

ORDINANCE NO. 890-A, 1st Amendment

AN ORDINANCE OF THE CITY OF RED LODGE, MONTANA, TO AMEND ORDINANCE 890-A AND THE MUNICIPAL CODE PERTAINING TO NUISANCE WEED MANAGEMENT AS GOVERNED IN ARTICLE B - NUISANCE WEEDS, CHAPTER 3 - WEEDS, TITLE 4 - PUBLIC HEALTH AND SAFETY.

WHEREAS, the City Council of Red Lodge has the power to declare and determine what vegetation within the City shall be Nuisance Weeds and provide the manner in which they shall be exterminated (MCA 7-22-4101); and

WHEREAS, Nuisance Weeds have heretofore been covered in Chapter 3B, along with Noxious Weeds in Chapter 3A, within Title 4 Public Health and Safety of the City Municipal Code; and

WHEREAS, the City Council has determined that Noxious Weeds and Nuisance Weeds shall be managed by different procedures; and

WHEREAS, the City Council considers that Nuisance Weeds contribute to fire hazards, the proliferation of rodents, and the possible spread of Noxious Weeds within the City limits, which constitute public health and safety concerns; and

WHEREAS, the City Council determines that the designation of certain vegetation as “Nuisance Weeds” may contribute to confusion about the difference between Noxious and Nuisance Weeds.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL:

1. The Municipal Code of the City of Red Lodge, Title 4 – Chapter 3 – Article B, is hereby amended as set forth below:

CHAPTER 3 WEEDS

Article B – Tall Grass - Hazardous Vegetation

Section:

4-3B-1: Definitions.

4-3B-2: Prohibited.

4-3B-3: Exceptions.

4-3B-4: Acceptable Methods of Control.

4-3B-5: Notice to Destroy.

4-3B-6: Appeal.

4-3B-7: Noncompliance - City Action.

4-3B-8: Violation - Penalty.

4-3B-1: Definitions.

A. "Developed parcel" means any parcel of land that has been used or is being used for commercial or residential use with a principal structure covering over five (5) percent of the parcel.

B. Exemption.

1. Property/lots in excess of 15,000 square feet located more than 250 feet from a structure shall be exempt.
2. Property that is inaccessible or impractical for mowing or removing weeds including, but not limited to, wet areas (whether or not regulated wetlands), forested areas, excessive slope or ground instability, and tree covered areas in parks, shall be exempt.

C. Tall Grass – Hazardous Vegetation, formerly known as Nuisance weeds, are all weeds, grass and uncared for vegetation growing to a height in excess of eight inches (8") on property located within the City. The existence of this vegetation shall be considered to constitute: a potential fire hazard; the proliferation of rodents; the possible spread of Noxious Weeds; and a public nuisance. For the purpose of brevity and ease of use, "Tall Grass – Hazardous Vegetation" shall hereafter be referred to simply as "Tall Grass."

D. "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.

E. "Premises" means a piece of land and the buildings on it.

F. "Property" includes both developed and undeveloped parcels within the boundaries of the City.

G. "Undeveloped parcel" means any parcel of land zoned for but not currently being used for commercial or residential use.

4-3B-2: Prohibited.

No person within the City of Red Lodge shall permit Tall Grass to exist on his/her property, lot or area inclusive of Boulevards or the one-half of any public Streets, Roads, Avenues, Rows, or Alleys adjacent thereto. No lands within the City limits shall contain Tall Grass, as defined in this article, between July 15th and October 31st of each year.

4-3B-3: Exceptions.

A. Property/lots in excess of fifteen thousand (15,000) square feet located more than two hundred fifty (250) feet from a structure shall be exempt.

B. Property that is inaccessible or impractical for mowing or removing weeds including, but not limited to, wet areas (whether or not regulated wetlands), forested areas, excessive slope or ground instability, and tree covered areas in parks, shall be exempt.

4-3B-4: Acceptable Methods of Control.

A. Mechanical: Mowing, motorized or otherwise.

B. Organic: The use of goats so long as they are only within the City limits for weed control and are confined generally 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.

C. Active Pastureland: Property used as pastureland, in accordance with the City Municipal Code, for horses, mules, and cattle is an acceptable control method within the City, unless said property becomes overgrazed and ceases to comply with this Code.

4-3B-5: Notice to Destroy / Notice of Violation.

A. Official Notification.

i. The City Tall Grass Program Manager shall coordinate with City staff to provide an official notice regarding Tall Grass management requirements as set forth in the City Municipal Code. Such notice shall occur at the beginning of May, June, and July of each year and be published in a newspaper of general local circulation (such as, but not limited to, the Carbon County News) and on the City Website.

ii. The City Tall Grass Program Manager shall coordinate with City Staff to add notice to utility bills for the months of May, June, and July whenever the available space on the bills has not been taken by other notices required by State Statute or the City Council.

iii. On or before the 30th of June each year, the City Tall Grass Program Weed Manager shall provide a notice to all persons with property (not otherwise excepted as set forth herein above in 4-3B-3) in the City which appear to contain Tall Grass, or may likely contain Tall Grass by July 15th, which states that all Tall Grass must be removed no later than July 15th of that year. The notice shall state that it is an Official 14 day Notice and an Order for Action; and that the existence of Tall Grass after July 15th and at any time throughout the growing season (through October 31st) shall be a City Municipal Code violation, and shall constitute a public health and safety concern, and therefore considered to be a nuisance.

iv. At any other time of the year between July 15th and October 30th, the City Tall Grass Program Manager shall provide a notice to all persons with property (not otherwise excepted as set forth herein above in 4-3B-3) in the City which appear to contain Tall Grass, or may likely contain Tall Grass prior to the end of the growing season (through October 31st), which states that all Tall Grass must not exist on property within the City at any time during the growing season. The notice shall state that it is an Official fourteen (14) day Notice and an Order for Action; and that the existence of Tall Grass after fourteen (14) days beyond the notice shall be a City Code violation, and shall constitute a public health and safety concern, and therefore considered to be a nuisance.

The aforesaid notices shall also state that failure to comply shall result in the City removing (or causing to be removed) all such Tall Grass on the property; and that the full cost of said removal, including all applicable legal and administrative fees shall be added to the fee to be levied against the property.

B. Courtesy Notice.

Whenever practicable, the City Tall Grass Program Manager, shall also provide informational updates to assist owners of property within the City, to comply with the Tall Grass code on an on-going basis. Such updates may be provided via any or all of the following forums, including but not necessarily limited to the City Website, Goggle Groups distribution lists, and City Social Media pages; or other similar medium then available.

C. The Mayor shall designate the responsibility for removal of Tall Grass on City property to the relevant City department(s).

4-3B-6: Appeal.

In the event an owner or their designee disagrees with a notice of violation, the owner or their designee may appeal a violation notice to the Mayor within seven (7) calendar days of receiving the notice. Such appeal must be in writing and must set forth the specific reasons why the owner is unable to comply or otherwise disagrees with the notice. The Mayor shall review the appeal and make a determination as to the validity of the owner's basis for objecting to the action ordered, and shall promptly notify the owner of the decision reached within seven (7) calendar days. For good cause shown, or in cases of extreme hardship, the Mayor may make a determination that the provisions of this Ordinance are inapplicable to a certain parcel. Decisions of the Mayor are final and subject only to judicial review.

4-3B-7: Noncompliance - City Action.

A. Upon the failure, neglect, or refusal of the owner(s), or designee, to remove the Tall Grass by July 15th of the current year(or at any other time prior to October 31st), the City shall, as provided for in MCA 7-22-4101, and as specified in the notice, cause the Tall Grass to be removed, with the cost thereof to be charged against the property owner; and said cost shall also include all legal and administrative costs.

B. Payment for action taken by the City shall be made to the City Clerk/Treasurer within fifteen (15) calendar days after the billing date. When payment is not made within said fifteen (15) days, the City shall coordinate with the County to have the amount owed added to the real estate tax bill for each lot affected.

4-3B-8: Violation - Penalty.

The City reserves the right, to issue a citation for a misdemeanor to any person violating a provision of this Chapter. Additionally, when a person has refused access to the property by City Staff or an agent of the City for purposes of Tall Grass removal, and/or has violated the

provisions of this Chapter on more than one (1) occasion, the person shall be issued a citation and be punished by a fine not to exceed two hundred and fifty hundred dollars (\$250.00) per parcel, per day of offense. The penalty under this section is in addition to the City's recovery of all costs, as provided for in MCA 7-22-4101, for Tall Grass removal (including legal and administrative.)

2. Repealer.

All other Sections of the Municipal Code, Ordinances, Resolutions, and Documents of the City of Red Lodge, Montana, pertaining to above noted Sections of the City Municipal Code are repealed upon the effective date of this Ordinance.

3. Effective Date.

This Ordinance shall be effective 30-days after approval of second reading by the City Council of the City of Red Lodge, Montana.

First Reading by the Council on the 23rd day of May, 2017.

Second Reading by the Council on the 13th day of June, 2017.

PASSED and APPROVED this 13th day of June, 2017.

City of Red Lodge

By: 

Michael Schoenike, Mayor

Attest: 

Loni Hanson, City Clerk