

BOARD OF COUNTY COMMISSIONERS  
HINSDALE COUNTY, COLORADO

RESOLUTION NO. 4  
SERIES 2016

**A RESOLUTION ADOPTING A NOXIOUS WEED MANAGEMENT PLAN FOR ALL  
UNINCORPORATED LANDS WITHIN HINSDALE COUNTY**

WHEREAS, the Board of County Commissioners of Hinsdale County is required to manage noxious weeds within unincorporated areas of Hinsdale County, including on private property, pursuant to the Colorado Noxious Weed Act, C.R.S. 35-5.5-101, *et seq.* (the "Act"); and

WHEREAS, it is the County Commissioners' goal to provide a consistent County policy for the management of noxious weeds in unincorporated Hinsdale County to ensure such weeds are managed appropriately, fairly and in accordance with the Act; and,

WHEREAS, this Resolution is in the best interests of the health, safety and welfare of Hinsdale County, Colorado.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of County Commissioners of Hinsdale County, Colorado, pursuant to the authority vested in them by law, hereby adopts the Noxious Weed Management Plan for All Unincorporated Lands Within Hinsdale County, attached hereto and incorporated herein, effective immediately.

INTRODUCED by Commissioner Susan Thompson, seconded by  
Commissioner Jan Murray, and passed this 6<sup>th</sup> day of  
April, 2016

BOARD OF COUNTY COMMISSIONERS  
OF HINSDALE COUNTY, COLORADO

By: C. F. Dozier  
Cindy Dozier, Chair



Linda J. Pavich  
Linda J. Pavich, County Clerk & Recorder

# **NOXIOUS WEED MANAGEMENT PLAN FOR ALL UNINCORPORATED LANDS WITHIN HINSDALE COUNTY**

## **I. Introduction**

In recognition of the economic and ecological impacts of noxious weeds in Colorado, the General Assembly of the State of Colorado passed the Colorado Noxious Weed Act, C.R.S. 35-5.5-101, *et seq.* (the "Act"). The Act states that certain noxious weeds pose a threat to the continued economic and environmental values of the lands in the State and that all landowners in the State must manage them. The Act directs local county governments to adopt a noxious weed management plan to manage, eradicate and/or control state-listed noxious weeds on unincorporated lands within their jurisdictions. This plan provides a framework for Hinsdale County to control those plant species within unincorporated Hinsdale County that are identified as "noxious" by the Act.

## **II. State-Listed Noxious Weeds**

The Act designates certain plant species as noxious due to their potential and realized negative ecological and economic impacts. State-listed noxious weeds are divided into the following categories:

### **List A Species**

List A weed species are designated for eradication. When occurrences of these plants are found in unincorporated Hinsdale County, ensuring their eradication will be a top priority.

### **List B Species**

List B weed species are designated for control and containment.

### **List C Species**

List C weed species are designated by the State as lower priority for control and containment.

The plant species currently designated as noxious weeds by the State of Colorado are found on the list attached hereto and incorporated herein. Updates to this list may be found on [www.colorado.gov](http://www.colorado.gov) by linking to the Colorado Department of Agriculture.

## **III. Hinsdale County Weed Management Plan**

(1) Subject to subsection (2) below, the Hinsdale County Board of County Commissioners ("BoCC"), through its delegates, agents, and/or employees, 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 noxious weed infestations when at least one of the following circumstances has occurred:

- (a) The landowner or occupant has requested an inspection;
- (b) A neighboring landowner or occupant has reported a suspected noxious weed infestation and requested an inspection; or
- (c) An authorized agent of the BoCC has made a visual observation from a public right-of-way or area and has reason to believe that a noxious weed infestation exists.

(2)(a) No entry upon any premises, lands, or places shall be permitted until the landowner or occupant has been notified by certified mail that such inspection is pending. Where possible, inspections shall be scheduled and conducted with the concurrence of the landowner or occupant.

(b) If, after receiving notice that an inspection is pending, the landowner or occupant denies access to the inspector, the inspector may seek an inspection warrant issued by a municipal, county, or district court having jurisdiction over the land. The court shall issue an inspection warrant upon presentation by the BoCC, through its agent or employee, of an affidavit stating: The information which gives the inspector reasonable cause to believe that any provision of the Act is being or has been violated; that the occupant or landowner has denied access to the inspector; and a general description of the location of the affected land. No landowner or occupant shall deny access to such land when presented with an inspection warrant.

(3) The BoCC, having jurisdiction over private lands upon which noxious weeds are found, shall have the authority, acting directly or indirectly through its agents or staff, to notify the landowner or occupant of such lands, advising the landowner or occupant of the presence of noxious weeds. Said notice shall name the noxious weeds, advise the landowner or occupant to manage the noxious weeds, and specify the best available control methods of integrated management. Where possible, the County shall consult with the affected landowner or occupant in the development of a plan for the management of noxious weeds on the premises or lands.

(4)(a) Within a reasonable time after receipt of notification, which at no time shall exceed ten days, the landowner or occupant shall either:

(I) Comply with the terms of the notification;

(II) Acknowledge the terms of the notification and submit a written acceptable plan and schedule for the completion of the plan for compliance; or

(III) Request an arbitration panel to determine the final management plan.

(b) The arbitration panel shall be selected by the BoCC and shall be comprised of a weed management specialist or weed scientist, a landowner of similar land in Hinsdale County to the land at issue, and a third panel member chosen by agreement of the first two panel members. The landowner or occupant shall be entitled to challenge any one member of the panel, and the BoCC shall name a new panel member from the same category as that of the challenged member. The decision of the arbitration panel shall be final.

(5)(a) In the event the landowner or occupant fails to comply with the notice to manage the identified noxious weeds or implement the plan developed by the arbitration panel, the BoCC has the authority to:

(I) Provide for and compel the management of such noxious weeds at such time, upon such notice, and in such manner as the BoCC, or its agents and employees, shall determine in its sole discretion; and

(II) Assess the whole cost thereof, including up to twenty percent (20%) for inspection and other incidental costs in connection therewith, upon the lot or tract of land where the noxious weeds are located; except that the County shall not levy a tax lien against land it administers as part of a public right-of-way. Such assessment shall be a lien against each lot or tract of land until paid and shall have priority over all

other liens, except general taxes and prior special assessments. Such assessment may be certified to the Hinsdale County Treasurer and collected and paid over in the same manner as provided for the collection of taxes. Any funds collected pursuant to this section shall be deposited in the County's weed fund or any similar fund.

(b) Hinsdale County shall not provide for or compel the management of noxious weeds on private property pursuant to this subsection (5) without first applying the same or greater management measures to any land or rights-of-way owned or administered by the County that are adjacent to the private property.

(c) Hinsdale County shall not assess the cost of providing for or compelling the management of noxious weeds on private property until the level of management called for in the notice or the management plan developed by the arbitration panel has been successfully achieved.

(6) No agent, employee, or delegate of Hinsdale County shall have a civil cause of action against a landowner or occupant for personal injury or property damage incurred while on public or private land for purposes consistent with this Noxious Weed Management Plan, except when such damages were willfully or deliberately caused by the landowner.

(7) Definitions.

"Alien plant" means a plant species that is not indigenous to the state of Colorado.

"Landowner" means any owner of record of federal, tribal, state, county, municipal, or private land.

"Management" means any activity that prevents a plant from establishing, reproducing, or dispersing itself.

"Management objective" means the specific, desired result of integrated management efforts and includes:

(a) "Eradication" which means 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. Once all specified weed populations are eliminated or prevented from reproducing, intensive efforts continue until the existing seed bank is exhausted.

(b) "Containment" which means maintaining an intensively managed buffer zone that separates infested regions, where suppression activities prevail, from largely uninfested regions, where eradication activities prevail.

(c) "Suppression" which means reducing the vigor of noxious weed populations within an infested region, decreasing the propensity of noxious weed species 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" which means 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 said value.

"Noxious weed" means an alien plant or parts of an alien plant that have been designated by the State of Colorado as being noxious or has been declared a noxious weed by the BoCC or a local advisory board, and meets one or more of the following criteria:

- (a) Aggressively invades or is detrimental to economic crops or native plant communities;
- (b) Is poisonous to livestock;
- (c) Is a carrier of detrimental insects, diseases, or parasites; and/or
- (d) The direct or indirect effect of the presence of the plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

"Noxious weed management" means the planning and implementation of an integrated program to manage noxious weed species.

"Person" or "occupant" means 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.