

RESOLUTION NO. R - 021 - 099

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

**A RESOLUTION REVISING AND READOPTING THE DOUGLAS COUNTY
NOXIOUS WEED MANAGEMENT PLAN, AND PROVIDING POLICIES AND
PROCEDURES FOR ESTABLISHMENT AND ENFORCEMENT PROCEDURES
PURSUANT TO THE COLORADO NOXIOUS WEED ACT**

WHEREAS, the Colorado Noxious Weed Act, § 35-5.5-101, et seq., C.R.S. (the "Act"), requires local government to develop a Noxious Weed Management Plan for the purpose of managing noxious weeds on public and private properties and to review such plan at least every three years; and

WHEREAS, the Board of County Commissioners (the "Board" or the "County") has developed and desires to formally adopt a Noxious Weed Management Plan that addresses public and private properties, as set forth in Exhibit A, attached hereto and incorporated herein; and

WHEREAS, County-owned properties are either under treatment or are in compliance with the established management plan; and

WHEREAS, the Board desires to enforce weed management on private properties for the purpose of preserving agricultural lands and wildlife habitat; and

WHEREAS, representatives of Douglas County Department of Public Works-Operations and Department of Community Planning and Sustainable Development ("County Personnel"), will be working with private landowners to arrange treatment or develop a site-specific noxious weed management plan; and

WHEREAS, the Board desires to develop and adopt procedures that provide for legal, efficient, and equitable enforcement of noxious weed management on private properties.

NOW THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of the County of Douglas, State of Colorado, as follows:

I. PURPOSE

These procedures are adopted pursuant to the Act, and this Douglas County Noxious Weed Management Plan (the "Plan"), and shall provide for the process to be followed for seeking appropriate management of populations of noxious weeds and for entry onto private properties for the purpose of the County managing noxious weeds when other management options have been unsuccessful.

II. GENERAL

- A. Unless otherwise required by law, every reasonable effort shall be made to manage noxious weeds on private property through a voluntary compliance program where possible, County Personnel shall consult with the affected landowner or occupant in the development of a plan for the control of noxious weeds on the land.
- B. County Personnel, with Qualified Supervisor's License from the Colorado Department of Agriculture, shall make themselves reasonably available for consultation with property owners and shall provide formal training in various settings to maximize the opportunities for citizens to obtain the necessary instruction and technical information for the proper management of noxious weeds.
- C. County Personnel shall initiate and maintain communications with landowners or occupants of land that may be affected by populations of noxious weeds in a manner that is initially as informal as is reasonable and legal under the circumstances in order to encourage voluntary but effective noxious weed management.
- D. The management of noxious weeds is not a one-year process, and in most cases will require a cycle of two to five years to properly treat and mitigate/manage noxious weeds on private properties.
- E. Various methods or combinations of methods of treatment shall be used: chemicals, the introduction of insects, mowing, pulling, or any other recognized method for the management of noxious weeds.
- F. Direct County enforcement through the involuntary procedures described herein will be undertaken as required by the Act.
- G. Unless more stringent management objectives are explicitly stated in the Plan, the management objectives contained within the Act, as applicable to specific noxious weeds within Douglas County, are hereby adopted as the management objectives of the County.

III. INSPECTION WARRANTS

- A. If County Personnel are unable to make a visual observation of noxious weeds from a public right-of-way or adjacent property and have reason to believe that a noxious weed infestation exists, the landowner or occupant shall be notified by certified mail of a request for inspection.
- B. Where the landowner or occupant either denies access to County Personnel or does not respond to notice requesting an inspection and inspection remains necessary, County Personnel shall request the assistance of the County Attorney in obtaining an inspection warrant to authorize entry by County Personnel onto private property. County Personnel shall provide an affidavit, pursuant to § 35-5.5-108.5(5)(b) or § 35-5.5-109(2)(b), C.R.S. as applicable. An inspection warrant, if appropriate, may also be used by County

Personnel to enter property and to control noxious weed infestations or to otherwise implement noxious weed management objectives in the absence of landowner cooperation and/or consent.

IV. ENFORCEMENT PROCEDURES

- A. The Noxious Weed and Mosquito Control Program Coordinator, in conjunction with County Personnel, shall be responsible for mapping weed infestations throughout Douglas County on both public and private properties where practical and feasible.
- B. Noxious weed enforcement by County Personnel may be initiated either after an informal inquiry or following a formal complaint. An informal inquiry shall mean any information indicating that there is or may be a population of noxious weeds on a property where the information available is less than a formal complaint. A formal complaint (a "Complaint") shall mean that an affected landowner or occupant has requested an inspection, or that a neighboring landowner or occupant has reported a suspected noxious weed infestation and has requested an inspection, or that an authorized agent of the County or the Commissioner of the Department of Agriculture has made a visual observation from a public right-of-way or area and has reason to believe that a noxious weed infestation exists.
- C. County Personnel shall comply with applicable federal, state, and local laws, rules and regulations, and the County's Noxious Weed Management Plan regarding entry onto public or private properties for the purpose of inspecting for the presence of, or for mitigating/managing noxious weeds.
- D. The first step in the informal inquiry enforcement process shall be a courtesy letter sent to the property owner or occupant of the subject property on which noxious weeds may be located, which shall serve as an initial informative measure. The letter shall state the specific noxious weed which may be present on the subject property, shall include a brochure on recognized management practices for the mitigation of the identified noxious weed, and shall offer reasonable assistance to the property owner including consultation, or a personal visit to the property by County Personnel to assist in developing a management plan. The property owner shall be given a period of thirty days to respond to this courtesy letter.
- E. Should there be no response or no cooperation in the development of an adequate noxious weed management plan in response to a courtesy letter, or no initiation of mitigation/management of the noxious weed(s) identified, a Notice of Non-Compliance and/or Request for Inspection shall be sent by certified U.S. Mail to the property owner or occupant. The Notice of Non-Compliance shall: i) contain a reference that this is a "Notice of Non-Compliance"; ii) shall identify the applicable laws and requirements for the management of noxious weeds; iii) shall state the specific weed believed to be present on the subject property; iv) shall provide a brochure listing recognized methods of managing and/or mitigating the identified noxious weed(s); and v) shall offer reasonable assistance to the property owner including consultation or a personal visit to the private property by County Personnel for the purpose of assisting the property owner or occupant

in developing a management plan. The property owner or occupant shall be given a period of thirty days to respond to this Notice. The notice shall comply with the timing and requirements of either § 35-5.5-108.5(5) or § 35-5.5-109(2), C.R.S. depending on the classification and management objective of the weed believed to be present on the property.

- F. After the presence of noxious weeds has been verified, if the property owner or occupant fail to respond to the Notice of Non-Compliance, or fail to submit a management plan, or otherwise show an unwillingness to cooperate in the management/mitigation of noxious weeds identified on the property, County Personnel shall send out a Notice of Violation, by certified U.S. mail to the property owner or occupant, demanding that management/mitigation of noxious weeds identified on the subject property take place. The Notice of Violation shall be in accordance with either § 35-5.5-108.5(7) or § 35-5.5-109(3), C.R.S., and shall provide:
- 1) The street address and legal description of property;
 - 2) The names of any noxious weed(s) present on the property;
 - 3) Advice to the landowner or occupant specifying how to manage the noxious weeds and the best available methods of treatment;
 - 4) A weed management plan with specific time period or condition to be achieved;
 - 5) A period of five (5) or ten (10) days as applicable pursuant to the Act for the property owner or occupant to respond to the Notice of Violation.
- G. The property owner shall have up to three options with respect to the Notice of Violation: 1) comply with the Notice and proceed with management/mitigation of the noxious weed(s); 2) submit an acceptable management plan to County Personnel and schedule completion of such plan to achieve compliance; or 3) request an arbitration panel to determine the final management plan as set forth below.
- H. When applicable, the Board shall select an arbitration panel, pursuant to § 35-5.5-109(4)(b), C.R.S., comprised of one weed management specialist or weed scientist, one property owner of similar land in the County, and a third member chosen by agreement of the first two panel members. The property owner or occupant shall be entitled to challenge any one member of the panel, and the Board shall name a new panel member from the same category. Each member of the arbitration panel shall be reimbursed for travel expenses, which shall be limited to the mileage reimbursement rate established by I.R.S. guidelines for each day the arbitration panel is convened. The total reimbursement authorized herein shall be paid one-half by the landowner and one-half by the Board. The decision of the arbitration panel shall be final.
- I. Once the Arbitration Panel has convened and determined a final management plan or a final management plan is provided within the Act or the Plan, County Personnel shall act according to such weed management plan and shall

implement such plan. County Personnel shall give the property owner a reasonable period of time, not to exceed five (5) business days, to begin implementation of said plan before County Personnel can act to implement such plan.

- J. If at any point during the process, County Personnel determines that the property owner has not responded to any one of the sequence of notices provided herein, or has not followed through on the approved management plan, County Personnel shall request the assistance of the County Attorney for the purpose of obtaining a warrant to authorize entry onto the subject property by County Personnel to manage or mitigate noxious weeds previously identified. A separate warrant shall be obtained for each entry onto private property for noxious weed management in the event the initial warrant is insufficient to include necessary follow-up entry.
- K. County Personnel shall notify the Sheriff's Office of their intent to perform involuntary weed management on private property by providing a minimum of two business days advanced notice. The notification shall be in writing and shall request the presence of a deputy sheriff during the mitigation/management activity. A street address and an estimate of the time required for the noxious weed treatment process activity shall be included in such notice.
- L. County Personnel shall use a method of mitigation/management acceptable under the Act and when reasonable choices are available shall choose a method designed to be no more intrusive than is reasonably necessary to be effective and shall prepare a report thoroughly documenting the treatment process from beginning to end. Any person or agent recommending or applying chemical management methods shall be certified by the Colorado Department of Agriculture for such application or recommendation. If chemicals are used, the report shall include, but not be limited to, mapping of the exact locations of chemical application, type of chemicals used, concentration of chemicals used, wind speed and direction at the time of application, a diagram showing occupied dwellings, animal barns or shelters, wells, ponds, tanks, or other water supply/storage facilities. After the treatment process takes place, the report shall be maintained by the Department of Public Works Operations pursuant to Douglas County's records retention policy.
- M. The necessary mitigation/management of noxious weeds on private property may be performed by County personnel or by private contractor.

V. COST RECOUPMENT

- A. In cases where the County has been required to enter private property to manage or mitigate noxious weeds, the County shall seek recoupment of its costs from the property owner after completion of the mitigation/management process. The

property owner shall be assessed for the actual costs of the treatment process (whether done by County employees or by a contractor) including, chemical costs, man-hour and equipment costs, and travel time to and from the property to be treated. An additional 20% of the total costs accrued shall also be added to the assessment for inspection and other incidental costs.


- B. The property owner shall be given 20 days to pay the assessment. Should payment not be received within 20 days, a second notice demanding payment shall be sent to the property owner by certified U.S. Mail. Should the property owner not pay the full amount within 20 days of the second notice, the assessment shall be certified by Board resolution and forwarded to the County Treasurer for collection in the same manner as provided for the collection of taxes pursuant to § 35-5.5-109(5)(a)(II), C.R.S.

VI. INCORPORATION OF EXHIBIT A


- A. The Board hereby adopts this Noxious Weed Management Plan, which shall apply to both public and private properties located in unincorporated portions of Douglas County, and the Board adopts the additional elements of Exhibit A, attached hereto and incorporated herein.

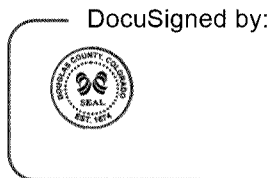
PASSED AND ADOPTED this 14th day of September, 2021, in Castle Rock, Douglas County, Colorado.

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

DocuSigned by:

By: 2322FA9EBA95429...
ABE LAYDON, Chair

Attest:

DocuSigned by:

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KRIS RANDETT, Deputy Clerk





Douglas County

**EXHIBIT A
DOUGLAS COUNTY NOXIOUS WEED
MANAGEMENT PLAN**

I. INTRODUCTION

- A. Why is the plan being written
 - 1. Compliance with the Colorado Noxious Weed Act
- B. Goals for implementation of the law, public education, and public support for the program
 - 1. Short term goals (1-5 years)
 - 2. Long term goals (5-10 years)
- C. Severity of the weed problem in Douglas County
 - 1. Approximately 46,680 acres within Douglas County are infested with undesirable weeds and this is a growing figure which constitutes a present threat to the continued economic and environmental value of the lands within Douglas County.

II. STATEMENT OF THE WEED PROBLEM

Colorado Law declares the following weeds to be undesirable and Douglas County concurs:

LIST A IN THE COLORADO NOXIOUS WEED ACT ARE REQUIRED TO BE ERADICATED:

Purple loosestrife (*Lythrum salicaria*)
Orange hawkweed (*Hieracium aurantiacum*)
Myrtle spurge (*Euphorbia myrsinites*)
Cypress spurge (*Euphorbia cyparissias*)
Mediterranean sage (*Salvia aethiopis*)
Knotweeds - Japanese, Giant, and Bohemian
Hairy willow-herb (*Epilobium hirsutum*)
Giant reed (*Arundo donax*)
Yellow starthistle (*Centaurea solstitialis*)
Rush skeletonweed (*Chondrilla juncea*)
African rue (*Peganum harmala*)
Meadow knapweed (*Centaurea pratensis*)
Dyer's woad (*Isatis tinctoria*)

Tansy ragwort (*Senecio jacobaea*)
Elongated mustard (*Brassica elongata*)
Flowering rush (*Butomus umbellatus*)
Common crupina (*Crupina vulgaris*)
Medusahead (*Taeniatherum caput-medusae*)
Squarrose knapweed (*Centaurea virgata*)
Camelthorn (*Alhagi pseudalhagi*)
Giant salvinia (*Salvinia molesta*)
Hydrilla (*Hydrilla verticillata*)
Parrotfeather (*Myriophyllum aquaticum*)

LIST B WEEDS ARE DESIGNATED TO BE MANAGED DEPENDING ON THEIR POPULATION SIZE:

RARE LIST B SPECIES ARE TO BE ERADICATED

Perennial pepperweed (*Lepidium latifolium*)
Spotted knapweed (*Centaurea stoebe*)
Moth mullein (*Verbascum blattaria*)
Oxeye daisy (*Leucanthemum vulgare*)
Common teasel (*Dipsacus fullonum*)
Cutleaf teasel (*Dipsacus laciniatus*)
Dame's rocket (*Hesperis matronalis*)
Russian knapweed (*Acroptilon repens*)
Salt cedar (*Tamarix chinensis*, *T. parviflora*, and *T. ramosissima*)
Plumeless thistle (*Carduus acanthoides*)
Bull thistle (*Cirsium vulgare*)
Hoary cress (*Cardaria draba*)
Absinth wormwood (*Artemisia absinthium*)
Bouncingbet (*Saponaria officinalis*)
Common tansy (*Tanacetum vulgare*)
Chinese clematis (*Clematis orientalis*)
Black henbane (*Hyoscyamus niger*)
Mayweed chamomile (*Anthemis cotula*)
Scentless chamomile (*Matricaria perforata*)
Sulfur cinquefoil (*Potentilla recta*)
Eurasian watermilfoil (*Myriophyllum spicatum*)
Jointed goatgrass (*Aegilops cylindrica*)
Wild caraway (*Carum carvi*)

THE REMAINING LIST B WEEDS ARE TO BE CONTAINED AND SUPPRESSED

Dalmatian toadflax, broad-leaved (*Linaria dalmatica*) (narrow-leaved) (*Linaria genistifolia*)
Hybrid toadflax (*Linaria vulgaris* x *L. dalmatica*)
Houndstongue (*Cynoglossum officinale*)
Scotch thistle (*Onopordum acanthium*) (less common Scotch thistle) (*Onopordum tauricum*)
Musk thistle (*Carduus nutans*)
Diffuse knapweed (*Centaurea diffusa*)

Hybrid knapweed (*Centaurea x psammogena* = *C. stoebe* x *C. diffusa*)
Yellow toadflax (*Linaria vulgaris*)
Leafy spurge (*Euphorbia esula*)
Canada thistle (*Cirsium arvense*)
Russian-olive (*Elaeagnus angustifolia*)
Yellow nutsedge (*Cyperus esculentus*)

LIST C WEEDS ARE SO COMMON THAT CONTROL IS LEFT UP TO THE LANDOWNER'S DISCRETION (BUT TECHNICAL ASSISTANCE WILL BE GIVEN):

LIST C WEEDS

Bulbous bluegrass (*Poa bulbosa*)
Chicory (*Cichorium intybus*)
Common burdock (*Arctium minus*)
Common mullein (*Verbascum thapsus*)
Common St. Johnswort (*Hypericum perforatum*)
Downy brome (*Bromus tectorum*)
Field bindweed (*Convolvulus arvensis*)
Halogeton (*Halogeton glomeratus*)
Johnsongrass (*Sorghum halepense*)
Perennial sowthistle (*Sonchus arvensis*)
Poison hemlock (*Conium maculatum*)
Puncturevine (*Tribulus terrestris*)
Velvetleaf (*Abutilon theophrasti*)
Wild proso millet (*Panicum miliaceum*)
Redstem filaree (*Erodium cicutarium*)
Quackgrass (*Elytrigia repens*)

Problem areas include roadsides, railroad lines, drainage areas, municipal areas, housing subdivisions, private property, national forests, state parks as well as other county, state and federal lands.

Control of noxious weeds within problem areas shall be the responsibility of the landowner. Cooperative agreements shall be drawn between the parties to assist municipalities and state and federal entities.

III. PLAN OF WORK: OBJECTIVES & IMPLEMENTATION

A. Short term goals (1-5 years)

1. Educate the residents of Douglas County regarding the problems caused by noxious weeds and the benefits of controlling those weeds.
2. Control the noxious weeds along county roadways, open spaces and parks.
3. Redo 25% of the noxious weed mapping of Douglas County.

4. Assist private landowners in developing a management plan for those private lands adjacent to county roadways, open space and parks and along watersheds.

B. Long term goals (5-10 years)

1. Continue the process of educating Douglas County residents regarding the problems caused by noxious weeds and the benefits of controlling these weeds.
2. Manage noxious weeds to reduce or eliminate pesticide use.
3. Maintain control of noxious weeds along county roadways, county parks and open space.
4. Complete and update the noxious weed mapping of Douglas County to include a record of control measures by county, private, state and federal entities and the evaluation thereof.
5. Develop management plans for those private lands adjacent to county roadways.
6. Assist in implementation of management plans for State Parks, US forest lands and railroad lands.
7. Continue to develop management plans for private lands in Douglas County with landowners.
8. Assist in implementation of cooperative management plans for municipalities.

IV. IMPLEMENTATION

A. Public Education

1. Provide information concerning the Noxious Weed Law
2. Provide information on biology and management of Noxious Weeds
3. Develop educational materials, displays, slides, etc.
4. Educate the media
5. Target audiences for public education a) farmers and ranchers b) horse groups c) homeowners' associations d) government entities e) youth groups f) schools g) other

B. Weed Control Management

1. Set criteria for control methods for each noxious weed
 - a) Utilize preventative measures (don't overgraze, use weed free hay/mulch)

- b) Implement biological controls in cooperation with the Colorado Dept. of Agriculture
 - c) Cultural
 - d) Mechanical
 - e) Chemical
- 2. Have signs warning residents of noxious weed spraying ahead
- 3. Use proper spraying techniques, especially where beekeeping is conducted
- 4. Chemicals used by county personnel shall be applied in accordance with herbicide labels and recommendations from CSU, CDA, and other Land Grant Universities
- 5. Demonstrate control strategies for control of noxious weeds
- 6. County noxious weed mapping program
 - a) Map newly listed noxious weed infestations within Douglas County
 - b) Record and evaluate control measures performed by the county
- 7. Develop cooperative agreements with
 - a) Federal and state agencies
 - b) Municipal agencies
 - c) Railroads
 - d) Other governmental entities
 - e) Business entities
 - f) Private landowners
- 8. Enforce Actions for Non-compliance
 - a) Private lands: Section 35-5.5-109
 - b) Public lands: Section 35-5.5-110
 - c) Federal and State lands: Section 35-5.5-111
 - d) Public rights of way: Section 35-5.5-112

V. DEVELOP AREAS FOR SPECIAL MANAGEMENT

- A. Delineate areas requiring intensive management.

- B. Delineate areas requiring lower levels of management
- C. Target public education and management towards A & B above.
- D. Examples of Special Management Areas
 - 1. Areas where individuals have been identified as being pesticide sensitive from a doctor's report per guidelines from the Colorado department of Agriculture. State registered chemically sensitive persons will be notified in advance when spraying in their neighborhood. A phone call will be attempted 24 hours prior to spraying. If no answer, an attempt will be made to contact individuals the morning of scheduled herbicide applications.
 - 2. Mechanical control of noxious weeds can be used in designated rights-of-way where there are concerns with the utilization of herbicides, such as:
 - a) Chemically sensitive persons
 - b) Public water supplies
 - c) Specialty crop areas
 - d) Community project areas
 - e) Waterways
- E. Public input
 - 1. Public meetings at selected locations
 - 2. County Education Outreach Programs

VI. EVALUATION

- A. Have we met our timetable of work'?
- B. Have we met our goals?
- C. Is the public satisfied with our effort?
- D. Have we reduced the noxious weed population in Douglas County?