

BEFORE THE BOARD OF COMMISSIONERS;

FOR MARION COUNTY, OREGON

An ordinance establishing a weed)
control district in Marion County,)
authorizing the creation of a weed)
control district advisory committee,)
specifying procedures for control of)
noxious weeds, repealing Ordinance)
704, and declaring an emergency.)

ORDINANCE NO. 1235

THE MARION COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

SECTION 1. TITLE

This ordinance shall be known as the Marion County Weed Control Ordinance.

SECTION 2. PURPOSE

The purpose of this ordinance is to create a new weed control district in Marion County pursuant to ORS chapter 570, to establish an advisory board to advise the Marion County Board of Commissioners on issues related to weed control, to specify procedures for the control of weeds identified as noxious by the Marion County Board of Commissioners, and to repeal Ordinance 704.

SECTION 3. DEFINITIONS

For the purposes of this ordinance, the following words shall have the following meanings:

- (1) "Board" means the Marion County Board of Commissioners.
- (2) "Committee" means the Marion County Weed Control District Advisory Committee.
- (3) "District" means the Marion County Weed Control District, the boundaries of which coincide with the boundaries of Marion County.
- (4) "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.

- (5) "Noxious weed" means any plant determined by the Board to be injurious to public health, crops, livestock, land, or other property.
- (6) "Land" means real property within Marion County outside the limits of a city upon which a violation of this ordinance has occurred or is occurring.
- (7) "Owner" means any legal owner or any person having charge, care or control of land.

SECTION 4. FORMATION OF WEED CONTROL DISTRICT

- (1) All of Marion County outside the limits of a city is declared to be a weed control district for the purpose of destroying and preventing the seeding and spread of noxious weeds.
- (2) The district shall be known as the Marion County Weed Control District.

SECTION 5. LIST OF NOXIOUS WEEDS

For purposes of this ordinance, weeds shall be declared to be noxious by their inclusion on a list adopted by resolution of the Board, upon the recommendation of the State Weed Board or the Committee. A weed may be added to or deleted from the list of noxious weeds by resolution of the Board.

SECTION 6. WEED CONTROL DISTRICT ADVISORY COMMITTEE

- (1) The Board, in its discretion, may appoint an advisory committee, to be known as the Marion County Weed Control District Advisory Committee, to assist the Board 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 Board;

- (b) Development of educational, treatment, and outreach programs regarding noxious weeds;
 - (c) Providing assistance in accessing funding for weed control from grants and other sources;
 - (d) Making recommendations to the Board on weed control issues as requested by the Board; and
 - (e) Receiving information from and providing direction to staff in order to fulfill the purpose of the Committee.
- (2) In the event that the Board creates the Committee:
- (a) The Committee shall be comprised of not fewer than nine members, who shall serve at the pleasure of the Board.
 - (b) The Committee shall operate in accordance with bylaws adopted by the Board.

SECTION 7. WEED INSPECTOR

- (1) The Board shall appoint one or more weed inspectors by resolution, whose duties shall include, but not be limited to, the following:
- (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 issue citations for violations of this ordinance.
- (2) Weed inspectors shall exercise discretion in fulfilling their duties pursuant to this ordinance, consistent with the availability of funds and other resources.

SECTION 8. NOTICE

- (1) When it appears that a 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.
- (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; and
 - (c) 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 of the notice.

SECTION 9. DUTIES OF OWNERS

- (1) Upon service or posting of the notice provided in section 8 of this ordinance, any owner of land shall destroy the noxious weed or weeds specified in the notice on their land or prevent the noxious weed or weeds from seeding or spreading. This obligation shall be continuing throughout the remainder of the then current growing, seeding, or spreading season.
- (2) Every owner shall destroy or prevent the seeding on the owner's land of any weed classified as a noxious weed by the Board 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.

SECTION 10. ERADICATION OF NOXIOUS WEEDS WHEN OWNER REFUSES

- (1) In the event that any owner of land fails or refuses to destroy or cut noxious weeds within the time period specified in the notice provided in section 8 of this ordinance, the weed inspector may issue a citation to the owner, and/or seek injunctive relief in the Marion County Justice Court to force compliance with this ordinance.
- (2) In addition, the weed inspector or the weed inspector's assistants may go upon the land of the owner and destroy the noxious weeds or control them in a manner that will destroy all seeds of such noxious weeds. The weed inspector or persons authorized by the weed inspector may enter upon property to abate the violation only upon obtaining consent of the owner or a court issued warrant.
- (3) In the event that destruction or control of the noxious weeds on any farm is in the judgment of the weed inspector impracticable because the weeds are too far advanced, or if for any other reason the means of control available are unsatisfactory, the weed inspector shall notify the Board, who shall request the State Department of Agriculture to immediately quarantine the noxious weed infested farm within the county to prevent the movement of infested crops or livestock from the farm except under conditions prescribed in the quarantine that will prevent the spread of the noxious weeds.
- (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 consistent with the Marion County Department of Public Works Best Management Practices for Clean Water shall be used.
- (5) Upon the completion of the abatement process by the weed inspector

and/or the weed inspector's assistants, the weed inspector shall file with the Board an itemized statement of the expenses necessarily incurred in the destruction of the noxious weeds, including the wages of the weed inspector and assistants, if any, verified by the oath of the weed inspector.

SECTION 11. EXPENSES AS LIEN

- (1) When the statement of expenses is filed with the Board as specified in section 10(5) 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 docketed shall constitute a first lien upon the owner's land, except as to taxes.
- (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 docketed, the county may recover the expenses in an action at law.

SECTION 12. PENALTIES

- (1) Any person who violates Section 9 of this ordinance shall be subject to a fine of not more than \$500.00 for a non-continuing offense and a fine of not more than \$1,000.00 for a continuing offense.
- (2) Each day that this ordinance is violated shall constitute a separate violation.

SECTION 13. 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.

SECTION 14. JURISDICTION

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

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SECTION 15. REPEAL OF ORDINANCE NO. 704

Marion County Ordinance No. 704 is hereby repealed.

SECTION 16. 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.

SECTION 17. DECLARATION OF EMERGENCY

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

Adopted this 15th day of March 2006.

MARION COUNTY BOARD OF COMMISSIONERS


Chair


Recording Secretary