

**ORDINANCE NO. 890**

**AN ORDINANCE ESTABLISHING CHAPTER 4 NUISANCE WEEDS UNDER TITLE 4 PUBLIC HEALTH AND SAFETY IN THE RED LODGE CITY CODE.**

**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 3 along with noxious weeds; 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, rodents and the spread of noxious weeds within the City limits, which constitute public health and safety concerns.

**NOW THEREFORE BE IT ENACTED** by the City Council of the City of Red Lodge, Montana:

That Chapter 4 concerning Nuisance Weeds be established and adopted in Title 4, Public Health and Safety, as follows:

CHAPTER 4

NUISANCE WEEDS

Section:

- 4-3-1: Definitions.
- 4-3-2: Prohibited.
- 4-3-3: Exceptions.
- 4-3-4: Acceptable Methods of Control.
- 4-3-5: Notice to Destroy.
- 4-3-6: Appeal.
- 4-3-7: Noncompliance – City Action.
- 4-3-8: Violation – Penalty.
- 4-3-9: Repealer.

**4-3-1: Definitions.**

“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.

“Nuisance weeds” are all weeds, grass and uncared for vegetation growing to a height in excess of eight inches on premises located within the City. The existence of this vegetation shall constitute a potential fire hazard and a public nuisance.

“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.

“Premises” means a piece of land and the buildings on it.

“Property” includes both developed and undeveloped parcels within the boundaries of the City.

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

#### 4-3-2: **Prohibited.**

No person within the City of Red Lodge shall permit nuisance weeds to exist on his/her property, lot or area inclusive of boulevards or the one-half of any public streets, roads, avenue or alleys adjacent thereto. No lands within the City limits shall contain nuisance weeds as defined in this ordinance during the months of July, August and September.

#### 4-3-3: **Exceptions.**

A. Property within City limits that is active pastureland with horses and/or mules present thereon and that are in compliance with Title 12, Chapter 10 of the Red Lodge Development Code (Livestock and Animals) are exempt.

B. Property/lots in excess of 15,000 square feet located more than 250 feet from a structure shall be exempt.

C. Property that is inaccessible or impractical for mowing or removing weeds including, but not limited to, possible wetlands, tree coverage, slope or ground instability, forested areas in parks, shall be exempt.

#### 4-3-4: **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 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. The added benefit of goats is that they are also an efficient control for noxious weeds (unlike other grazing animals).

C. Active Pastureland: Land used as pastureland for horses and mules is an acceptable use within the City and is included in the Red Lodge Development Code (12-10-12).

**4-3-5: Notice to Destroy.**

A. Whenever nuisance weeds are found to exist upon premises within the City boundaries, the City shall notify the owner of the property or, if no such person can be found, the person in control of the premises.

B. The Mayor shall designate the responsibility for removal of nuisance weeds on city properties to the relevant city department(s).

C. The notice shall state that the existence of nuisance weeds constitutes a public health and safety concern and a public nuisance and shall order the owners, or person in charge, to cut, destroy or remove (or cause to be cut, destroyed or removed) all such weeds on any property or area within the City limits and upon one-half of any adjacent street or road. The notice shall further inform such property owners, or their agents, that upon their failure to cut, destroy or remove such long grasses and weeds within fourteen (14) calendar days from the notice's issuance, the City may proceed to have such long grasses and weeds cut, destroyed or removed and assess the cost thereof to the property owner.

D. Personal notice of the order will be served or sent by first class mail to the address listed with the Carbon County Clerk and Recorder and shall provide a contact telephone number for further information. It should also state the penalty for inaction by the deadline date given.

**4-3-6: Appeal.**

In the event an owner disagrees with a notice of violation, the owner 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. The Mayor shall review the appeal and make a determination as to the validity of the owner's basis for objecting to the action demanded, and shall promptly notify the owner of the decision reached. 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.

**4-3-7: Noncompliance – City Action.**

A. Upon the failure, neglect or refusal of an owner or owners, or agent thereof, to remove the nuisance weeds before the date specified in the notice, a citation will be issued for failure to comply with this Ordinance, and the City will cause the nuisance weeds to be removed, with the cost thereof to be charged against the property owner.

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. If payment is not made, the City may place the total amount owed on the property owner's annual property tax statement. The City also reserves the right to collect past-due assessments by filing a civil lawsuit against the property owner as a debt owing the City in any court of competent jurisdiction, including City Court.

**4-3-8: 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 to exceed two hundred and fifty dollars (\$250.00). The penalty under this section is in addition to the City's recovery of contracted costs.

**4-3-9: Repealer.**

Chapter 3 of Title 4 of the Red Lodge Municipal Code, which currently includes noxious and nuisance weeds is hereby repealed in its entirety upon the effective date of Ordinance No. 888. Ordinances No. 754 and 754 Amended are also repealed in their entirety upon the effective date of Ordinance No. 888. This Ordinance is enacted to establish Chapter 4 and to include the requirements for control of nuisance weeds. 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 No. 890.

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

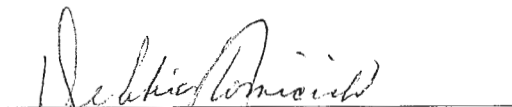
Second reading by the Council on the 11th day of January, 2011.

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 Tomich, City Clerk