

GILPIN COUNTY ORDINANCE NO. 06-02

**BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GILPIN
STATE OF COLORADO**

**AN ORDINANCE REPEALING ORDINANCE NUMBER 99-1 AND
ADOPTING THE GILPIN COUNTY WEED MANAGEMENT PLAN 2006**

WHEREAS, pursuant to § C.R.S 35-5.5-101 (known as the Colorado Noxious Weed Management Act) the Board of County Commissioners of the County of Gilpin by Ordinance 99-1, adopted March 9, 1999, adopted a Noxious Weed Management Plan for all of the unincorporated lands with the County of Gilpin; and

WHEREAS, an updated Gilpin County Weed Management Plan 2006 is herein incorporated into this ordinance as attachment A; and

WHEREAS, in order to enforce the provisions of said weed management plan, pursuant to the statutory authority vested in the County under § C.R.S. 35-5.5-101, the Board of County Commissioners has enacted by Ordinance 99-1, procedures for enforcement of the County Weed Management Plan, including, but not limited to, entry upon private lands for the purpose of inspecting for and securing the removal of noxious weeds; and

WHEREAS, pursuant to § C.R.S. 30-15-401(1.5) (A), the Board of County Commissioners has the authority to enact ordinances for the purpose of compelling the removal of weeds from properties within the County, which authority is supplemental to the grant of authority under § C.R.S. 35-5.5-101; and

WHEREAS, it is found that the 2006 Weed Management Plan is in the best interest of the public health, safety, and welfare of the community; and

WHEREAS, the 2006 Weed Management Plan is recommended for adoption by the Weed Advisory Board; and

WHEREAS, nothing set forth in this ordinance shall be construed to be derogation of the powers vested in the Board of County Commissioners under § C.R.S. 30-15-401(1.5) (A) and, the enforcement procedure set forth in the ordinance shall be in addition to authority vested in the County under said statute;



NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GILPIN, STATE OF COLORADO AS FOLLOWS:

Section 1. Ordinance No. 99-1 is hereby repealed immediately upon final adoption of this Ordinance.

Section 2. The Gilpin County Weed Management Plan, as set forth in Exhibit "A" attached hereto and incorporated herein by this reference, is hereby approved and adopted by the Board of County Commissioners, pursuant to § C.R.S. 35-5.5-105.

Section 3. ENTRY UPON PRIVATE LAND. The County of Gilpin, acting through its delegates, agents, and employees, shall have the right to enter upon any premises, lands or places, public or private, within the unincorporated portions of the County of Gilpin, during reasonable business hours, between 8:00 a.m and 6:00 p.m. for the purpose of inspecting for the existence of noxious weed infestations, when at least one of the following circumstances has occurred:

- a. A landowner or occupant has requested such inspection;
- b. A neighboring landowner or occupant has reported suspected noxious weed infestation and requested such inspection and infestation is visible from the property line; or;
- c. An authorized agent of the County of Gilpin has made visual observation from a generally utilized public right-of-way, easement (whether platted or prescribed) or area, and has reason to believe that a noxious weed infestation exists.

Section 4. NOTIFICATION OF PRIVATE LANDOWNERS.

- a. Notice of inspection: No entry upon any premises, land or places shall be permitted until the landowner or occupant has been notified by certified mail that such an inspection is pending. Whenever possible, inspections shall be scheduled and conducted with the concurrence of the landowner or occupant.
- b. Notice of management requirements and controls: The County of Gilpin shall have the authority, acting directly or indirectly through agents or staff, to notify the landowner or occupant of such lands, advising the landowner or occupant of the presence of noxious weeds. The notice shall specify the noxious weeds, advising the landowner or occupant to manage the noxious weeds, and shall specify the best available control methods of integrated management. Whenever possible, the County, through its designated agent, shall consult with the affected landowner or its occupant in the development of a plan for the management of noxious weeds on the premises or lands.



Section 5. LANDOWNER/OCCUPANT COMPLIANCE. Within a reasonable time after receipt of notification of management requirement and controls which shall not exceed 10 days, a landowner or occupant shall either:

- a. comply with the terms of the notification,
- b. acknowledge terms of the notification and submit an acceptable plan and schedule for completion of the plan for compliance, or
- c. request an arbitration panel established pursuant to section 5 below, to determine the final management plan.

Section 6. ARBITRATION PANEL. Any arbitration panel selected by the County shall be comprised of one weed management specialist, one landowner of similar land in the County of Gilpin, and a third member chosen by agreement of the first two panel members. The landowner shall be entitled to challenge any one member of the panel and the County shall name a new panel member from the same category. The decision of the arbitration panel shall be final and binding.

Section 7. LANDOWNER/OCCUPANT NON-COMPLIANCE. In the event the landowner or occupant fails to comply with the notice of management requirements and controls or to otherwise implement the plan developed by the arbitration panel, the County shall have the following authority:

- a. To provide for and compel the integrated management of such noxious weeds by use of County forces or contractors employed by the County, upon the giving of ten days' written notice by certified mail to the landowner/occupant. Such notice shall be given no less than 10 days prior to the date upon which County shall undertake the action described in this subparagraph (a). The management work can be performed after the 10-day notice has passed, beginning no sooner than ½ hour after sunrise and concluded ½ hour before sunset, for each day of management required.
- b. To commence an action for mandatory injunctive relief in the Gilpin County District Court to enforce the provisions of the ordinance and to compel management of noxious weeds by the landowner/occupant
- c. To declare the noxious weeds a public nuisance, subject to all laws and remedies relating to the prevention and abatement of nuisances. The County may in summary manner or otherwise, take such action including removal or destruction with reference to such nuisance as the Board of County Commissioners in their discretion deem necessary and appropriate.





Section 8. LIEN FOR UNPAID WEED REMOVAL COSTS AND EXPENSES. In the event the County shall compel removal of noxious weeds in accordance with section 6 & 7 above, the whole cost of such enforcement, including 20% for inspection and other incidental costs in connection therewith, shall be assessed to the lot or tract of the land where the noxious weeds are located, provided however, that the County shall not levy any tax lien against land administered by the County as a part of any public right-of-way. The assessment so made shall constitute 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. The assessment may be certified to the Gilpin County Treasurer, and collected and paid over in the same manner as provided for the collection of general property taxes. Any funds collected pursuant to this section shall be deposited in the County's general fund.

Section 9. CONDITIONS PRECEDENT TO ENFORCEMENT OF MANAGEMENT AND CONTROL.

- a. The County shall make no effort to provide for or compel the management of noxious weeds in accordance with section 6 or 7 hereof, without first applying the same or greater management measures to any land or rights-of-way owned or administered by the County, which are adjacent to the private property.
- b. The 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 described in section 3 hereof, or the management plan developed by the arbitration panel for the specific property, has been achieved.

Section 10. RIGHT OF ENTRY. The County, through its delegates, agents, and employees, upon compliance with applicable notice requirements of this ordinance, shall have the right to enter upon any premises, lands, or places, public or private, within the unincorporated portions of the County of Gilpin, during reasonable business hours, between 8:00 a.m. & 6:00 p.m. for the purposes of ensuring compliance with the requirements of this article concerning noxious weed management and other local requirements.

Section 11. SEVERABILITY. In the event any portion of this Ordinance shall be declared null and void or unenforceable by any court of competent jurisdiction, such offending provision(s) shall be deemed to be deleted from this ordinance provided, however, that the remaining provisions of this Ordinance shall remain in full force and effect and fully enforceable as written.

Section 12. All such noxious weeds, at any stages, their carriers, and any and all premises, plants and things infested are hereby declared to be a public nuisance.





Section 13. In accordance with § C.R.S 35-5.5-107(4)a, the Gilpin County Weed Advisory Board shall review the Plan no less often than once every three years, and shall make recommendations to the Board concerning the continued appropriateness of the Plan.

Section 14. EMERGENCY CLAUSE. The Board hereby finds, determines, and declares that this Ordinance is necessary for the immediate preservation of the health, safety, and welfare of the citizens of Gilpin County, and is hereby declared an emergency ordinance and shall take effect immediately after adoption.

ADOPTED THIS 04th day of April, 2006 by a vote of 3 to 0.

Forrest Whitman
Forrest Whitman, Chair

Attest:

Sharon E. Cate
Deputy County Clerk

4/24/06 3:17 PM 129675
JESSICA LOVINGIER GILPIN COUNTY CO
Receipt #2620 Page 5 of 12
289 ORDINANCE Total Fee: 61.00 Doc Fee: 0.00



Approved as to Form:

James Petrock
James Petrock, County Attorney

CERTIFICATION OF THE COUNTY CLERK

Jessica Lovingier, Gilpin County Clerk, hereby certifies that the foregoing ordinance was adopted by the Board of County Commissioners on the 4th day of April, 2006 at a regularly scheduled meeting of the Board of the County Commissioners, after a first reading on the 28th day of February, 2006, at 9:45 a.m., at a regularly scheduled meeting of the Board of County Commissioners at the Gilpin County Courthouse, Central City, Colorado and that said ordinance was published in full in the *Weekly Register Call* at least ten (10) days prior to final adoption.

Jessica Lovingier
Jessica Lovingier, Gilpin County Clerk & Recorder





Attachment "A"

GILPIN COUNTY WEED MANAGEMENT PLAN 2006

I. INTRODUCTION.

Several species of non-native plants have become a threat to the economic and environmental value of land in Gilpin County, Colorado. These plants are not indigenous to this country and have no natural predators or diseases to keep them in check. They are rapidly displacing native vegetation, causing a loss of native ecosystem stability and diversity, while affecting recreational resources. Pursuant to § 35-5.5-101, *et seq.*, C.R.S., The Colorado Noxious Weed Act, the state of Colorado has mandated that "a countywide plan must be implemented by every county to prevent further damage by these noxious weed species". The County has appointed the Gilpin County Weed Advisory Board, contracted with Colorado State University for a noxious weed program coordinator, and has resolved to adopt a Gilpin County Weed Management Plan, for the purposes of fulfilling its responsibilities with respect to the Act and managing all of the unincorporated lands in the County with respect to noxious weeds.

II. DEFINITIONS.

- A. All language definitions used within this plan shall be consistent with the "Colorado Noxious Weed Act" § 35-5.5-101 C.R.S. and the "Permanent Rules Pertaining to the Administration and Enforcement of the Colorado Weed Management Act" 8 C.C.R. 1203-19.
- B. "Act" shall refer to § 35-5.5-101 C.R.S. the Colorado Noxious Weed Act, as amended.
- C. "BMPs" shall refer to "best management practices," which are techniques or policies that are recognized by science as the most efficient means of limiting or eliminating species of noxious weeds. BMPs will change over time as more scientific information has been tested on those noxious weed species.
- D. "BOCC" shall refer to the Board of County Commissioners of Gilpin County Colorado.
- E. "Control" shall mean to manage the populations of noxious weed species so that the population is maintained or reduced in size.
- F. "County" shall refer to the unincorporated areas of Gilpin County, Colorado.
- G. "Elimination" shall refer to the removal of seed source.



- H. "Eradication" shall mean removing the reproductive successes of noxious weed species or specified noxious weed populations in largely uninfested areas to zero and permanently or eliminating the species or populations within a specified period of time.
- I. "Containment" shall mean maintaining an intensively managed buffer zone that separates infested regions, where suppression activities prevail, from largely uninfested regions, where eradication activities prevail.
- J. "Suppression" shall mean 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.
- K. "Program Coordinator" shall refer to the Gilpin County Noxious Weed Program Coordinator.
- L. "Rules" shall refer to §§ 8 C.C.R. 1203-19 the Permanent Rules Pertaining to the Administration and Enforcement of the Colorado Weed Management Act, as amended.
- M. "Manage" shall refer to controlling weeds in accordance with applicable provisions of the Act and Rules (weeds shall be eliminated, eradicated, contained or suppressed on a species by species basis).
- N. "Plan" shall refer to the Gilpin County Weed Management Plan.
- O. "Integrated management" shall mean the planning and implementation of a coordinated program utilizing a variety of methods for managing noxious weeds, the purpose of which is to achieve specified management objectives and promote desirable plant communities. Such methods may include but are not limited to education, preventive measures, good stewardship, and the following techniques:
- (a) "Biological management", which means the use of an organism to disrupt the growth of noxious weeds.
 - (b) "Chemical management", which means the use of herbicides or plant growth regulators to disrupt the growth of noxious weeds.
 - (c) "Cultural management", which means 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", which means methodologies or management practices that physically disrupt plant growth, including tilling, mowing, burning, flooding, mulching, hand-pulling, hoeing, and grazing.



- P. "Commissioner" shall mean the commissioner of the Colorado Department of Agriculture or his or her designee.

III. STATEMENT OF GILPIN COUNTY'S WEED PROBLEM.

- A. Many acres of land in the County are already infested with weed species listed in this document. Experts in weed science estimate that the current populations increase 15 percent annually if no control measures are imposed. Such an increase in weed populations poses a serious threat to the economic value and environmental stability of the land and water in the County. Additionally, weed seed blowing from infested lands to uninfested lands represents a burden to the landowner of originally uninfested land.
- B. Gilpin County is still relatively weed-free compared to neighboring counties. The most frequent way that weeds are introduced to the County is during construction processes—often, weed seeds are brought in on infested equipment, or by contaminated fill. After establishing in these sites, the weeds spread to neighboring land.
- C. The weed problem in the County is of concern to the recreational and small landowner communities, as well as to the native plant and wildlife species. Problem areas include roadsides, open space, housing subdivisions, municipal areas, private property, state and federal lands.
- D. The BOCC has declared all noxious weeds listed below and all noxious weeds identified in the Rules to be subject to integrated management in accordance with the requirements of the these regulations, the Act and the Rules. The specific noxious weed species listed below have been identified by the BOCC to be present in the County, to be undesirable and are hereby designated to be managed in accordance with the requirements of the Act and Rules:
1. List A Noxious Weeds: All 'List A' noxious weed species listed below, and any newly discovered infestation of other List A noxious weed species, shall be eliminated or eradicated in accordance with applicable provisions of the Act and Rules.
 - a. Myrtle spurge (*Euphorbia myrsinintes*)
 - b. Orange hawkweed (*Hieracium aurantiacum*)





2. List B Noxious Weeds: All List B noxious weed species listed below, and any newly discovered infestation of other List B noxious weed species, shall be managed (eliminated, eradicated, contained or suppressed) in accordance with applicable provisions of the Act and Rules.

- a. Scotch thistle (*Onopordum acanthium*)
- b. Canada thistle (*Cirsium arvense*)
- c. Chinese clematis (*Clematis orientalis*)
- d. Common tansy (*Tanacetum vulgare*)
- e. Dalmatian toadflax (*Linaria dalmatica*)
- f. Dame's rocket (*Hesperis matronalis*)
- g. Diffuse knapweed (*Centaurea diffusa*)
- h. Hoary cress (*Cardaria draba*)
- i. Leafy spurge (*Euphorbia esula*)
- j. Musk thistle (*Carduus nutans*)
- k. Oxeye daisy (*Chrysanthemum leucanthemum*)
- l. Spotted knapweed (*Centaurea maculosa*)
- m. Scentless chamomile (*Matricaria perforata*)
- n. Yellow toadflax (*Linaria vulgaris*)

3. List C Noxious Weeds: The List C noxious weed species listed below in part 'a' shall be controlled at a level in accordance with the minimum standards of List A and List B species.

- a. Cheatgrass (*Bromus tectorum*)

Control of List C noxious weed species below will not be required, but education on control methods shall be provided.

- b. Common mullein (*Verbascum thapsus*)
- c. Field Bindweed (*Convolvulus arvensis*)
- d. Poison hemlock (*Conium maculatum*)

4. The following two weeds, while not on the State Noxious Weed list, are of concern in the County, and control may be required at a future date:

- a. Hoary alyssum (*Berteroa incana*)
- b. Small-flowered alyssum (*Alyssum minus/parviflorum*)





IV. GILPIN COUNTY WEED MANAGEMENT PLAN GOALS.

A. Management and Prevention. The primary goals of the Gilpin County Weed Management Plan are to prevent establishment of new invasive species and manage existing populations of State Rules List A, B, C and County specific noxious weeds species to prevent spread to previously uninfested areas in accordance with the requirements of the Act and Rules. In order to accomplish this goal, Gilpin County, through the Program Coordinator, will:

1. Identify areas where noxious weeds are a problem.
2. Identify methods of noxious weed control in environmentally sensitive areas; e.g. wetlands, waterways and wilderness areas.
3. Identify methods of control for subdivisions and residential areas.
4. Manage existing weed infestations to prevent spread and reduce weed density.
5. Locate and fight all new invasive species through weed awareness education and rapid response to new infestations.
6. Comply with and enforce the provisions of the Act and Rules and work within the framework of "Colorado's Strategic Plan to Stop the Spread of Noxious Weeds."
7. Expand biological control release sites.
8. Control undesirable plants on Gilpin County-owned properties and rights-of-way.
9. Initiate and maintain communications with landowners who are affected by List A species and populations of List B species designated for elimination or eradication by the Commissioner.
10. Provide affected landowners with technical assistance for the eradication of List A species and populations of List B species designated for elimination or eradication. Assist affected landowners in determining the "BMP" for their situation.
11. Ensure that sufficient enforcement measures are carried out, as may be necessary to ensure the elimination or eradication of List A species and populations of List B species designated for eradication by the State Weed Commissioner.



12. Provide assistance in disseminating financial resources (if any) to affected landowners and in mapping data.
13. Organize volunteers (if any) for weed management projects.
14. Provide mapping resources of affected areas for landowner, staff and public.

B. Public Education. Education is essential to the sustainable success of the Plan. The Program Coordinator will reach out to County residents through educational workshops, private consultations and newspaper articles. The BOCC, through the Program Coordinator and other government agencies, will provide this instruction to increase public awareness of the Act and the Gilpin County Weed Management Plan. Groups targeted for public education include those with agricultural interests, homeowners associations, landowners, developers, recreational groups, youth groups and schools. Workshops will be held throughout the year to provide information on the following subjects:

1. Noxious weed identification & management methods.
2. Compliance with the Act and Rules.
3. Integrated weed management.

C. Departmental Cooperation. Certain departments of Gilpin County government are in a strategic position to make positive impacts on the weed problem in Gilpin County. The Program Coordinator will identify and work with these departments to institute management practices that educate and advise of the importance of preventing the spread of and damage by noxious weeds. Examples of possible cooperative interdepartmental efforts include:

1. Working with the Environmental Health Specialist in the Public and Environmental Health Services to provide information on revegetating newly installed leach fields.
2. Working with the Community Development Department to stamp plans requiring clean equipment and fill for construction operations.

D. Intergovernmental Cooperation. Gilpin County, through its Program Coordinator, will seek to enter into needed cooperative agreements with federal, state and other local governments to manage weeds across property lines and jurisdictional boundaries. Gilpin County will also revisit and renew existing cooperative agreements with federal, state and local governments to maximize current weed control efforts within the County.





V. MANAGEMENT METHODS.

Existing integrated management techniques prescribed by the Rules will be utilized in Gilpin County's management of Rules List A and List B weeds. In addition to the requirements set forth in the Rules for the management of all List A and List B weed species, BMPs may be utilized in Gilpin County's management of any designated noxious weed for which specific Rules prescribed integrated management techniques do not exist, and also when any specified Rules prescribed integrated management technique has proven ineffective in meeting the management goal.

- A. Integrated management techniques include, but are not limited to prevention, cultural management, chemical management, biological management and mechanical management. It is to be understood that many or all of these methods may be inadequate for control as stand-alone solutions, and the use of two or more techniques may be utilized to achieve stated goals.
- B. Construction Equipment used in the county shall be free of weed seed to prevent transporting seeds to newly disturbed construction sites. Gravel and fill dirt shall be obtained from a relatively weed-free source. Revegetation of disturbed areas is to be encouraged, as this is one of the most important steps in weed control. If mulch is needed, it shall come from a certified weed-free source.

VI. ENFORCEMENT.

The control of undesirable plants shall be the responsibility of the landowner. The Program Coordinator will provide technical advice and support. Enforcement of the Gilpin County Weed Management Plan shall be in accordance with the applicable provisions of the Act, as said Act may be amended from time to time.

VII. CONCLUSION.

Many non-native species of weeds that have become established in the County are deep-rooted perennial plants that are extremely difficult to control. Eradication of these species may not always be a realistic goal. However, when new infestations are detected eradication measures shall be taken. Through a concerted cooperative effort, these plants can be managed in such a way as to prevent further disruption of the many and varied plant communities that make up this region.

To view the Colorado Noxious Weed Law:
<http://www.ag.state.co.us/CSD/Weeds/statutes/weedlaw.PDF>

For a list of all Colorado noxious weeds:
<http://www.ag.state.co.us/CSD/Weeds/statutes/weedrules.pdf>

