

ORDINANCE NO. 2021-012

AN ORDINANCE AMENDING THE CONTROL AND REMOVAL OF RUBBISH AND WEEDS IN CHAPTER 8.12 OF THE CASTLE ROCK MUNICIPAL CODE TO COMPLY WITH THE COLORADO NOXIOUS WEED ACT REQUIREMENTS AND ADOPTING THE 2021 TOWN OF CASTLE ROCK NOXIOUS WEED MANAGEMENT PLAN BY REFERENCE

WHEREAS, the Town Council for the Town of Castle Rock has adopted ordinances related to the definition and abatement of nuisances; and

WHEREAS, the Colorado Noxious Weed Act (hereinafter “the Colorado Noxious Weed Act” or “the Act”), C.R.S. § 35-10-101, *et seq.*, requires local government agencies to create plans for the control of specific listed noxious weeds on public and private lands using integrated control methods; and

WHEREAS, noxious weeds as defined in the Act have been demonstrated to bring harm to agriculture, public health, navigation, irrigation, natural resources, or the environment; and

WHEREAS, Noxious or invasive, non-native weeds are aggressive plants that are not native to our area and have been identified by the Colorado Department of Agriculture in the Colorado Noxious Weed Act. The statewide noxious weed list identifies all weed species of concern in Colorado and are grouped for eradication (List A), containment (List B) or suppression (List C). These non-native plants are a concern for landowners and land managers for several reasons including specialized mechanisms developed for survival, rapid spread rate and an advantage over native plants because natural control measures, such as insects, diseases and animals, are not found here. Noxious weeds can quickly establish, and are difficult to eradicate, leading to issues with livestock grazing, farming, property maintenance, recreational access and general biodiversity of the native habitat. (Herein referred to as “noxious weeds” or “weeds”); and

WHEREAS, pursuant to C.R.S. § 31-15-401, the Town of Castle Rock (the “Town”) possesses the authority to regulate the definitions and enforcement of nuisances within its jurisdiction and to prohibit and/or regulate conduct that poses a threat to the public health, safety and welfare; and

WHEREAS, pursuant to this authority, the Town previously adopted nuisance provisions related to weed management, codified in Title 8 of the Town of Castle Rock Municipal Code (the “Code”); and

WHEREAS, the Town previously created a Noxious Weed Advisory Board as an auxiliary function of the Parks and Recreation Commission. The Noxious Weed Advisory Board approved the Town’s Noxious Weed Management Plan on May 19, 2021; and

WHEREAS, the Town, after taking into consideration the recommendations of Town Staff, members of the Town’s Parks and Recreation Committee which serves as the Town’s

Noxious Weed Committee, the Noxious Weed Management Plan and all other information it deems prudent, now desires to adopt certain amendments to Title 8 of the Code to create noxious weed regulations that align with the requirements of the Colorado Noxious Weed Act.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. Legislative Findings. The recitals to this ordinance are adopted as findings of the Town Council in support of the enactment of this Ordinance.

Section 2. Amendment. Chapter 8.12 of the Castle Rock Municipal Code is amended to read as follows:

8.12.010 - ADOPTION.

THE TOWN ADOPTS BY REFERENCE THE 2021 TOWN OF CASTLE ROCK NOXIOUS WEED MANAGEMENT PLAN AND ALL SECONDARY CODES REFERENCED THEREIN (“NOXIOUS WEED MANAGEMENT PLAN”). ONE COPY OF THE NOXIOUS WEED MANAGEMENT PLAN SHALL BE MAINTAINED ON THE TOWN WEBSITE.

8.12.020 – DEFINITIONS.

NOXIOUS WEED MEANS AGGRESSIVE PLANTS THAT ARE NOT NATIVE TO OUR AREA AND HAVE BEEN IDENTIFIED BY THE DEPARTMENT OF AGRICULTURE IN THE COLORADO NOXIOUS WEED ACT. THE STATEWIDE NOXIOUS WEED LIST IDENTIFIES ALL WEED SPECIES OF CONCERN IN COLORADO AND ARE GROUPED FOR ERADICATION (LIST A), CONTAINMENT (LIST B) OR SUPPRESSION (LIST C).

NOXIOUS WEED MANAGEMENT PLAN MEANS THE TOWN OF CASTLE ROCK WEED MANAGEMENT AND ENFORCEMENT PLAN AS DEVELOPED BY THE WEED ADVISORY BOARD AND ADOPTED BY THE TOWN COUNCIL.

NATIVE PLANT MEANS A PLANT SPECIES WHICH IS INDIGENOUS TO THE STATE OF COLORADO.

WEED MEANS ANY UNDESIRABLE PLANT.

8.12.04030 – Growth of weeds and accumulation of weeds ~~and rubbish~~; prohibited.

It is unlawful for any person having or being entitled to the ownership or possession of any real property, or any part thereof, within the Town to permit, allow or maintain any growth of weeds to a height greater than twelve (12) inches. ~~or any accumulation, collection or presence of rubbish upon said real property, or upon the edges of any other public way abutting said real property.~~ It is unlawful for any person having or being entitled to the ownership or possession of said real property, or any part thereof, to fail to cut or otherwise control and remove such weeds growing upon said real property or upon the sidewalks abutting said real property IN ACCORDANCE WITH THE TOWN’S NOXIOUS WEED MANAGEMENT PLAN. ~~or to~~

~~remove any accumulation, collection or presence of rubbish from said real property and to fail to do so as often as necessary to assure compliance with this Chapter.~~ Nothing in this Section is meant to preclude the use of grass clippings or other mulch and/or composting, provided that there is no odor objectionable to the senses of the average person or unsightly accumulation of the materials. NOTHING IN THIS SECTION IS MEANT TO PRECLUDE THE USE OF NATIVE GRASSES AND PLANTS IN LANDSCAPING, REDUCED-IRRIGATION LANDSCAPING, OR METHODS USED IN THE CASTLE ROCK LANDSCAPE AND IRRIGATION CRITERIA MANUAL.

8.12.01040 – ACCUMULATION OF RUBBISH; PROHIBITED.

IT IS UNLAWFUL FOR ANY PERSON HAVING OR BEING ENTITLED TO THE OWNERSHIP OR POSSESSION OF ANY REAL PROPERTY, OR ANY PART THEREOF, WITHIN THE TOWN TO PERMIT ACCUMULATION, COLLECTION OR PRESENCE OF RUBBISH UPON SAID REAL PROPERTY, OR UPON THE EDGES OF ANY OTHER PUBLIC WAY ABUTTING SAID REAL PROPERTY. IT IS UNLAWFUL FOR ANY PERSON HAVING OR BEING ENTITLED TO THE OWNERSHIP OR POSSESSION OF SAID REAL PROPERTY, OR ANY PART THEREOF, TO FAIL TO REMOVE ANY ACCUMULATION, COLLECTION OR PRESENCE OF RUBBISH FROM SAID REAL PROPERTY AND FAIL TO DO SO AS OFTEN AS NECESSARY TO ASSURE COMPLIANCE WITH THIS CHAPTER.

8.12.02050 - Duty of owner to ~~cut~~ MANAGE WEEDS.

It is the duty of every owner of land within the Town to MANAGE ALL WEEDS GROWING THEREON IN ACCORDANCE WITH THE TOWN'S NOXIOUS WEED MANAGEMENT PLAN. FOR ANY OTHER WEEDS NOT DESIGNATED UNDER THE NOXIOUS WEED MANAGEMENT PLAN EVERY OWNER OF LAND SHALL cut, or cause to be cut, all weeds growing thereon, in such a manner that all cut portions are reduced in length to six (6) inches or less, with the following exception: that owners of parcels of ground within the corporate limits which contain more than five (5) acres in one (1) contiguous parcel shall be required to cut weeds only from those portions of said parcel which are within one hundred (100) feet of a structure or paved street. In the event that all weeds are not reduced to a length of six (6) inches or less, then it shall be required that all cut weeds be removed from the property to some place where refuse is ordinarily disposed.

8.12.03060 - Exemptions.

The Town Council may, by resolution, exempt certain areas in the Town, either publicly or privately owned, from the prohibitions contained in Section 8.12.02030, if the Town Council determines that such areas are: natural open space, natural park, PASSIVE PARK, PASSIVE RECREATION AREA, conservation areas, erosion control areas, or irrigation ditch rights-of-way. In so exempting said areas, the Town Council may impose other criteria for maintenance of said areas in a manner protecting the public health, safety and welfare. EXEMPTIONS MAY ALSO BE MADE FOR NATIVE PLANTS AND GRASSES IDENTIFIED IN THE TOWN OF CASTLE ROCK LANDSCAPE AND IRRIGATION CRITERIA MANUAL. ANY EXCEPTION

FROM THE PROHIBITIONS CONTAINED IN THIS CHAPTER MUST COMPLY WITH THE TOWN'S NOXIOUS WEED MANAGEMENT PLAN.

8.12.04070 - Failure to comply; notice.

In the event that the provisions of the preceding sections thereof are violated, the Town Manager or his or her authorized representative shall cause to be served, either personally or by mail, notice to comply with the provisions of this Chapter. Written notice shall be given in person or mailed by certified or registered mail, return receipt requested, to the person in possession of any such premises or property as shown on the tax rolls of Douglas County and at the address of the owner as shown therein. Said notice shall direct the cutting, ~~or control~~, OR ERADICATION of weeds, or the removal of an accumulation, collection or presence of rubbish, or both. Said notice shall identify the property and shall state that if such weeds are not cut or removed, or the accumulation, collection or presence of rubbish is not removed within the time stated in the notice, which will not be less than ten (10) days from the date in the notice, the Town has the right to enter the subject property to MANAGE the weeds IN COMPLIANCE WITH THIS CHAPTER AND THE TOWN'S NOXIOUS WEED MANAGEMENT PLAN or remove the rubbish.~~and The TOWN may assess its costs of cutting MANAGING the weeds or removal of the rubbish against the property, pursuant to the terms of this Chapter. If the above-named persons cannot be determined or cannot be located within a reasonable time, not to exceed three (3) working days, or if a notice which has been mailed is returned undelivered, the Town Manager or his or her authorized representative shall cause the property upon which the weeds or rubbish are located to be posted in a conspicuous place visible from an adjacent public right-of-way. Said posting sign shall remain in place for a minimum of one (1) calendar week, after which time service of notice shall be deemed complete. If, at the time a mailed notice is returned undelivered, the Town Manager or his or her authorized representative has caused the property to be posted in the manner herein described for a minimum of one (1) calendar week, service of notice shall be deemed complete.~~

8.12.05080 - Right of Town to enter property, cut, CONTROL OR ERADICATE weeds, and remove rubbish and charge owner for same.

If there exists any accumulation of rubbish and/or weeds upon any premises or property in the Town, the Town Manager or his or her authorized representative is authorized and empowered, after giving written notice as provided for in this Chapter, to cause the removal of any rubbish from any premises or property in such manner as the Town Manager or his or her authorized representative may determine.

8.12.06090 - Notice.

Upon determination of the Town Manager from time to time, ~~the Town Clerk~~ shall cause to be published ~~in a newspaper of general circulation in the Town~~, ON THE TOWN WEBSITE, a notice which shall be substantially in the following form:

TO ALL OWNERS, POSSESSORS
OR OCCUPIERS OF LAND WITHIN

THE TOWN OF CASTLE ROCK

Notice is hereby given that all weeds within the Town of Castle Rock must be ~~cut down, destroyed and removed~~ ADDRESSED IN ACCORDANCE WITH THE TOWN'S NOXIOUS WEED MANAGEMENT PLAN, WHICH MAY REQUIRE CUTTING, CONTROL, OR ERADICATION. ALL WEEDS SHOULD BE CUT OR REMOVED on or before the time that the growth has reached twelve inches (12") in height. Failure to comply with this notice shall make the parties so failing personally liable for the costs of cutting, destroying and removing the same as in compliance with Chapter 8.12 of the Castle Rock Municipal Code. This notice is given in compliance with Chapter 8.12 of the Castle Rock Municipal Code AND THE TOWN'S NOXIOUS WEED MANAGEMENT PLAN, copies of which may be obtained from the Town WEBSITE. ~~Clerk, Town Hall, Castle Rock, Colorado, during business hours.~~

8.12.100 – ADVISORY BOARD.

THE PARKS AND RECREATION COMMISSION SHALL CONVENE AS THE NOXIOUS WEED ADVISORY BOARD FOR ALL STATE AND LOCAL NOXIOUS WEED STATUTES, ORDINANCES AND REGULATIONS. A MAJORITY OF THE MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM.

Section 3. Safety Clause. The Town Council finds and declares that this ordinance is promulgated and adopted for the public health, safety and welfare and this ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 1st day of June, 2021 by a vote of 7 for and 0 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this 6th day of July, 2021, by the Town Council of the Town of Castle Rock by a vote of 6 for and 0 against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

Jeff Brauer, Director of Parks & Recreation