

RESOLUTION NO. R-011-100

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

**A RESOLUTION PROVIDING POLICIES AND PROCEDURES
FOR THE ESTABLISHMENT AND ADMINISTRATION OF A
NOXIOUS WEED MANAGEMENT INCENTIVE PROGRAM AND
PROVIDING ENFORCEMENT PROCEDURES PURSUANT TO
THE COLORADO NOXIOUS WEED ACT**

WHEREAS, the Colorado Noxious Weed Act, § 35-5.5-101, et seq., C.R.S., requires local government to develop a Noxious Weed Management Plan for the purpose of managing noxious weeds on public and private properties; and

WHEREAS, the Board of County Commissioners (the "Board") 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, Douglas 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 ("Douglas County Personnel"), will be working with private landowners to arrange treatment or develop a 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 Colorado Noxious Weed Act, § 35-5.5-101 et seq., C.R.S., and the Douglas County Noxious Weed Management Plan, and shall provide for the procedures to be followed for entry onto private properties for the purpose of managing noxious weeds.

II. GENERAL

A. Every reasonable effort shall be made to manage noxious weeds on private property through a voluntary compliance program.

B. Douglas County Personnel 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. The treatment and mitigation of noxious weeds is not a one-year process, and in most cases will require a cycle of two to four years to properly mitigate and/or manage noxious weeds on private properties.

D. Various methods of treatment shall be used: chemicals, the introduction of insects, mowing, pulling, or any other recognized method for the management of noxious weeds.

E. Enforcement of the Colorado Noxious Weed Act through the procedures described herein will be undertaken only after the unsuccessful solicitation of voluntary compliance.

III. INSPECTION WARRANTS

A. If Douglas 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 denies access to Douglas County Personnel, Douglas County Personnel shall request the assistance of the County Attorney in obtaining an inspection warrant to authorize entry Douglas County Personnel onto private property. Douglas County Personnel shall provide an affidavit, pursuant to § 35-5.5-109(2), C.R.S., stating: the information which gives Douglas County Personnel reasonable cause to believe that a noxious weed infestation exists; that the landowner or occupant has denied access to Douglas County Personnel; and a general description of the location of the property in question.

IV. ENFORCEMENT PROCEDURES

A. The Weed and Mosquito Control Supervisor, in conjunction with Douglas County Personnel, shall be responsible for mapping weed infestations throughout Douglas County on both public and private properties where practical and feasible.

B. Enforcement procedures shall be initiated by Douglas County Personnel based on weed mapping and in response to citizens' complaints after confirmation of the presence of noxious weeds on public or private properties.

C. Douglas County Personnel shall comply with applicable federal, state and local laws, rules and regulations, and the County's 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 enforcement process shall be a courtesy letter sent to the property owner or occupant of the subject property on which noxious weeds are located, which shall serve as an initial informative measure. The letter shall state the specific noxious weed identified 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 Douglas 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 weed management plan, or no initiation of mitigation/management of the noxious weed(s) identified, a Notice of Non-Compliance shall be sent by 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 identified 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 Douglas 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.

F. Should 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, Douglas 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 § 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 fill-in-the-blank weed management plan;
- 5) A period of ten (10) days for the property owner or occupant to respond to the Notice of Violation.

G. The property owner shall have 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 Douglas 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. The Board shall select an arbitration panel, pursuant to § 35-5.5-109(4)(b), C.R.S., composed of one weed management specialist, one property owner of land of approximately equal size, and a third member appointed by the other 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, Douglas County Personnel shall act according to such weed management plan. Douglas 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.

J. If at any point during the process, Douglas 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, Douglas 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 Douglas 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.

K. Douglas 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' advance 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. Douglas County Personnel shall use the least invasive method of mitigation/ management and shall prepare a report thoroughly documenting the treatment process from beginning to end. 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 respond to the second notice within 20 days, 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 NOXIOUS WEED MANAGEMENT PLAN

A. The Board hereby adopts a Noxious Weed Management Plan, which shall apply to both public and private properties located in unincorporated portions of Douglas County, as set forth in Exhibit A, attached hereto and incorporated herein.

PASSED AND ADOPTED this 12 day of July, 2011, in Castle Rock, Douglas County, Colorado.

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

BY: *Jill E. Repella*
JILL E. REPELLA, Chair

ATTEST:
Melissa Pelletier
MELISSA PELLETIER, Deputy Clerk



EXHIBIT A

DOUGLAS COUNTY NOXIOUS WEED MANAGEMENT PLAN

I. Introduction:

A. Why the Plan is being written:

1. Compliance with the Colorado Noxious Weed Act Title 35 Article 5.5 Section 101, et seq., C.R.S.

B. Goal of the Plan:

1. Implementation of the law:
2. Public education
3. Public support for the program.

C. Severity of the weed problem in Douglas County:

1. Approximately 97,000 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.

D. The control of undesirable weeds is of importance to county residents, federal and state governmental agencies and the business community.

II. Statement of the Weed Problem:

Colorado Department of Agriculture's Rules and Regulations 8CCR1206-2 declare the following weeds to be noxious and Douglas County concurs:

THE FOLLOWING LIST A – NOXIOUS WEEDS ARE REQUIRED TO BE ERADICATED AND ARE IN ORDER OF PRIORITY FOR DOUGLAS COUNTY:

Purple loosestrife (*Lythrum salicaria*) - Limited amounts are found in Douglas County
Orange hawkweed (*Hieracium aurantiacum*) - Limited amounts are found in Douglas County
Yellow starthistle (*Centaurea solstitialis*)
Cypress spurge (*Euphorbia cyparissias*) - Limited amounts are found in Douglas County
Myrtle spurge (*Euphorbia myrsinites*) - Limited amounts are found in Douglas County
Dyer's woad (*Isatis tinctoria*)
Mediterranean sage (*Salvia aethiopsis*)
Medusahead (*Taeniatherum caput-medusae*)
Rush skeletonweed (*Chondrilla juncea*)
Squarrose knapweed (*Centaurea virgata*)
Meadow knapweed (*Centaurea pratensis*)
Camelthorn (*Alhagi pseudalhagi*)
Common crupina (*Crupina vulgaris*)

African rue (*Peganum harmala*)
Sericea lespedeza (*Lespedeza cuneata*)
Tansy ragwort (*Senecio jacobaea*)
Hydrilla (*Hydrilla verticillata*)
Giant salvinia (*Salvinia molesta*)

THE FOLLOWING LIST B – NOXIOUS WEEDS ARE REGIONALLY RARE AND ALSO DESIGNATED TO BE ERADICATED IN DOUGLAS COUNTY:

List B species in order of Douglas County Priority (Limited amounts are found in DC)

Spotted knapweed (*Centaurea maculosa*)
Russian knapweed (*Acroptilon repens*) Limited amounts are found in Douglas County
Salt cedar (*Tamarix chinensis*, *T. parviflora*, and *T. ramosissima*)
Plumeless thistle (*Carduus acanthoides*) Limited amounts are found in DC
Bull thistle (*Cirsium vulgare*) Limited amounts are found in Douglas County
Perennial pepperweed (*Lepidium latifolium*)
Hoary cress (*Cardaria draba*) Limited amounts are found in Douglas County
Common tansy (*Tanacetum vulgare*) Limited amounts are found in DC

THE FOLLOWING LIST B – NOXIOUS WEEDS ARE TO BE CONTAINED & SUPPRESSED:

Dalmatian toadflax, broad-leaved (*Linaria dalmatica*) (narrow-leaved) (*Linaia genistifolia*)
Scotch thistle (*Onopordum acanthium*) (less common) (*Onopordum tauricum*)
Musk thistle (*Carduus nutans*)
Diffuse knapweed (*Centaurea diffusa*)
Yellow toadflax (*Linaria vulgaris*)
Leafy spurge (*Euphorbia esula*)
Canada thistle (*Cirsium arvense*)
Houndstongue (*Cynoglossum officinale*)
Chinese clematis (*Clematis orientalis*)

THE FOLLOWING LIST B – NOXIOUS WEEDS ARE TO BE MONITORED AND MANAGED AS FUNDS ARE AVAILABLE:

Absinth wormwood (*Artemisia absinthium*)
Black henbane (*Hyoscyamus niger*)
Bouncingbet (*Saponaria officinalis*)
Common teasel (*Dipsacus fullonum*)
Corn chamomile (*Anthemis arvensis*)
Cutleaf teasel (*Dipsacus laciniatus*)
Dame's rocket (*Hesperis matronalis*)
Mayweed chamomile (*Anthemis cotula*)
Moth mullein (*Verbascum blattaria*)
Oxeye daisy (*Chrysanthemum leucanthemum*)
Sulfur cinquefoil (*Potentilla recta*)
Scentless chamomile (*Matricaria perforata*)
Quackgrass (*Elytrigia repens*)
Russian-olive (*Elaeagnus angustifolia*)

Eurasian watermilfoil (*Myriophyllum spicatum*)
Spurred anoda (*Anoda cristata*)
Jointed goatgrass (*Aegilops cylindrical*)
Venice mallow (*Hibiscus trionum*)
Wild caraway (*Carum carvi*)
Yellow nutsedge (*Cyperus esculentus*)

THE FOLLOWING LIST C – WEEDS ARE SO COMMON THAT THE CONTROL OF THEM IS LEFT UP TO THE LANDOWNERS' DISCRETION, BUT TECHNICAL ASSISTANCE WILL BE GIVEN BY THE COUNTY. LIST C OF THE COLORADO NOXIOUS WEED LIST CONTAINS THE FOLLOWING NOXIOUS WEED SPECIES:

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*)
Redstem filaree (*Erodium cicutarium*)
Velvetleaf (*Abutilon theophrasti*)
Wild proso millet (*Panicum miliaceum*)

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

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

It is recognized that the Colorado Noxious Weed Rules, including weed lists may be revised per the Colorado Department of Agriculture. When changes occur, the Douglas County Noxious Weed Management Plan shall comply with said changes without revision of the Douglas County Noxious Weed Management Plan in place at the time of said change.

III. Plan of Work: Objectives & Implementation

A. Short term goals (1-5 years):

1. Continue to educate the residents of Douglas County regarding the problems caused by noxious weeds and the benefits of controlling these plants by sending out annual mailings to new real estate transactions of 1 acre or more.

2. Control noxious weeds along county roadways, open space parcels, and parks.
3. Update 25% of the noxious weed mapping of Douglas County annually.
4. Assist private landowners in developing management plans for their properties.
5. Assist the County Open Space and Parks staff in containing and controlling noxious weeds on their parcels, with the goal of treating approximately 2,600 acres

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 those weeds.
2. Manage noxious weeds so as to reduce or eliminate pesticide use.
3. Maintain control of noxious weeds along county roadways, parks and open space parcels.
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. Finish 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 as requested.
7. Continue to develop management plans for private lands in Douglas County with land owners.
8. Assist in implementation of cooperative management plans for municipalities as requested.

IV. Implementation:

A. Public Education:

1. Provide information concerning the Noxious Weed Law.
2. Provide information on biology and management of targeted noxious weeds.
3. Develop educational materials, displays, slides, etc.
4. Educate the media:
5. Targeted audience 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 Methods:

1. Follow University Research Best Management Practices for control of each noxious weed:

- a) Preventative measures (i.e. not overgrazing, using weed free hay & mulch)
- b) Biological - continue cooperating with the Colorado Dept. of Agriculture in releasing insects to help manage noxious weeds.
- c) Cultural
- d) Mechanical
- e) Chemical

2. Expand information and demonstrate control strategies for control of rare species of noxious weeds.

3. County noxious weed mapping program:

- a) Map newly listed weed infestations within Douglas County
- b) Map A list species in County and Map B list rare species.

4. Cooperative agreements as requested:

- a) State rights-of-way
- b) Municipal agreements
- c) State and federal lands
- d) Other governmental entities
- e) Business entities
- f) Private landowners

5. 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

C. Short and long term needs:

1. Continue to generate educational and supportive materials for the public

V. Development of Special Management Areas:

A. Delineate areas requiring intensive management. Intensive management could require extensive mowing and/or use of insects or livestock and/or herbicide applications and/or reseeding.

- B. Delineate areas requiring lower levels of management.
- C. Target public education and management toward A & B above.
- D. Examples of Special Management Areas:
 - I. Areas where individuals have been identified as being sensitive to herbicides from a doctor's report or guidelines from Colorado Department of Agriculture.
 - a) Advance notification of state registered chemically sensitive persons, when spraying in the neighborhood. County will notify those individuals of the proposed schedule one week in advance. Also a phone call would be attempted 24 hours in advance. If no answer, an attempt would be made to contact individuals the morning of scheduled herbicide applications.
 - b) Adopt-A-Highway program, for those who are chemically sensitive and use mechanical control of weeds on designated right of way stretches to reduce their possible contact with herbicide treated areas.

VI. Public input:

- A. Public meetings are held at selected locations throughout the year.
- B. Noxious Weed Symposium held annually when possible.
- C. Local meetings with Homeowner Associations.