

ORDINANCE NO. 12-04

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CASTLE PINES, COLORADO ADOPTING A NOXIOUS WEED MANAGEMENT
PLAN, REGULATING THE GROWTH OF WEEDS AND REPEALING AND
REPLACING ARTICLE 5 OF CHAPTER 7 OF THE MUNICIPAL CODE**

WHEREAS, the City of Castle Pines is authorized, pursuant to C.R.S. § 31-15-103, to make and publish ordinances necessary and proper to provide for the public health, safety, and welfare of the citizens of the City; and

WHEREAS, the City is authorized, pursuant to C.R.S. § 31-15-401(d), to provide for and compel the removal of weeds within the City of Castle Pines; and

WHEREAS, the City Council finds that the growth of non-noxious weeds above ten inches in height in the non-residential areas of the City creates a visual eyesore and detracts from the economic vitality of the City's commercial areas; and

WHEREAS, the City Council has determined that the vast majority of residential areas within the City are governed by private covenants (enforced through homeowners associations) and therefore no additional regulations governing the height of non-noxious weeds within the residential zone districts is necessary; and

WHEREAS, the City is required, pursuant to C.R.S. § 35-5.5-106, to adopt a noxious weed management plan for all lands within its territorial limits; and

WHEREAS, the City is required, pursuant to C.R.S. § 35-5.5-107, to appoint a local advisory board to prepare a noxious weed management plan to govern the management, control, elimination, and disposal of noxious weeds within the City of Castle Pines; and

WHEREAS, the City Council finds that noxious weeds are weeds which are poisonous, aggressively invade landscape, carry diseases or are detrimental to the environment; and

WHEREAS, the City Council concludes that it is in the best interests of the citizens of the City to promote and encourage the control of invasive non-native plant species in the City's landscapes.

**THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
CASTLE PINES, COLORADO:**

Section 1. Article 5 of Chapter 7 of the Municipal Code is repealed in its entirety and replaced with the following Article 5 to read in full as follows:

CHAPTER 7

ARTICLE 5

WEED REGULATION AND CONTROL

Sec. 7-5-10. Definitions.

Unless otherwise specified or the context otherwise requires, the following words, terms and phrases shall have the following meanings throughout this Ordinance:

Noxious Weed means any plant or part thereof which has been classified by the Commissioner of the Colorado Department of Agriculture as a "List A" or "List B" noxious weed under the provisions of C.R.S. § 35-5.5-108.

Non-noxious Weed means any plant which is not classified as a Noxious Weed, which is not intentionally cultivated, or which is unsightly and economically useless.

Person means any natural person or public or private entity, including but not limited to a corporation, firm, partnership, limited liability company, unincorporated association, joint venture, business entity of any nature, estate, trust, receiver or trustee.

Right-of-way means all public streets, roads, alleys, sidewalks, public easements and tracts, or other public thoroughfares.

Sec. 7-5-20. Local Advisory Board.

There is hereby created a City of Castle Pines Noxious Weed Advisory Board (the "Board"). Until such time as successor members of the Board are appointed by City Council, initial members of the Board shall consist of all members of the City Council of the City of Castle Pines, Colorado. The Board shall possess and exercise the duties and authority of a local advisory board as provided by C.R.S. § 35-5.5-107. The City Council may by resolution appoint successor members to the Board. In accordance with C.R.S. § 35-5.5-107(1), members of the Board shall be residents of the City of Castle Pines.

Sec. 7-5-30. Removal of Noxious Weeds.

(a) All owners and occupants of land within the City shall maintain such property free from Noxious Weeds, including any alleys behind and sidewalk areas in front or on the side of any lot or tract of land. Disposal of the Noxious Weeds will be performed in a manner which will minimize the reproduction of the Noxious Weeds.

(b) Noxious Weeds shall be controlled by cutting, spraying or other lawful and suitable method of control, including eradication, containment and/or suppression, as appropriate and as deemed by the City to be consistent with C.R.S. § 35-5.5-101, *et seq.*

Sec. 7-5-40. Unlawful growth of Non-noxious Weeds.

(a) It is unlawful for any person having ownership or possession of any real property zoned Business (B) Zone District or property platted and zoned Planned Development with land use designations of mixed use, business, commercial, community or civic within the City to permit the growth of Non-noxious Weeds upon any lot or tract, including any adjacent or abutting sidewalks, alleys and areas between the back of curb and edge of pavement of public rights-of-way, to a height of not more than ten (10) inches.

(b) Non-noxious Weeds shall be controlled by cutting, spraying or other lawful and suitable method of control, including eradication, containment and/or suppression, as appropriate.

(c) The City Council may, by resolution, exempt certain areas in the City, whether publically or privately owned, from the Non-noxious Weed prohibitions contained in this Article if, the City Council determines that such areas are: natural open space, passive common areas, conservations areas, erosion control areas, or utility, irrigation or drainage ditch rights-of-way.

Sec. 7-5-50. Enforcement.

(a) The City, through its employees and authorized agents, shall have the right to enter upon any premises, lands, or places, whether public or private, during reasonable business hours upon verbal permission of the landowner or occupant for the purpose of inspecting for the existence of Noxious or Non-noxious Weeds, when at least one of the following circumstances has occurred:

(1) The landowner or occupant has requested an inspection;

(2) A neighboring landowner or occupant has reported a suspected Noxious or Non-noxious Weed infestation and requested an inspection; or

(3) A City employee or authorized agent has made a visual observation from a public right-of-way or area and has reason to believe that a Noxious or Non-noxious Weed infestation exists.

(b) If verbal permission to inspect the land by the landowner is not obtained, no entry upon any premises, lands, or places shall be permitted until the landowner or occupant has been notified by certified mail that such inspection is pending. Where possible, inspections shall be scheduled and conducted with the concurrence of the landowner or occupant.

(c) If after ten (10) business days with no response from the landowner or upon denial of access by the landowner before expiration of the ten (10) business days, the City may seek an inspection warrant issued by a municipal, county, or district court having jurisdiction over the property. The court shall issue an inspection warrant upon presentation by the City of an affidavit stating: The information which gives the City reasonable cause to believe that any provision of this Article is being or has been violated; that the occupant or landowner has failed

to respond or has denied access to the City; and a general description of the location of the affected land. No landowner or occupant shall deny access to such land when presented with an inspection warrant.

Sec. 7-5-60. Notice and assessment.

(a) Any person who violates this Article shall be served a written notice of violation. Service of the notice may be by first class mail properly addressed to the dwelling or building located on the lot or tract of land upon which a violation of this Article occurs; by a conspicuous posting of a notice of violation upon the property or building located on the lot or tract of land upon which a violation of this Article occurs; or by personal service upon a natural person over the age of eighteen (18) years who occupies a dwelling or building or a lot or tract of land upon which a violation of this Article occurs.

(b) If a notice of violation cannot be served in any manner specified above, the notice of violation shall be sent by first class mail to the address of the owner of record of such lot or tract of land as shown in the records of Douglas County.

(c) The notice will state that the Non-noxious Weeds must be cut to a height less than ten inches (10") or the Noxious Weeds removed within ten (10) business days from the date of the notice and, if not so cut or removed by the owner or occupant, the City will cut the Non-noxious Weeds or remove the Noxious Weeds and assess the whole cost thereof, including five (5%) percent for inspection and incidental costs, upon the lots or tracts of land from which the plants are controlled or removed.

(d) The City will serve such a notice on the same violator only once during any calendar year. Thereafter, in the event of a subsequent violation by the same person within the same calendar year, the City will cut the Non-noxious Weeds or remove the Noxious Weeds and assess the whole cost thereof, including five (5%) percent for inspection and incidental costs, upon the lots or tracts of land from which the weeds are cut or Noxious Weeds removed, without serving an additional notice on the violator.

Sec. 7-5-70. Payment of assessment.

(a) The City will send a statement of costs to the owner of record by first class mail. The amount of the costs in the statement is due and payable by the owner of record to the City within thirty (30) days from the date of the statement. If the amount is not paid by the date due, interest on any unpaid balance due to the City shall accrue at the legal rate specified in C.R.S. § 5-12-101.

(b) The City is authorized to record a statement of lien with the Clerk and Recorder for Douglas County if the assessment is not paid by the owner within thirty (30) days from the date of the statement. Such lien shall have priority over all other liens except general taxes and prior special assessments.

Sec. 7-5-80. Certification to the Douglas County Treasurer.

If the owner of record fails to pay the amount specified in the statement of costs, the City may certify the amount due and owing to the Douglas County Treasurer for collection of the assessment. The Douglas County Treasurer shall collect the assessment, together with a ten (10%) percent penalty for the cost of collection, in the same manner as other taxes are collected.

Sec. 7-5-90. Alternative enforcement.

The City may pursue the remedies set forth herein with or without also filing a complaint in the municipal court, at the City's sole discretion, for violation of this Article.

Sec. 7-5-100. Procedures and remedies not exclusive.

The procedures and remedies set forth in this Article are not exclusive and the City may utilize the procedures and remedies set forth in the Colorado Noxious Weed Act, C.R.S. § 35-5.5-101, *et seq.* in addition to or instead of the procedures and remedies set forth in this Article.

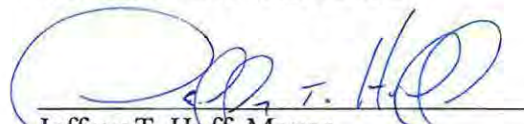
Section 2. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this Ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this Ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion would be declared invalid or unconstitutional.

Section 3. Effective Date. This Ordinance shall become effective thirty (30) days after publication following final passage.

INTRODUCED, READ, AND PASSED ON FIRST READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 8th day of May, 2012.

READ, PASSED, AND ADOPTED ON SECOND READING, AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CASTLE PINES, COLORADO the 12th day of June, 2012.

CITY OF CASTLE PINES:



Jeffrey T. Huff, Mayor

ATTEST:

Approved as to form:



Dan Schatz, City Clerk



Linda C. Michow, City Attorney

CERTIFICATION OF PUBLICATION

I hereby attest and certify that the within and foregoing Ordinance was introduced and read on first reading at a regular meeting of the Castle Pines City Council on May 8, 2012; published by reference by title only in the *Douglas County News-Press*, together with the statement that “[t]he complete text of all ordinances is available through the City Offices and on the City’s official website”; and finally passed and adopted by the City Council on June 12, 2012 following a duly noticed public meeting and ordered published by title only, with amendments if any, one time in the *Douglas County News-Press* on June 21, 2012.

ATTEST:



City Clerk or Deputy City Clerk