

# **ORDINANCES OF THE CITY OF HELENA, MONTANA**

## **ORDINANCE NO. 3158**

### **AN ORDINANCE PROHIBITING NUISANCE VEGETATION BY AMENDING CHAPTER 7 OF TITLE 7 OF THE HELENA CITY CODE**

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA:**

That Title 7 of the Helena City Code, Public Ways and Properties, is hereby amended as follows:

#### CHAPTER 7

#### **WEEDS NUISANCE VEGETATION**

##### SECTION:

- 7-7-1: Title
- 7-7-2: Intent
- 7-7-3: Definitions
- 7-7-4: Nuisance ~~Weeds~~ Vegetation to be Cleared Cut
- 7-7-5: ~~Notice to Destroy~~ Noxious Weeds Prohibited
- 7-7-6: ~~Complaint~~ Notice of Violation
- 7-7-7: ~~Notification~~ Violation
- 7-7-8: ~~Failure to Clear~~ Removal by City; Costs
- ~~7-7-9: Noxious Weeds to be Controlled~~

**7-7-1: TITLE:** No Change:

**7-7-2: INTENT:** To control, to a reasonable degree, ~~weeds, grass and other uncared for vegetation, including "noxious weeds" as defined in section 7-22-101 et seq., Montana Code Annotated, vegetation that create a potential fire hazard that constitutes a physical danger to people or property, or visual obstruction for pedestrians or vehicles, unsightly condition, or the potential for the spread of said vegetation which may render land unfit for other beneficial uses or that may harm native plant communities.~~

It is not the intent of this section to require the control or maintenance of native plant communities in areas not disturbed by development or in undisturbed areas to which equipment access is restricted by topography unless those areas pose an ~~obvious fire hazard to adjacent development or are encroached by noxious weeds~~ an imminent physical danger to people or property, or visual obstruction for pedestrians or vehicles. (Ord. 2739, 3-20-1995; amd. Ord. \_\_\_\_\_, \_\_\_-\_\_-2012)

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**7-7-3: DEFINITIONS:** For purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The words "shall" and "must" are mandatory and not merely directory.

BOARD: Lewis and Clark County Weed District Board.

~~CITY:~~ ~~The city of Helena, Lewis and Clark County, state of Montana.~~

DEPARTMENT: City of Helena Parks and Recreation Department.

~~DEVELOPED PARCEL:~~ ~~It shall be the duty of every owner and/or occupant of a developed parcel to cut, destroy or remove, or cause to be cut, destroyed, or removed, all weeds in excess of twelve inches (12") in height growing thereon and upon one-half ( $\frac{1}{2}$ ) of any road, street, public right of way, or alley abutting this property to a height of four inches (4") or less.~~

~~DIRECTOR:~~ ~~The director of public works who is the designated official for the city to carry out the enforcement of this chapter, or his authorized representative(s).~~

~~DISTRICT:~~ ~~The Lewis and Clark County weed management district.~~

~~NOXIOUS WEEDS:~~ ~~Any weed defined and designated as a noxious weed under title 7, chapter 22, part 21, Montana Code Annotated.~~

~~NUISANCE WEEDS~~VEGETATION: ~~All weeds~~ vegetation including noxious weeds, and other uncared for vegetation creating a potential fire hazard, that constitutes an imminent physical danger to people or property or visual obstruction for pedestrians or vehicles, physical obstruction for pedestrians or vehicles, potential for the spread

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~~of said vegetation, or unsightly condition.~~

~~PUBLIC WORKS~~

~~ADMINISTRATION: The designated department of the city under whose jurisdiction nuisance weeds fall.~~

~~UNDEVELOPED PARCEL: It shall be the duty of every owner and/or occupant of an undeveloped parcel to cut, destroy or remove, or cause to be cut, destroyed, or removed, all weeds in excess of twelve inches (12") in height growing thereon and upon one-half ( $\frac{1}{2}$ ) of any road, street, public right of way, or alley abutting this property to a height of four inches (4") or less on property located within one hundred fifty feet (150') of any developed parcel.~~

~~WEED MANAGEMENT OR CONTROL: The planning and implementation of a coordinated program for the containment, suppression and, where possible, eradication of noxious weeds. (Ord. 2558, 6-4-1990; amd. Ord. 2739, 3-20-1995; amd. Ord. \_\_\_\_\_, \_\_\_-\_\_-\_\_\_\_)~~

**7-7-4: NUISANCE WEEDS VEGETATION TO BE CLEARED CUT:** ~~No nuisance weeds shall be allowed along the line of any railway, street, public place, or along or upon any vacant property within the city. All persons having property, either as owner or tenant, shall property owners shall cut, or cause to be cut, and at all times keep down the growth of, nuisance weeds vegetation from on their premises and the one-half ( $\frac{1}{2}$ ) of any alley, road or street lying next to the land their property, or and from the boulevard abutting thereon. When cutting of nuisance vegetation is not sufficient to prevent physical danger to people or property the nuisance vegetation must be removed. (Ord. 2739, 3-20-1995; amd. Ord. \_\_\_\_\_, \_\_\_-\_\_-2012)~~

**7-7-5: NOTICE TO DESTROY NOXIOUS WEEDS PROHIBITED:** ~~The city shall give notice to destroy offending weeds within the city limits by publishing notice to the public at least once each week for two~~

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~~(2) consecutive weeks in a newspaper of wide circulation within the city. The last publication shall not be less than seven (7) days prior to April 30. Such notice shall, at a minimum, advise the public as follows:~~

- A. ~~All owners of real property, or agents having control thereof, are responsible for destroying all weeds in prohibited areas by extermination, removal, or cutting not later than April 30 of each year and to keep the areas free of weeds through October 31 of each year. Noxious weeds are prohibited on all property within the corporate limits of the city.~~
  
- B. ~~Failure to remove the offending cut and remove nuisance weeds may result in the city removing the weeds and charging the labor, equipment and administrative costs thereof against the real property. If the violation is not corrected, as revealed by a reinspection following expiration of the ten (10) day notice, the property owner will be charged an administrative fee of twenty five dollars (\$25.00) for dispatching the contractor, even though the owner may have completed extermination, removal or cutting in the interim and prior to the contractor's arrival at the site. The Department, upon determination that a property within the corporate limits of the city contains noxious weeds, shall forward the name and mailing address of the property owner and the description of the property where the violation exists to the Board. (Ord. \_\_\_\_' \_\_-\_\_-\_\_\_\_)~~
  
- C. ~~An additional penalty of one hundred dollars (\$100.00), over and above labor, equipment and administrative costs, will be assessed against the property owner for each subsequent occasion that the city abatement of a weed violation on the property is required between April 30 and October 31 of that year.~~
  
- D. ~~Failure to pay any of the charges set forth in this section within sixty (60) days shall result in a lien being placed on the property and noted on the tax rolls as a special assessment. (Ord. 2739, 3-20-1995)~~

**7-7-6: COMPLAINT NOTICE OF VIOLATION:** ~~Upon the filing of a written complaint, using the form prescribed by the director of public works, the city will initiate the notification process described below. When nuisance vegetation is found on property or the adjacent alley, street, or boulevard in violation of this chapter, the City will send a written notice of violation to the property owner informing the owner of the violation and advising the owner that the nuisance vegetation must be cut, or removed if necessary, within fifteen (15) days from the date of the notice.~~

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If the nuisance vegetation is not cut or removed within that period, the property owner is subject to the penalties in this chapter. (Ord. 2739, 3-20-1995; (Ord. \_\_\_\_\_, \_\_-\_\_-2012)

~~7-7-7: **NOTIFICATION VIOLATION:** The director, upon determination that a violation of this chapter exists, shall ascertain the name and mailing address of the owner of the property and the description of the property where the violation exists. Written notice of violation shall be served upon said owner directing that said nuisance weeds shall be cut and possibly removed within ten (10) days or the city will cause said nuisance weeds to be cut and possibly removed, with the cost thereof to be charged against the property owner. Violations of this chapter may subject the property owner to a fine not to exceed five hundred dollars (\$500.00), or imprisonment in the county jail for a period no more than thirty (30) days, or both such fine and imprisonment. (Ord. 2558, 6-4-1990; amd. Ord. \_\_\_\_\_, \_\_-\_\_-2012)~~

~~Notice of violation shall be made either: a) by posting a copy of said notice on the property; or b) by mailing a copy of said notice to the property owner by United States mail, certified, return receipt requested. Said notice shall be deemed complete on the date the same is posted or mailed. (Ord. 2739, 3-20-1995)~~

~~7-7-8: **FAILURE TO CLEAR ENFORCEMENT BY CITY; COSTS:**~~

~~A. If the property owner fails to cut and remove said nuisance weeds within the time specified in the notice of violation, the director shall cause said nuisance weeds to be cut and possibly removed from the property, and shall bill the cost thereof, together with a reasonable cost for administration and supervision, to the property owner. If said charges are not paid forthwith, the director shall certify the same to the city commission who shall pass a resolution assessing such charges as a special tax against the property involved. (Ord. 2558, 6-4-1990)~~

~~B. In the event the property owner disagrees with the notice of violation, he or she may appeal the notification to the city manager within ten (10) days of the date of mailing of the notice and the manager shall make a determination of the validity of the property owner's basis for objection to the action demanded in the notice of violation and so notify the building department of his decision. (Ord. 2739, 3-20-1995)~~

If the property owner does not cut or remove the nuisance vegetation following a conviction, the city may take whatever reasonable action is necessary to cut or remove the offending vegetation. The costs of such cutting or removal may be assessed against the property by the commission. (Ord. \_\_\_\_\_, \_\_-\_\_-2012)

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~~7-7-9: NOXIOUS WEEDS TO BE CONTROLLED:~~

- A. ~~Regulation: No noxious weeds shall be allowed along the line of any railway, street, public place, or along or upon any property within the city. All persons having property, either as owner or tenant, shall control said noxious weeds in compliance with title 7, chapter 22, part 21, Montana Code Annotated, from their premises and the one-half ( $\frac{1}{2}$ ) of any road or street lying next to the land or from the boulevard abutting thereon.~~
- B. ~~Notification: The director, upon determination that a violation of this chapter exists, shall ascertain the name and mailing address of the property owner and the description of the property where the violation exists. This notice of violation will be forwarded to the Lewis and Clark County weed board and said board will see that enforcement of title 7, chapter 22, part 21, Montana Code Annotated, is carried out. (Ord. 2558, 6-4-1990)~~

FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA,  
THIS 18<sup>th</sup> DAY OF JUNE, 2012.

/S/ James E. Smith  
MAYOR

ATTEST:

/S/ Debbie Havens  
CLERK OF THE COMMISSION

FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA,  
MONTANA, THIS 9<sup>th</sup> DAY OF JULY, 2012.

/S/ James E. Smith  
MAYOR

ATTEST:

/S/ Debbie Havens  
CLERK OF THE COMMISSION