OF HEARING.** The enforcement authority may issue an order requiring action relative to any violation of this Ordinance, including:

- (1) order to cease and desist of the sale of the invasive plants;
- (2) order the immediate disposal of the offending plants;
- (3) order the immediate surrender of the offending plants to Knox County for it to dispose of the same if the vendor does not have adequate disposal facilities;
- (4) notice that costs of enforcement and disposal will be assessed against the vendor;
- (5) notice of a hearing date to be held, no sooner than ten (10) days after the service of the Order on the Vendor and no more than sixty (60) days after the service of the order on the Vendor.

**Section 6. HEARING AUTHORITY.** The Knox County Commissioners shall appoint a five (5) member board to be known as the Knox County Invasive Species Board (KCISB). The KCISB shall be the Hearing Authority herein. The KCISB shall use the State

Invasive Plant Species List (plants not seeds) as modified to address local Knox County requirements.

**Section 6.1 Board Appointments.** The initial terms of the five members will be staggered with one member serving one year, one member serving two years, one member serving three years, one member serving four years and one member serving five years. After the initial terms, all appointments are for five years or until a replacement is appointed. All appointments serve at the pleasure of the Knox County Commissioners. At all times, at least one member shall be associated with the agricultural industry and one member shall be associated with the horticulture industry.

The Hearing Authority shall meet in January of each year to organize and thereafter as needed based on Orders issued by the Enforcement Authority, or changes made by the State of Indiana to the invasive species plant list ~~necessity meeting to discuss~~.

Commented [DW-NV11]: Remove in first amendment

**Section 6.2 Hearings, Penalties and Judicial Review.** At the conclusion of any hearing at which a continuance is not granted, the Hearing Authority may make findings and take action to:

- (1) affirm the order;
- (2) rescind the order; or
- (3) modify the order, but unless the person to whom the order was issued, or counsel for that person, is present at the hearing, the hearing authority may modify the order in only a manner that makes its terms less stringent.
- (4) Impose penalties as follows:
  - (A) A fine not exceeding \$2,500 for the first violation; and
  - (B) A fine not exceeding \$7,500 for second and subsequent violations; and
  - (C) A separate violation shall be deemed committed upon each day during which a violation occurs or continues.
  - (D) The Hearing Authority has the sole discretion to determine if the violation(s) applies per plant or per location.

Judicial review of the hearing authority's order may be had by filing a complaint within ten (10) days of the action of the hearing authority. The Knox Superior Court II is the Court of judicial review for violation of this ordinance.

Upon the expiration of the above ten (10) days, the Enforcement Authority shall take the action contained in the Order.

Failure of the Vendor to pay the costs and/or fines associated with the violation of the Ordinance may result in a damages action being filed against the Vendor in the Knox County Superior Court II.

**Section 7. EMERGENCY ACTION.** The Enforcing Authority may take emergency action if the Enforcement Authority finds a Vendor's violation so egregious that emergency action must be taken in order to protect life, safety, or property. Emergency action may be taken without issuing an order or giving notice. However, this emergency action must be limited to removing plants in violation of this Ordinance to prevent further danger to Knox County's ecosystem.

**Section 8. SEVERABILITY.** Should any section, paragraph, sentence, clause, or any other portion of this Ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall be given the effect intended by Knox County in adopting this Ordinance. To this end, the provisions of this ordinance are severable.

**Section 9. PUBLISHING.** The Knox County Auditor shall cause this ordinance to be published within thirty (30) days of passage.

PASSED by the Knox County Commissioners this \_\_\_\_ day of \_\_\_\_\_, 2018 by  
a vote of \_\_\_\_ to \_\_\_\_ with \_\_\_\_ abstaining.

\_\_\_\_\_  
Kellie Streeter, President

\_\_\_\_\_  
Tim Ellerman, Vice-President

\_\_\_\_\_  
Trent Hinkle, Commission Member

**ATTEST**

\_\_\_\_\_  
Lisa Madden, Auditor