

IN THE COUNTY COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF HARNEY

IN THE MATTER AMENDING)
HARNEY COUNTY RESOLUTION)
DATED MAY 17, 1989 AND TITLED)
HARNEY COUNTY WEED CONTROL)
POLICIES AND SUMMARY)

ORDINANCE # 2008-61

WHEREAS, Harney County's Weed Control Policies and Summary have not been updated since May 17th, 1989; and

WHEREAS, Harney County Resolution Dated May 17th, 1989 titled Harney County Weed Control Policies and Summary requires several revisions in order to make this section of the code more effective.

NOW, THEREFORE, THE HARNEY COUNTY COURT ORDAINS AS FOLLOWS:

A. New Provisions

I. Repeal. Harney County Weed Control Policies and Summary shall be repealed in its entirety and replaced with the following provisions.

II. Title. This ordinance shall be known as the Harney County Weed Ordinance.

III. Purpose. The purpose of this ordinance is to specify the procedures for the control of weeds identified as noxious by the Harney County Court. ORS 570.500 to 570.600.

IV. Definitions. For the purpose of this ordinance, the following words shall have the following meaning:

"Board" means the Harney County Weed Advisory Board.

"County Court" means the Harney County Court.

“District” means the Harney County Weed Control District, the boundaries of which coincide with the boundaries of Harney County.

“Farm” means the current employment of land for the primary purpose of obtaining a profit in money by 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.

“Noxious Weed” means any plant determined by the County Court and/or the Oregon Department of Agriculture to be injurious to public health, crops, livestock, land, wildlife or other property.

“Land” means real property within Harney County outside the limits of a city upon which a violation of this ordinance has occurred or is occurring.

“Owner” means any legal owner or any person having charge, care or control of land.

V. Weed Control District. All of Harney County outside the limits of any city is the weed control district for the purpose of destroying and preventing the seeding and spread of noxious weeds. The district is known as the Harney County Weed Control District.

VI. Advisory Board. The County Court, within its discretion, may appoint an advisory weed board to be known as the Harney County Weed Advisory Board, to assist the County Court in gathering information and making recommendations concerning the operation of the District, including, but not limited to, the following activities:

- a. Identification of weeds to be listed as noxious by resolution of the County Court;
- b. Development of education, treatment and outreach programs regarding noxious weeds,
- c. Provide assistance in accessing funding for weed control from grants and other sources;
- d. Making recommendations to the County Court on weed control issues as requested by the County Court; and
- e. Receive information from and advise staff/weed inspector in order to fulfill the purpose of state noxious weed laws, this ordinance, District and Board.

The Board shall operate in accordance with bylaws adopted the Board and approved by the County Court.

VII. Weed Inspector. The County Court shall appoint a weed inspector, whose duties shall include, but not be limited to, the following: (ORS 570.520)

- a. To discover whether any noxious weeds are being permitted to grow and produce bloom or seed within the District;
- b. To serve notices pursuant to this ordinance;
- c. When necessary, to destroy or cut, or to supervise the destruction or cutting of noxious weeds growing or seeding within the District; and
- d. To conduct investigations and issues citations for violations of this ordinance.

The weed inspector shall exercise discretion in fulfilling his/her duties pursuant to this ordinance, consistent with the availability of funds and other resources.

VIII. List of Noxious Weeds. For purposes of this ordinance, weeds shall be declared noxious by their inclusion on a list adopted by resolution of the County Court, upon the recommendation of the Board. A weed may be added to or deleted from the list of noxious weeds by resolution of the County Court. Noxious weeds shall be designated and control prioritized into A, B and C groups. Priorities may be adjusted within the County at the discretion of the Board with permission of the County Court. (ORS 570.525)

IX. Notice.

(1) When it appears that violation of ORS chapter 570 or this ordinance has occurred, the weed inspector shall serve a written notice to the owner of the land. 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. If notice is posted, the weed inspector shall also mail a copy of the notice to the owner or occupant of the land by both regular mail and certified mail, return receipt requested. (ORS 570.530)

(2) The notice shall contain at least the following:

- a. The date of service or posting of the notice;
- b. The name of the noxious weed or weeds growing on the land;
- c. Information about said noxious weed or weeds and possible means of control; and
- d. A statement setting forth that the noxious weeds must be destroyed or must be prevented from producing seed 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.

X. Duties of Owner.

(1) Upon service or posting of the notice provided in section IX of this ordinance, any owner of the land shall in good faith show effort to control and prevent seed production by any appropriate means necessary satisfactory to the Weed Inspector. This obligation shall be continuing throughout the remainder of the then current growing, seeding or spreading season.

(2) Owner shall report back to the weed inspector with the treatment plan.

(3) Every owner shall destroy or prevent the seeding on the owner's land of any weed classified as a noxious weed by the County Court using the most efficient and practical means available and within the time declared reasonable by the weed inspector. In no event shall a noxious weed be permitted to produce seed. The means used to destroy or prevent the seeding of noxious weeds shall comply with all applicable laws and label instructions. (ORS 570.535)

XI. Duty to Clean Machinery Before Moving; Weed Infested Residue Not To Be Moved. (ORS 570.570)

(1) No person operating or having control of any threshing machinery, clover huller, hay baler, seed cleaning or treating machinery or other machinery shall move said machinery over any public road or from one farm to another without first being thoroughly swept and cleaned.

(2) 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 grown to other lands not infested especially across public right of ways unless reasonable precautions are taken to reduce the spread of noxious weeds (i.e. tarping, financial assistance for treatments, coordinating with weed inspector, or alternate routes).

XII. Failure to Comply. (ORS 570.545 (1))

(1) In the event that any owner or occupant of land fails or refuses to destroy or cut noxious weeds within the time period specified in the notice provided in section IX of this ordinance, the weed inspector shall at once notify the district attorney of the County who shall at once take necessary steps for enforcement of ORS 570.151 to 570.600.

(2) The county court shall authorize the weed inspector or such assistants as the weed inspector may employ to go upon the land or premises and destroy the noxious weeds or control them in such a manner as will destroy all seeds of such noxious weeds.

(3) In the event destruction or control of the noxious weeds on any farm is in the judgment of the weed inspector impracticable because the weeds may be too far advanced, or if for any other reason the means of control available are unsatisfactory, the weed inspector shall notify the County Court, which shall request the State

Department of Agriculture to immediately quarantine any such uncontrolled noxious weed infested farm within the county to prevent the movement of ingested crops or of livestock from such farm except under conditions prescribed in the quarantine that will prevent spread of weeds by such crops or of livestock.

(4) In all cases where the weed inspector undertakes to destroy or control noxious weeds, the most effective and practical method that will cause the least injury to the land or crops in the judgment of the weed inspector and Board shall be used.

(5) Upon the completion of such work the person so appointed and authorized by the county court shall file with the county clerk an itemized statement of the expense necessarily incurred in the destruction of such weeds, including the wages of the person as provided in ORS 570.520, verified by the oath of the person.

XIII. Expenses as Lien.

(1) When the statement of expenses is recorded with the County Clerk as specified in section XII above, the county clerk shall cause it to be entered upon a lien docket prepared for that purpose. The amount of the charges and expenses when so recorded shall constitute a first lien upon the owner's land, except as to taxes. (ORS 570.550)

(2) If the charges and expenses are not paid and the lien discharged by the owner within 90 days from the date the lien is recorded, the county may recover the expenses in an action at law.

XIV. Penalties. (570.990)

(1) Violation of ORS 570.010 to 570.050, 570.105 to 570.200, 570.320 to 570.360, 570.410 and 570.515 to 570.600 is a Class A violation. Any person who violates section X and XI of this ordinance shall be subject to a fine of not more than \$720.00.

(2) Each day that this ordinance is violated shall constitute a separate violation.

XV. Other remedies. The provisions of this ordinance are in addition to and not in lieu of any other procedures and remedies provided by law including equitable relief and damages.

XVI. Jurisdiction. Jurisdiction for actions brought under this ordinance shall be with the Harney County Justice Court.

XVII. Severability. Should any section or portion of this ordinance 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. All other sections or portions of this ordinance shall remain in full force and effect.

B. Declaration of Emergency. This ordinance being necessary for the preservation of health, safety and welfare of the community, an emergency is declared to exist and this ordinance takes affect upon its passage.

ADOPTED THIS 7th day of May, 2008.

HARNEY COUNTY COURT

Judge Steven E. Grasty

Commissioner Dan Nichols

Commissioner Jack Drinkwater

ATTEST

Maria Iturriaga, County Clerk/Recorder

Reviewed for legal sufficiency
Tim Colahan, County Council