

Date of 1st Reading: 24th day of March, 2014.

Date of 2nd Reading: 9th day of April, 2014.

Commissioner	Record of Adoption Vote			
	Yes	No	Abstained	Excused
Tammy Baney	<u>✓</u>	_____	_____	_____
Anthony DeBone	<u>✓</u>	_____	_____	_____
Alan Unger	<u>✓</u>	_____	_____	_____

Effective date: 9th day of July, 2014.

Chapter 8.35. WEED CONTROL

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8.35.010 Title and Purpose.

- A. The ordinance codified in this chapter shall be known as the Deschutes County Weed Control Ordinance.
- B. Noxious Weeds have become so thoroughly established and are spreading so rapidly on state, county, city and federally owned lands, as well as on property in individual ownership and in transition to county ownership through tax delinquency, that they hereby are declared a menace to the public welfare.
- C. While it is recognized that complete eradication may not be practicable, it hereby is established that steps leading to eradication and control are necessary and that responsibility rests not only on the individual landowner and operator but also on the county, state and federal government, and that the county, state and federal government should cooperate with individual Owners in the control and eradication of Noxious Weed pests.
- D. In addition to the remedies allowed by State law, the County authorizes the county Weed inspector or the Weed Inspector's designee to initiate enforcement measures, including issuance of citations, where conditions warrant.

(Ord. 2014-003 §1, 2014)

8.35.020 Definitions

"Accepted farming practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

"Board" means Deschutes County Board of County Commissioners.

"Cultured Christmas trees" means trees:

1. Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing and turning over the soil;
2. Of a marketable species;

3. Meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and
4. Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, Weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, and irrigation.

“Current employment” of land for a farm includes:

1. Farmland, the operation or use of which is subject to any farm-related government program;
2. Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;
3. Land planted in orchards or other perennials, other than land specified in 4 of this definition, prior to maturity;
4. Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;
5. Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;
6. Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.213 (1)(u) and 215.353 (1)(r) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.213 (2)(c) and 215.353 (2)(a);
7. Water impoundments lying in or adjacent to and in common ownership with farm use land;
8. Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the Owner specially assessed valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;
9. Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer’s immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;
- 10 Any land described under ORS 321.267 (3) or 321.824 (3);
11. Land used for the breeding, raising, kenneling or training of greyhounds for racing; and
12. Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:
 - a. Only the crops of the Owner are being processed;
 - b. The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the Owner; or
 - c. The Owner is custom processing crops into biofuel from other Owners in the area for their use or sale.

“Department” means the Deschutes County Road Department.

“District” means the Deschutes County Weed Control District.

"Farm" means the current employment of land for the raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm" also includes the current employment of land for the stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm" also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. "Farm" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3).

"Land" means real property situated in Deschutes County.

"Noxious Weed" means any plant which is determined by the County Commission to be injurious to public health, crops, livestock, land, or other property.

"Occupant" means any person, partnership, corporation or cooperative having actual, present, and physical-possession of land.

"Owner" means any person, firm, partnership, corporation or cooperative having a legal interest in land.

"Thoroughly cleaned" means removing all seeds, plants, plant fragments, dirt and other debris from the sides, tops, wheels and undercarriages of all machinery.

"Treat" or "Treatment" means the prevention, suppression, or eradication of the establishment, growth, spread, or propagation of noxious weeds using singly or any combination of the following methods; prevention, cultural, biological, mechanical, or chemical methods.

"Weed Inspector" means the Deschutes County Weed Inspector appointed by the County Administrator or the Weed Inspector's designee.
(Ord. 2014-003 §1, 2014)

8.35.030 Authority to Establish Weed Control District, Declare Plants as Noxious Weeds and Appoint Weed Inspector.

A. In accordance with ORS 569.360, in Orders 2002-037 and 2010-014, the Board appointed the Deschutes County Road Department Director as the Deschutes County Weed Inspector and declared all of Deschutes County a weed control district known as the "Deschutes County Weed Control District" and the provisions of those orders are adopted and incorporated by reference herein.

- B. The list of plants declared by Order 2014-003 continue to be declared Noxious Weeds and plants and nothing in this ordinance terminates or renders invalid that list or any other provision of Orders 2002-037, 2010-014, 2012-009, or Order 2014-003.
 - C. A Weed or plant may be added to or deleted from the list of Noxious Weeds or plants by resolution of the Board.
 - D. The Deschutes County Road Department Director continues to be the appointed Deschutes County Weed Inspector unless the County Administrator appoints another person as the Deschutes County Weed Inspector.
 - E. The Weed Inspector may designate and authorize other county employees within the Weed Inspector's department to perform the functions of the Weed Inspector in this chapter.
- (Ord. 2014-003 §1, 2014)

8.35.040 Weed Inspector Duties and Authorization

- A. The duties of the Weed Inspector shall be as follows:
 - 1. To determine whether any Noxious Weeds or plants are being permitted to grow and produce bloom or reproduce in any manner within a Weed control district.
 - 2. To serve notices pursuant to this chapter.
 - 3. When necessary, to destroy or treat or to supervise the destruction or treatment of Noxious Weeds growing or reproducing in any manner within the District.
 - 4. To conduct investigations, approve plans and certify expenditures pertaining to Weed control projects pursuant to this chapter.
 - B. The Weed Inspector shall have the option to carry out the actions authorized in this chapter and such action authorized in DCC Chapters 1.16 and 1.17 and in the *Deschutes County Code Enforcement Policy and Procedure Manual*.
 - C. The Weed Inspector shall have access to the land within the District subject to DCC 8.35.080(D).
- (Ord. 2014-003 §1, 2014)

8.35.050 Duties of Owners and Occupants.

- A. Every Owner or Occupant of land shall use integrated vegetation management practices to destroy or prevent the reproducing by any manner or spreading on the Owner's land or land occupied by Occupant of any Weed classified as a Noxious Weed by the Board using the most efficient and practical means available.
 - B. Any owner or operator of an aggregate resource site shall ensure that all machinery used in the operation of such a site shall be thoroughly cleaned before being moved over any road outside the aggregate resource site.
 - C. Such obligation to destroy or prevent from reproducing by any manner Noxious Weeds shall be continuing throughout the remainder of the then current growing, reproducing or spreading season.
 - D. Upon receipt or posting of the notice per DCC 8.35.060, the Owner or Occupant shall destroy or prevent the reproducing by any manner of any Noxious Weed within the time declared reasonable by the Weed Inspector.
- (Ord. 2014-003 §1, 2014)

8.35.060 Notice

- A. When it appears that violation of this chapter has occurred, the Weed Inspector shall serve a written notice to the Owner and, if other than the Owner, the Occupant of the land that is the subject of the violation.
- B. If the Weed Inspector is unable to serve the notice personally, the Weed Inspector shall post the notice in three conspicuous places on the land.
- C. If notice is posted, the Weed Inspector shall also mail a copy of the notice to the Owner and Occupant of the land by both regular mail and certified mail, return receipt requested.
- D. The notice shall contain at least the following:
 - 1. The date of service or posting of the notice;
 - 2. The name of the noxious weed or weeds growing on the land; and
 - 3. A statement setting forth that the Noxious Weeds must be destroyed and be prevented from reproducing by any manner within a specified period of time, which shall be within the discretion of the Weed Inspector, but in no event shall be less than 2 days or more than 20 days from the date of service or posting.
- E. A copy of the notice, together with proof of service or posting endorsed thereon, shall be filed with the Board.

(Ord. 2014-003 §1, 2014)

8.35.070 Duty To Clean Machinery Before Moving; Weed Infested Residue Not To Be Moved.

- A. No person operating or having control of any threshing machinery, clover huller, hay baler, seed cleaning or treating machinery or other similar machinery shall move said machinery over any road or from one farm to another without first being thoroughly swept and cleaned.
- B. All hay, straw or other crop residue infested with noxious weeds having partially or fully formed seeds shall not be moved from the land on which such weeds have grown to other lands not infested with any of the weeds in the field from which such crop material came.
- C. No person shall operate any machinery described in subsection A of this section within the District without first having posted in a conspicuous place on such machinery a copy of this chapter.
- D. The County Clerk is authorized and directed to have printed a sufficient number of copies of this chapter and shall deliver such copies upon request to Owners or operators of machinery described in subsection A of this section.

(Ord. 2014-003 §1, 2014)

8.35.080 Eradication of Noxious Weeds When Owner Refuses.

- A. In addition to the other remedies allowed in this chapter, in the event that any Owner of land fails or refuses to destroy or treat Noxious Weeds within the time period specified in the notice provided in DCC 8.35.060(D)(3) or fails to comply with DCC 8.35.070, the Weed Inspector may file suit seeking injunctive relief to require immediate compliance with this chapter.

- B. In addition to actions permitted in Subsection A, the Weed Inspector may go upon the land of the Owner and destroy or treat the Noxious Weeds or control them in a manner that will destroy all means of reproduction of such Noxious Weeds, subject to DCC 8.35.080(D).
 - C. The Weed Inspector may also notify the district attorney who shall at once take necessary steps for enforcement of ORS 569.360 to 569.495.
 - D. The Weed Inspector may enter upon any private property to abate the violation only upon obtaining consent of the Owner or Occupant or upon obtaining a court issued warrant or order.
 - E. In the event destruction or control of the Noxious Weeds on any farm is, in the judgment of the Weed Inspector, impracticable because the Noxious Weeds are too far advanced, or if for any other reason the means of control available are unsatisfactory, the Weed Inspector shall notify the Board, who shall request the State Department of Agriculture to immediately quarantine the Noxious Weed infested farm to prevent the movement of infested crops or livestock from the farm except under conditions prescribed in the quarantine that will prevent the spread of Noxious Weeds.
 - F. In all cases where the Weed Inspector undertakes to destroy or control Noxious Weeds, the most effective and practical method, using integrated vegetation management practices, that will not cause injury to the land or crops in the judgment of the Weed Inspector shall be used.
 - G. Upon completion of the abatement process by the Weed Inspector, the Weed Inspector shall file with the Board an itemized statement of the expenses necessarily incurred in the destruction of the Noxious Weeds, including the wages of the Weed Inspector, and assistants, if any.
 - H. The statement of expenses filed per DCC 8.35.060(F) shall be verified by the oath of the Weed Inspector.
- (Ord. 2014-003 §1, 2014)

8.35.090 Expenses as Lien.

- A. When the Weed Inspector undertakes the weed abatement process authorized by Section 8.35.080 and the statement of expenses is filed with the Board, the Board shall cause the statement of expenses to be filed with the County Clerk and the County Clerk shall cause it to be entered upon a lien docket prepared for that purpose.
 - B. The amount of the charges and expenses when so docketed shall constitute a first lien upon the Owner's land, except as to taxes.
 - C. If the charges and expenses are not paid and the lien discharged by the Owner within 90 days from the date the lien is docketed, the county may recover the expenses in an action at law.
 - D. If, within 10 days from the date of filing and docketing the lien as provided in DCC 8.35.090(A) through (C), no objections have been filed, the Deschutes County Finance Department shall pay to the Department out of the general funds of the County the amount of such lien to reimburse the Department for the Department's expenses for weed control under this chapter, including the Weed Inspector's reasonable wages.
- (Ord. 2014-003 §1, 2014)

8.35.100 Penalties.

- A. Any Owner or Occupant of land commits a violation of this chapter when such Owner or Occupant fails and refuses to destroy Noxious Weeds, or their means of reproduction, or to prevent the spread thereof, after being placed on notice by the Weed Inspector to do so.
- B. Violation of this chapter is a Class A violation.
(Ord. 2014-003 §1, 2014)

8.35.110 Other Remedies.

- A. The provisions of this chapter are in addition to and not in lieu of any other procedures and remedies provided by law including equitable relief and a claim seeking damages.
- B. Failure to comply with the provisions of this chapter is a public nuisance.
(Ord. 2014-003 §1, 2014)

8.35.120 Severability.

- A. Should any section or portion of this chapter be held unlawful or unenforceable by any court of competent jurisdiction, such decision shall apply only to the specific section, or portion thereof, directly specified in the decision.
- B. If the provisions of subsection A of this section are exercised, all remaining sections or portions of this chapter shall continue in full force and effect.
(Ord. 2014-003 §1, 2014)