

ORDINANCE NO. 888

AN ORDINANCE AMENDING TITLE 4 PUBLIC HEALTH AND SAFETY TO UPDATE CHAPTER 3 ON WEEDS IN ORDER TO COMPLY WITH THE MCA FOR NOXIOUS WEED CONTROL, TO REMOVE NUISANCE WEEDS (LONG GRASSES) FROM THIS CHAPTER OF THE CITY CODE, AND TO FURTHER ENFORCE THE CURRENT CRIMINAL PENALTY FOR VIOLATION OF THIS ORDINANCE.

WHEREAS, it has been determined that noxious weeds degrade our State's ecosystems; out-compete native plants for space, water, sunlight, and nutrients; increase surface runoff and soil sedimentation impacting our streams and rivers; and endanger wildlife and livestock forage; and

WHEREAS, noxious weeds are present in Carbon County and reduce the productivity of all lands, and Red Lodge has been identified as a significant seed source for noxious weeds; and

WHEREAS, it is stated in MCA Title 7 Local Government, Chapter 22 Weed and Pest Control that it is unlawful to permit noxious weeds to propagate or go to seed and that each county shall establish a weed management district that includes all land in that District; and

WHEREAS, the County has formed a Carbon County Weed District and appointed the Carbon County Weed Board; and

WHEREAS, in compliance with MCA 7-22-2151, a Cooperative Noxious Weed Management Agreement between the Carbon County Commission, the Carbon County Weed Board and the City of Red Lodge was signed by the Mayor on May 11, 2009; and

WHEREAS, it is mandatory that the City, for municipally-owned lands, and private landowners/managers for privately-owned lands initiate action to eradicate noxious weeds within the city limits of Red Lodge; and

WHEREAS, it is more appropriate to address nuisance weeds (long grasses) in a separate Chapter since they are covered separately in the Montana Code Annotated (7-22-4101) and are not the focus of the mandated joint efforts between the City and the Weed District regarding eradication of noxious weeds.

NOW THEREFORE BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA:

That Chapter 3 of Title 4, Public Health and Safety, be repealed and adopted as follows:

CHAPTER 3

NOXIOUS WEEDS

Section:

4-3-1: Definitions.

- 4-3-2: Permitting Noxious Weeds to Propagate Unlawful.
- 4-3-3: Cooperative Noxious Weed Management Agreement.
 - A. Authority.
 - B. Mutual Goals and Management Activities.
- 4-3-4: Methods of Control.
 - A. Chemical.
 - B. Organic.
- 4-3-5: Noncompliance.
- 4-3-6: Violation – Penalty.
- 4-3-7: Repealer.

4-3-1: Definitions.

“Agreement” refers to the Cooperative Noxious Weed Management Agreement between the City of Red Lodge and the Carbon County Weed Board. Per MCA 7-22-2151(2), the Board and governing body of each incorporated municipality within the District “shall enter into a written agreement and shall cooperatively plan for the management of noxious weeds within the boundaries of the municipality.”

“Board” refers to the Carbon County Weed Board.

“City” refers to the City of Red Lodge.

“District” refers to the Carbon County Weed District.

“Noxious Weeds” means an exotic plant species established or that may be introduced in the State that may render the land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities. A weed designated by rule of the Department of Agriculture as a statewide noxious weed must be considered noxious in every district of the state. (MCA 7-22-2101)

“Person” means an individual, partnership, corporation, association, or state or local government agency or subdivision owning, occupying, or controlling any land, easement, or right-of-way, including any county, state, or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, barrow pit, or right-of-way for a canal or lateral.

4-3-2: Permitting Noxious Weeds to Propagate Unlawful.

It is unlawful for any person to permit noxious weeds to propagate or go to seed on the person’s property, lot or area inclusive of one-half of any City street, road, avenue or alley lying next to such property abutting thereon. It is also required that when property is offered for sale, the person who owns the property shall notify the owner’s agent and the purchaser of the existence of noxious weeds on the property offered for sale. (MCA 7-22-2116)

4-3-3: Cooperative Noxious Weed Management Agreement.

A. Authority:

As mandated in MCA 7-22-2102, the Carbon County Weed District has been formed and includes "all land within the boundaries of the county." Using guidance from MCA 7-22-2151, a cooperative agreement has been established between the Carbon County Commission, Carbon County Weed Board and the City of Red Lodge in order to plan for the management of noxious weeds. These cooperative management procedures within the boundaries of the City of Red Lodge are for noxious weeds only. Control of nuisance weeds within the City limits remains the responsibility of the City as specified in MCA 7-22-4101.

B. Mutual Goals and Management Activities: It is the mutual goal and in the interest of the District, Board and City to cooperate in noxious weed management on properties within the City as follows:

- (1) To identify areas of noxious weed infestations.
- (2) To notify the Weed Coordinator of the plan for treatments for city-owned properties. The City must be the leading example in compliance with State statute in order to comply with the law and to garner cooperation from the property owners within City limits. The Board shall provide for the management of noxious weeds on all land or rights-of-way owned or controlled by a county or municipality within the confines of the District (MCA 7-22-2121(3)).
- (3) To encourage resident and non-resident landowners to positively affect noxious weed areas on their lots/properties, and to work with the District to gain compliance from uncooperative or inactive landowners (MCA 7-22-2116).
- (4) The cost of controlling weeds growing along the right-of way of a state or federal highway must be paid from the state highway fund (MCA 7-22-2144).

4-3-4: Methods of Control.

A. Chemical: The use of an approved spray application of herbicides recognized and in quantities specified to exterminate the targeted noxious weed(s). Concurrence of the Weed District or licensed applicator is required.

B. Organic: The use of goats so long as they are only within the City limits for weed control and are confined to the area of weed control. Goats shall not be allowed to reside in the City limits. If working under contract on weed control, goats may spend as many days on a location as needed. It is recommended to seek the advice of the Weed District Coordinator regarding the best timing to make optimum use of the goats.

4-3-5: Noncompliance.

A. When noxious weeds are found to exist upon premises within the City, the City shall notify the owner of the property or, if no such person can be found, the person in control of the premises. The notice shall state that the existence of noxious weeds is a violation of City Code and State Statute and shall order the owners, or person in charge, to exterminate or remove all such weeds on any property or area within the City limits and upon one-half of any adjacent street or road.

B. The City Council shall be informed on or before July 1 of each year of the existence of noxious weeds on individual City-owned lands. The report shall include the management plan for controlling infestation in those areas as a result of cooperative planning with the Weed District.

C. The notice shall be sent by certified mail to the address listed with the Carbon County Clerk and Recorder. The owner of the property or person in control of the premises will be encouraged to contact the Weed District Coordinator for guidance on timing for efficient eradication, to obtain a list of licensed applicators in the County, and information on methods of control (i.e., chemical, organic, etc.). The owner or person in control of the premises will also be requested to contact the City within fourteen (14) days regarding the plan of action.

D. Upon the failure, neglect or refusal of an owner or owners, or agent thereof, to exterminate or remove noxious weeds growing, lying or located upon the property of the owner or upon one-half of any road or street lying next to the lands before the date specified in the notice, the City will issue a citation for violation of City Code and forward the case to the Weed Board for further action as provided in MCA 7-22-2123 and 2124.

4-3-6: Violation – Penalty.

Any person violating a provision of this chapter shall, upon complaint and conviction thereof, be guilty of a misdemeanor, and be punished by a fine not exceeding two hundred and fifty dollars (\$250.00).

4-3-7: Repealer.

Chapter 3 of Title 4 of the Red Lodge Municipal Code is hereby repealed in its entirety upon the effective date of this ordinance. Ordinances No. 754 and 754 Amended are hereby repealed in their entirety upon the effective date of this ordinance. All other resolutions, ordinances and sections of the Red Lodge Municipal Code and sections thereof in conflict herewith are hereby amended or repealed to conform to this Ordinance 888.

First reading by the Council on the 14th day of December, 2010.

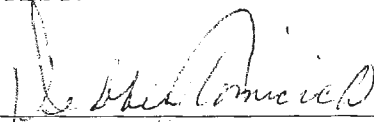
Second reading by the Council on the 11th day of January, 2011.

PASSED AND APPROVED by no less than four members of the Red Lodge City Council this 11th day of January, 2011.



Brian C. Roat, Mayor

ATTEST:


Debbie Tomicich, City Clerk