

**CITY OF CENTRAL, COLORADO
ORDINANCE 13-04**

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

WHEREAS, the City of Central (“City”) is authorized under its home rule charter and Title 31 of the Colorado Revised Statutes to adopt and amend ordinances in furtherance of 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; and

WHEREAS, the City is required by the Colorado Noxious Weed Act, C.R.S. §§ 35-5.5-101 et seq. (the “Act”), to adopt a noxious weed management plan for all lands within its territorial limits; and

WHEREAS, in accordance with C.R.S. § 35-5.5-106(4), the adoption of this Ordinance shall be deemed to satisfy the requirement for the adoption of a noxious weed management plan imposed by the Act; 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; 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 further finds that the growth of non-noxious weeds, if not properly controlled in any lot or tract of land in the City, creates a visual eyesore and constitutes a public nuisance; 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.

**BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF CENTRAL,
COLORADO THAT:**

Section 1. Article IV of Chapter 7 of the Municipal Code, currently titled “Weeds and Brush” is hereby repealed and replaced to read in its entirety as follows:

CHAPTER 7

ARTICLE IV

WEED REGULATION AND CONTROL

Sec. 7-101. Definitions.

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

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, as amended.

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. 7-102. Local Advisory Board.

There is hereby created a City of Central 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 Central, 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 Central.

Sec. 7-103. Removal of Noxious Weeds; Declaration of Public Nuisance.

(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) Any Noxious Weeds found growing in any lot or tract of land in the City is hereby declared to be a nuisance, and it shall be unlawful to permit any such Noxious Weeds to grow or remain in any such place

(c) 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. 7-104. Unlawful growth of Non-noxious Weeds; Declaration of Public Nuisance.

(a) It is unlawful for any person having ownership or possession of any real property 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.

(b) Any Non-noxious Weeds found growing in any lot or tract of land in the City is hereby declared to be a nuisance, and it shall be unlawful to permit any such Non-noxious Weeds to grow or remain in any such place.

(c) It shall be the duty of each and every person owning, occupying or possessing any lots, tracts or parcels of land within the City to cut to the ground all Non-noxious Weeds when said Non-noxious Weeds grow to a height of twelve (12) inches or more.

(d) 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.

(e) All Non-noxious Weeds cut in accordance with Section 7-104(c) above shall, immediately upon being cut, be removed from the City or otherwise entirely destroyed by the owner of the lot or tract of land upon which the Non-noxious Weeds have been cut.

(e) 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. 7-105. 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. 7-106. 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 Gilpin County.

(c) The notice will state that the Non-noxious Weeds must be cut to a height less than twelve inches (12") 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 ten percent (10%) for inspection, administration, and other incidental costs, upon the lot(s) or tract(s) of land from which the Non-noxious Weeds or Noxious Weeds 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 ten percent (10%) for inspection, administration, and other incidental costs, upon the lot(s) or tract(s) of land from which the Non-noxious Weeds or Noxious Weeds are controlled or removed, without serving an additional notice on the violator.

Sec. 7-107. 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 Gilpin 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. 7-108. Certification to the 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 Gilpin County Treasurer for collection of the assessment. The Gilpin County Treasurer shall collect the assessment, together with a ten percent (10%) penalty for the cost of collection, in the same manner as other taxes are collected.

Sec. 7-109. 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. 7-110. 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. In addition, the City may proceed, in its discretion, to abate the growth of any Noxious Weeds and Non-noxious Weeds found to be in violation of this Article in accordance with Article I of Chapter 7 of the Municipal Code, titled *Administration and Abatement of Nuisances*, as the same may be amended from time to time.

Secs. 7-111---- 7-120. Reserved.

Section 2. Severability. Should any one or more sections or provisions of this Ordinance be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 3. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed;

provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

Section 4. **Effective Date.** This Ordinance shall become effective immediately following publication, public hearing and the approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter.

INTRODUCED AND READ by title only on first reading at the regular meeting of the City Council of the City of Central on the 19th day of March, 2013, at Central City, Colorado.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

Approved as to form:

Marcus McAskin, City Attorney

ATTEST:

Reba Bechtel, City Clerk

PASSED AND ADOPTED on second reading, at the regular meeting of the City Council of the City of Central on the 2nd day of April, 2013.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

ATTEST:

Reba Bechtel, City Clerk

POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on March 21, 2013.

POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on April 11, 2013.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

ATTEST:

Reba Bechtel City Clerk