

# ORDINANCE NO. 890-Amended

**AN ORDINANCE OF THE CITY OF RED LODGE, MONTANA, TO AMEND THE MUNICIPAL CODE PERTAINING TO WEED MANAGEMENT AS GOVERNED IN ARTICLE B - NUISANCE WEEDS, CHAPTER ~~4-3~~ - 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 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 ORDAINED BY THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA

Article B, Chapter ~~4-3~~ concerning Nuisance Weeds, be ~~established~~ amended and adopted in Title 4, Public Health and Safety, as follows:

## **CHAPTER ~~4-3~~ NUISANCE WEEDS**

Article B - Section:

4-3B-1 : Definitions.

4-3B-2 : Prohibited.

4-3B-3 : Exceptions.

4-3B-4 : Acceptable Methods of Control. 4-3-5: Notice to Destroy.

4-3B-6 : Appeal.

4-3B-7 : Noncompliance - City Action. 4-3-8: Violation - Penalty.

4-3B-9: Repealer.

4-3B-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.

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~~ wet areas (whether or not regulated wetlands), forested areas, ~~tree coverage~~, excessive slope or ground instability, and tree covered forested 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. ~~The added benefit of goats is that they are also an efficient control for noxious weeds (unlike other grazing animals).~~

C. Active Pastureland: ~~Land~~ Property used as pastureland for horses and mules is an acceptable use control method within the City, unless said property becomes overgrazed and ceases to comply with this Code. ~~and is included in the Red Lodge Municipal Development Code (12-10-12 Livestock and Animals).~~

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

A. Official Notification. The City Weed Manager shall coordinate with City staff to provide an official notice regarding nuisance weed management requirements as set forth in the City Municipal Code. Such updates shall occur at the beginning of April, May, and June of each year and be provided via both notice in the Carbon County News and on the City Utility Bills. Whenever practicable, the City Weed Manager, shall also provide informational updates to assist owners of property within the City, to comply with the nuisance weed 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, GoggleGroups distribution lists, and City Social Media pages.

B. On or before the 30<sup>th</sup> of June each year, the City Weed Manager may provide a notice to all persons with property in the City which appear to contain Nuisance Weeds, or may likely contain Nuisance Weeds by July 15<sup>th</sup>, which states that all Nuisance Weeds must be removed no later than July 15<sup>th</sup> 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 Nuisance Weeds after July 15<sup>th</sup> and at any time

throughout the growing season shall be a City Code violation, and shall constitute a public health and safety concern, and therefore considered to be a nuisance.

Further, and at any time of the year, the City Weed Manager may provide a notice to all persons with property in the City which appear to contain Nuisance Weeds, or may likely contain Nuisance Weeds prior to the end of the growing season, which states that all Nuisance Weeds must not exist on property within the City at any during the growing season. The notice shall state that it is an Official 14 day Notice and an Order for Action; and that the existence of Nuisance Weeds after 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 Nuisance Weeds 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.

C. The Mayor shall designate the responsibility for removal of Nuisance Weeds 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 Nuisance Weeds by July 15<sup>th</sup> (or at any other time) of the current year as specified in the notice, a Citation shall be issued for failure to comply with this Ordinance for a fine amount of \$250.00, and the City will cause the Nuisance Weeds 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 Citation date. When payment is not timely made, the City may shall 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. Lastly, it shall be noted that all unpaid fees and fines shall be placed as a lien against the property to be collected by the County Treasurer if said fees and fines are not paid to the City within 30 days of notice.

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 hundred dollars (\$250.00). The penalty under this section is in addition to the City's recovery of all costs (including legal and administrative.)

4-3B-9: Repealer.

All sections of the City of Code, Ordinances, and Resolutions inconsistent herewith are hereby repealed.

First reading by the Council on the 9<sup>th</sup> day of February, 2016.

Second reading by the Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

PASSED AND APPROVED by the Red Lodge City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

City of Red Lodge, Montana.

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Ed Williams, Mayor

ATTEST:

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Loni Hanson, City Clerk