

## CHAPTER 15

### Vegetation

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## ARTICLE I

### Noxious Weed Management Enforcement Policy

#### Sec. 15-1-10. Title.

This policy shall be known, and referred to as, the *Weld County Noxious Weed Management Enforcement Policy*, and shall be in effect throughout the unincorporated areas of Weld County. (Weld County Code Ordinance 2004-9)

#### Sec. 15-1-20. Purpose of policy.

The Colorado Noxious Weed Act, Section 35-5.5-101, et seq., C.R.S. (hereinafter "the Act") states that certain noxious weeds pose a threat to the continued economic and environmental value of the land in the State and that they must be managed by all landowners in the State. The Act states that local governments (cities and counties) are directed to take the necessary steps to manage the noxious weeds in their respective jurisdictions. As a result, the County established a Noxious Weed Management Advisory Board and this Noxious Weed Management Enforcement Policy. (Weld County Code Ordinance 2004-9)

#### Sec. 15-1-30. Definitions.

For the purposes of this Chapter, the following words and phrases shall have the meanings stated in this Section:

*Act:* The Colorado Noxious Weed Act.

*Authorized agent:* Any agent, delegate or employee designated by the Board of County Commissioners to carry out the Noxious Weed Management Enforcement Policy for the County.

*Inspector:* An authorized agent of the County.

*Integrated weed management:* The planning and implementation of a coordinated program utilizing a variety of methods for managing noxious weeds, the purpose of which is to achieve desirable plant communities. Such methods may include, but are not limited to, education, preventive measures, good stewardship and the following techniques:

- a. *Biological management:* The use of an organism to disrupt the growth of noxious weeds.
- b. *Chemical management:* The use of herbicides or plant growth regulators to disrupt the growth of noxious weeds.
- c. *Cultural management:* Methodologies or management practices that favor the growth of desirable plants over noxious weeds, including maintaining an optimum fertility and plant moisture status in an area, planting at optimum density and spatial arrangement in an area, and planting species most suited to an area.
- d. *Mechanical management:* Methodologies or management practices that physically disrupt plant growth, including tilling, mowing, burning, flooding, mulching, hand-pulling, hoeing, and grazing.

*Landowner:* Any owner of record of federal, tribal, state, county, municipal or private land.

*Local advisory board:* The Weld County Noxious Weed Management Advisory Board which is comprised of those individuals appointed by the Board of County Commissioners to advise on matters of noxious weed management.

*Local governing body:* The Board of County Commissioners.

*Management:* Any activity that prevents a plant from establishing, reproducing or dispersing itself.

*Management objective:* The specific, desired result of integrated management efforts and includes:

a. *Eradication:* Reducing the reproductive success of a noxious weed species or specified noxious weed population in largely uninfested regions to zero and permanently eliminating the species or population within a specified period of time. After all specified weed populations are eliminated or prevented from reproducing, intensive efforts continue until the existing seed bank is exhausted.

b. *Containment:* Maintaining an intensively managed buffer zone that separates infested regions, where suppression activities prevail, from largely uninfested regions, where eradication activities prevail.

c. *Suppression:* Reducing the vigor of noxious weed populations within an infested region, decreasing the propensity of noxious weeds to spread to surrounding lands, and mitigating the negative effects of noxious weed populations on infested lands. Suppression efforts may employ a wide variety of integrated management techniques.

d. *Restoration:* The removal of noxious weed species and reestablishment of desirable plant communities on lands of significant environmental or agricultural value in order to help restore or maintain value.

*Management plan:* The noxious weed management plan developed by any person or the local advisory board using integrated management.

*Noxious weeds:* Those plants designated in Section 15-1-40 of this Code.

*Person or occupant:* An individual, partnership, corporation, association or federal, state or local government or agency thereof owning, occupying or controlling any land, easement or right-of-way, including any city, county, state, or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, borrow pit, gas and oil pipeline, high voltage electrical transmission line or right-of-way for a canal or lateral. (Weld County Code Ordinance 2004-9)

#### **Sec. 15-1-40. Noxious weeds.**

A. The rules pertaining to the administration and enforcement of the Act (8 C.C.R. § 1203-19, Part 3) identify seventeen (17) noxious weeds species (known therein as "List 'A' Noxious Weed Species"), which species have been designated for eradication in the State and, consequently, the County. As the species designated for eradication may change, the specific species are not enumerated within the Code, but are posted on the following websites. The State Noxious Weed Management Plans for List 'A' are found at the Colorado Department of Agriculture website: <http://www.ag.state.co.us/CSD/Weeds/Weedhome.html>, and on the Weld

County Website: [www.co.weld.co.us](http://www.co.weld.co.us) or [www.weldweeds.org](http://www.weldweeds.org). In addition, copies of the lists and additional information are available upon request from the Department of Public Works, Weed Division.

B. The State and the County designate certain noxious weed species for control and/or eradication, known as "List 'B' Noxious Weed Species." These species designated for control and/or eradication vary from year to year, the specific species are not enumerated within the Code, but are posted on the Colorado Department of Agriculture website: <http://www.ag.state.co.us/CSD/Weeds/Weedhome.html>. The 'B' Weed Species Management Plans for Weld County are found at: [www.co.weld.co.us](http://www.co.weld.co.us) or [www.weldweeds.org](http://www.weldweeds.org). In addition, copies of the lists are available upon request from the Department of Public Works, Weed Division. The species listed include all of the 'B' List Species listed by the State and certain additional species which have been added for management in the County.

C. The County also designates a third category of noxious weed species for management, known as "List 'C' Noxious Weed Species." As the species in this category may change, the specific species are not enumerated within the Code, but are posted on the Colorado Department of Agriculture website: <http://www.ag.state.co.us/CSD/Weeds/Weedhome.html>. The 'C' Weed Species Management Plans for Weld County are found at: [www.co.weld.co.us](http://www.co.weld.co.us) or [www.weldweeds.org](http://www.weldweeds.org). In addition, copies of the lists are available upon request from the Department of Public Works, Weed Division. The species listed include all of the 'C' List Species listed by the State and certain additional species which have been added for management in the County. (Weld County Code Ordinance 2004-9; Weld County Code Ordinance 2007-10)

## **ARTICLE II**

### **Enforcement of Plan**

#### **Sec. 15-2-10. Noxious weeds deemed a public nuisance.**

The noxious weeds listed in Section 15-1-40 of this Code, at any and all stages, their carriers, and any and all premises and things infested or exposed to infestation therewith in the County, are declared to be a public nuisance and, in addition to the remedies contained in this Chapter, are subject to all of the laws and remedies relating to the prevention and abatement of nuisances, including but not limited to those set forth in Section 35-5.5-113, C.R.S. (Weld County Code Ordinance 2004-9)

#### **Sec. 15-2-20. Authorized agent for enforcement.**

Pursuant to Section 35-5.5-105(2), C.R.S., the Public Works Weed Division Supervisor and his or her employees and agents are hereby designated "authorized agents" to enforce the Noxious Weed Management Enforcement Policy in the unincorporated areas of the County, by utilizing those procedures set forth in Section 35-5.5-108, C.R.S., and any other applicable state and federal statutes, rules, regulations and ordinances, including the remaining provisions of this Chapter. (Weld County Code Ordinance 2004-9)

#### **Sec. 15-2-30. Methods of identification and inspection.**

A. An authorized agent shall have the right to enter upon any premises, lands or places, whether public or private, during reasonable business hours, for the purpose of inspecting for the existence of a noxious weed infestations when at least one (1) of the following events has occurred:

1. The landowner or occupant has requested an inspection.

2. A neighboring landowner or occupant has reported a suspected noxious weed infestation and requested an inspection.

3. The authorized agent has made a visual inspection from the public right-of-way or area and has reason to believe that a noxious weed infestation exists.

B. If verbal permission to inspect the property is not obtained from the landowner or occupant and, after notification by certified mail, the landowner or occupant denies access to the authorized agent, the authorized agent may seek an inspection warrant issued by a municipal, county or district court having jurisdiction over the land, utilizing the procedures set forth in Section 35-5.5-109(2)(b), C.R.S. (Weld County Code Ordinance 2004-9)

**Sec. 15-2-40. Notice to control identified noxious weeds.**

A. The authorized agent has the authority to notify a landowner or occupant of such lands of the presence of noxious weeds ("Notice to Control Identified Noxious Weeds"). Such notice shall be by certified mail, and shall include the following:

1. The name and address of the landowner or occupant.
2. The property's Assessor Office Parcel # and legal description.
3. The noxious weeds to be managed.
4. Advisement to the landowner or occupant to manage the noxious weeds within ten (10) days of mailing the notice.
5. The best available control methods of integrated management.
6. The options of notice compliance.
7. The consequences for noncompliance.
8. A statement that the authorized agent will seek a "right-of-entry" from the Board of County Commissioners to enter the property and manage identified noxious weeds unless the landowner or occupant complies with the notice, or submits a written weed management plan with an acceptable completion date, or requests that an arbitration panel develop a weed management plan pursuant to Section 35-5.5-109(4)(a)(III) and (4)(b), C.R.S.

B. The authorized agent may give a Notice to Control Identified Noxious Weeds to any state board, department or agency that administers or supervises state lands within the County's jurisdiction, to manage noxious weeds on such lands.

1. Such notice shall specify the best available methods of integrated management and will include the same information as itemized in this Section.

2. Wherever possible, the authorized agent will consult with the affected state board, department or agency in the development of a plan for the management of noxious weeds on the lands. (Weld County Code Ordinance 2004-9)

**Sec. 15-2-50. Right of entry.**

Prior to entering private or state land for the purposes of enforcing the notice, the authorized agent shall first obtain a "right-of-entry" from the Board of County Commissioners, no less than ten (10) days after a Notice to Control Identified Noxious Weeds has been sent to the owner or occupant of the private lands and said owner or occupant has failed to comply with said notice. (Weld County Code Ordinance 2004-9)

**Sec. 15-2-60. Right to assess whole cost of management.**

The authorized agent shall assess the whole cost of such enforcement, including up to twenty percent (20%) for inspection and other incidental costs in connection therewith, upon the tract of land where the noxious weeds are located. Notice of such assessment shall be mailed to the landowner or occupant by certified mail. Failure to receive notice of assessment shall not act as a defense to such assessment. (Weld County Code Ordinance 2004-9)

**Sec. 15-2-70. Failure to pay assessment.**

Any assessment which is not paid within thirty-three (33) days after the date of mailing by certified mail to the landowner or occupant of the private land upon which the authorized agent has performed enforcement work shall constitute a lien against each lot or tract of land until paid and may be certified by resolution of the Board of County Commissioners to the County Treasurer, to be collected in the same manner as provided for collection of taxes upon private land in accordance with Section 35-5.5-109(5)(a), C.R.S. (Weld County Code Ordinance 2004-9)

**Sec. 15-2-80. Liability.**

This Chapter shall not be intended to create a civil cause of action against the Board of County Commissioners or any other person that may administer this Chapter in any manner. (Weld County Code Ordinance 2004-9)

**ARTICLE III**

**Prescribed Burns**

**Sec. 15-3-10. Purpose.**

The Board of County Commissioners, pursuant to the authority granted in Sections 30-15-401(1)(n.5) and 30-15-401(2)(a)(II), C.R.S., hereby promulgates regulations to prohibit prescribed burns of property lying within that area of the County which is described in Section 15-3-20 below. These regulations are necessary because of continued dry conditions, the existence of abundant grassland fuels and patterns of private ownership incongruously interspersed with federally owned lands of the Pawnee National Grasslands. (Weld County Code Ordinance 2010-2)

**Sec. 15-3-20. Application; jurisdiction; procedure.**

The regulations contained in this Article shall apply to, and be enforceable within, the area of the County lying north of Weld County Road ("WCR") 86, west of WCR 157 and east of U.S. Highway 85 ("NSA"). It shall be the duty of the Sheriff to enforce the regulations. The County Court shall have jurisdiction in

prosecutions of violations of the regulations. Simplified County Court Procedures, as set forth in Section 16-2-101, et seq., C.R.S., shall be applicable to prosecutions of violations of the regulations contained in this Article. Any summons and complaint brought in the County Court for violation of any of the regulations set forth herein shall be filed in the name of the County, by and on behalf of the People of the State of Colorado, with all process issued from the County Court likewise denominated. The County Attorney shall be empowered to enforce the regulations and to appear and prosecute for the County by, and in the name of, the People of the State of Colorado, in any proceeding in the County Court involving a violation of the regulations contained in this Article. (Weld County Code Ordinance 2010-2)

**Sec. 15-3-30. Definitions.**

Unless specifically stated otherwise, the following words have the following definitions in this Article:

*Irrigation structure* means any ditch, canal, conduit, reservoir, race, drain, flume, inlet, outlet and/or spillway used for irrigation purposes and often cleaned of grasses, weeds and other combustible debris by means of controlled burning.

*Northern Sub-Area ("NSA")* means that area of the County described in Section 15-3-20 above, wherein prescribed burning of grasses, weeds and other combustible materials is prohibited by the regulations set forth in the Article.

*Prescribed burn* means the intentional fire ignition and controlled burning of grasses, weeds and other combustible materials on properties for the purpose of clearing the same, managing fuel and/or providing habitat for wildlife on properties being more than three (3) acres in size, excluding the areas immediately surrounding irrigation structures. (Weld County Code Ordinance 2010-2)

**Sec. 15-3-40. Prohibited acts.**

Prescribed burns conducted within the NSA are prohibited. (Weld County Code Ordinance 2010-2)

**Sec. 15-3-50. Violations and penalties.**

Any violation of this Article is a Class 2 petty offense punishable, upon conviction, by a mandatory fine of not less than twenty-five dollars (\$25.00) or more than fifty dollars (\$50.00) upon a first conviction; by a mandatory fine not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100.00) upon a second conviction; and by a mandatory fine of not less than one hundred dollars (\$100.00) or more than three hundred dollars (\$300.00) upon a third or subsequent conviction. (Weld County Code Ordinance 2010-2)

**Sec. 15-3-60. Penalty assessment and schedule.**

Notwithstanding the provisions of Section 15-3-50 above, the person charged with one (1) or more of the violations of this Article shall have the option of paying the below-specified penalty assessments therefor to the County Treasurer in lieu of further proceedings or defense of such violation in Court or of appearing in Court to defend such charge. If such person elects to appear in Court, said person should be proceeded against as otherwise provided by law for the violations charged and shall be subject to the penalties provided in Section 15-3-50 above if found guilty of such charges. In the event a person wants to pay the prescribed penalty assessment as permitted herein, such payment shall constitute an acknowledgment of guilt by such person of the offense charged and shall be deemed a complete satisfaction for such violation. Upon accepting

the prescribed penalty assessment, the County Treasurer shall issue a receipt to the violator acknowledging payment thereof. The penalty assessment which may be accepted and paid by the violator under the privileges of this Section shall be as follows:

<i>Offense Number</i>	<i>Fine Imposed</i>
First offense	\$ 25.00
Second offense	50.00
Third offense	100.00
Four or more offenses	The penalty assessment shall not apply and the violator shall be prosecuted under the provisions of Section 15-3-50 above upon the issuance of a Summons to Appear.

(Weld County Code Ordinance 2010-2)

**Sec. 15-3-70. Nonliability.**

The Sheriff, the Board of County Commissioners, their assistants, attorneys and employees and any person enforcing the provisions of this Article, as designated by the Board of County Commissioners, shall not be held responsible for any accident, injury or subsequent disease, of whatever kind or character, which may occur in connection with the administration of this Article. No portion of this Article shall be deemed to constitute a waiver of any immunities which the Sheriff, the Board of County Commissioners, their assistants and employees may process, nor shall any portion of this Article be deemed to have created a duty of care with respect to any person. (Weld County Code Ordinance 2010-2)



**Appendix 15-A**

**RESERVED**

(Repealed by Weld County Code Ordinance 2007-10)

**Appendix 15-B**

**RESERVED**

(Repealed by Weld County Code Ordinance 2007-10)