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Ordinance #11-A

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF CLEAR CREEK COUNTY ADOPTING A NOXIOUS WEED MANAGEMENT AND ENFORCEMENT PLAN

WHEREAS, §35-5.5-105, C.R.S., requires boards of county commissioners to adopt a noxious weed management plan for all unincorporated land in the County; and

WHEREAS, §35-5.5-105, C.R.S., permits boards of county commissioners to adopt ordinances for the enforcement of the noxious weed management plan, and

WHEREAS, §35-5.5-109, C.R.S., permits boards of county commissioners to provide for the entry and inspection of all lots and tracts in the unincorporated portions of the county, whether public or private, for the purposes of discovery and treating noxious weeds as well as assessing the cost thereof, including up to twenty percent for inspection and other costs, upon the lot or tract of land where the noxious weeds are located; and

WHEREAS, §35-5.5-113, C.R.S., permits boards of county commissioners to declare noxious weeds to be public nuisances and treated as such; and

WHEREAS, on August 1, 2007, the Board of County Commissioners, upon recommendation from the Local Advisory Board, adopted Ordinance #11 to enforce the noxious weed management plan for the unincorporated areas of the County; and

WHEREAS, the Board of County Commissioners determined it was in the best interest of the public health, safety, and welfare, that a noxious weed management plan be adopted and enforced; and

WHEREAS, §35-5.5-107, C.R.S., requires the Local Advisory Board to review, and if necessary revise, the noxious weed management plan every three years; and

WHEREAS, the Local Advisory Board recommended revising the noxious weed management plan to be consistent with the state noxious weed management plan and update the identification of List A weeds, List B weeds designated for eradication, List B weeds designated for management, and List C weeds; and

WHEREAS, the Board of County Commissioners, upon recommendation from the Local Advisory Board now desires to adopt and enforce a revised noxious weed management plan for the unincorporated areas of the County.

NOW, THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of Clear Creek County, that Ordinance #11 is hereby repealed in full; and

NOW, THEREFORE FURTHER, BE IT ORDAINED by the Board of County Commissioners of Clear Creek County, that the following noxious weed management plan shall be enforced throughout the unincorporated areas of the County:

PART I. GENERAL PROVISIONS

Sec. 101. Title

This Plan shall be known and referred to as the "Clear Creek County Noxious Weed Management Plan" and shall be effective throughout the unincorporated areas of Clear Creek County.

Sec. 102. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Local Advisory Board - means the individuals appointed by the Board of County Commissioners who advise on matters of noxious weeds and their management.

BOCC - means the Board of County Commissioners of Clear Creek County, Colorado.

Alien plant - means a plant species which is not indigenous to the State of Colorado.

Colorado Noxious Weed Act - means the provisions contained in C.R.S. § 35-5.5-101 et. seq.

Commissioner - means the commissioner of the Colorado Department of Agriculture or his or her designee.

Department - means the Colorado Department of Agriculture.

Federal agency - means each agency, bureau or department of the federal government responsible for administering or managing federal land.

Federal land manager - means the federal agency having jurisdiction over any federal land affected by the provisions of this article.

Integrated management - means the planning and implementation of a coordinated program utilizing a variety of methods for management of noxious weeds, the purpose of which is to achieve specified management objectives and promote desirable plant communities. Such methods may include, but are not limited to education, preventive measures, good stewardship, and the following techniques:

(a) *Biological management* - which means the use of an organism to disrupt the growth of noxious weeds.

(b) *Chemical management* - which means the use of herbicides or plant growth regulators to disrupt the growth of noxious weeds.

(c) *Cultural management* - which means methodologies or management practices that favor the growth of desirable plants over noxious weeds, including maintaining an optimum fertility and plant moisture status in an area, planting at optimum density and spatial arrangement in an area, and planting species most suited to an area.

(d) *Mechanical management* - which means methodologies or management practices that physically disrupt plant growth, including tilling, mowing, burning, flooding, mulching, hand-pulling, hoeing, and grazing.

Landowner - means any owner of record of federal, tribal, state, county, municipal, or private land and includes an owner of any easement, right-of-way or estate in the county.

Local noxious weed - means any plant, indigenous or exotic, of local importance that has been declared a noxious weed by the BOCC.

Management - means any activity that prevents a plant from establishing, reproducing, or dispersing itself.

Management objective - means the specific, desired result of integrated management efforts and includes:

(a) *Eradication* - which means reducing the reproductive success of a noxious weed species or specified noxious weed population in largely uninfested regions to zero and permanently eliminating the species or population within a specified period of time. Once all specified weed populations are eliminated or prevented from reproducing, intensive efforts continue until the existing seed bank is exhausted.

(b) *Containment* - which means maintaining an intensively managed buffer zone that separates infested regions, where suppression activities prevail, from largely uninfested regions, where eradication activities prevail.

(c) *Suppression* - which means reducing the vigor of noxious weed populations within an infested region, decreasing the propensity of noxious weed species to spread to surrounding lands and mitigating the negative effects of noxious weed populations on infested lands. Suppression efforts may employ a wide variety of integrated management techniques.

(d) *Restoration* - which means the removal of noxious weed species and reestablishment of desirable plant communities on lands of significant environmental or agricultural value in order to help restore or maintain said value.

Management plan - means the Clear Creek County Noxious Weed Management Plan.

Native plant - means a plant species which is indigenous to the State of Colorado.

Noxious weed - means an alien plant or parts of an alien plant designated by rule of the Commissioner or the Department as noxious or any plant which has been declared a Local Noxious Weed by the BOCC which meets one or more of the following criteria:

(a) It aggressively invades or is detrimental to economic crops or native plant communities;

(b) It is poisonous to livestock;

(c) It is a carrier of detrimental insects, diseases or parasites; or

(d) The direct or indirect effect of the presence of the plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

Person or *occupant* - means an individual, partnership, corporation, association or federal, state or local government or agency, owning, occupying or controlling any land, easement or right-of-way, including any city, county, state or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, borrow pit, gas and oil pipeline, high voltage electrical transmission line, or right-of-way for a canal or lateral.

Plant growth regulator - means a substance used for controlling or modifying plant growth processes without appreciable phytotoxic effect at the dosage applied.

State noxious weed - means any noxious weed identified by the Commissioner or the Department by rule pursuant to the terms and provisions of the Colorado Noxious Weed Act. Such weeds may be referred to herein as "List A," "List B" or "List C" weeds or species depending upon their designation as such by the Commissioner pursuant to the terms of C.R.S. § 35-5.5-108.

List A weeds - shall mean all populations of noxious weeds that are designated for eradication, either by the Commissioner pursuant to the terms of C.R.S. § 35-5.5-108 or local designation by the BOCC.

List B weeds - shall mean all populations of noxious weeds that are designated for a type of required management, either by the Commissioner pursuant to the terms of C.R.S. § 35-5.5-108 or local designation by the BOCC.

List C weeds - shall mean all populations of noxious weeds that are designated for recommended management, either by the Commissioner pursuant to the terms of C.R.S. § 35-5.5-108 or local designation by the BOCC.

Noxious weed management - means the planning and implementation of an integrated program to manage undesirable plant species.

Weed - means any undesirable plant.

Weed Management Office - means the Clear Creek County Noxious Weed Management Office.

Sec. 103. Introduction

(A) The provisions of this plan relate to the Colorado General Assembly's findings that noxious weeds have become a threat to the natural resources of Colorado and that an organized and coordinated effort must be made to stop the spread of noxious weeds.

(B) This plan represents a coordinated effort of the Weed Management Office and the Local Advisory Board to develop and oversee a comprehensive management plan for the control of noxious weeds in Clear Creek County.

(C) This plan further recognizes that because the spread of noxious weeds can largely be attributed to the movement of seed and plant parts on motor vehicles and noxious weeds are becoming an increasing maintenance problem on highway right-of-ways in the state, local cooperative efforts have been undertaken to proceed with noxious weed management.

(D) This plan is designed in accordance with the statutory provisions of the Colorado Noxious Weed Act.

Sec. 104. Objectives & Goals - Weed Management Office

(A) Education

(1) Educate the public on the provisions of the Colorado Noxious Weed Act and the requirement that Clear Creek County manage, and sometimes eradicate noxious weeds designated by the Department.

(2) Raise public awareness that noxious weeds disrupt intended land use and degrade the environment.

(3) Raise public awareness that the county has limited funds with which to control noxious weeds.

(4) Assist landowners and private enterprise in preparing integrated weed management plans.

(5) Educate and make the public aware of the Colorado List A, B and C noxious weed species, and additional weeds designated for management by the BOCC.

(B) Mapping

(1) Continue identifying, surveying and mapping noxious weeds countywide and compiling management data in cooperation with other entities.

(2) Management and Buffering Strategies: All landowners and land managers with county or state listed noxious weed species are required to implement the following management strategies:

(a) Infestations of one acre or less:

(i) Isolated small populations: Utilize best management practices with the goal of eradication. Prevent seed formation and root spread on an annual basis.

(ii) Satellite populations proximate to larger populations: Intensive best management practices applied with goals of containment, reduction and eradication. Prevent seed formation and root spread on an annual basis.

(b) Infestations of more than one acre:

(i) Using effective, best management practices, apply containment and perimeter buffering management practices

at a minimum of fifty feet wide each growing season. Prevent seed formation and root spread on an annual basis.

(ii) Continue weed management in the year-one fifty-foot buffer zone. Perimeter buffering management practices shall be stepped inward toward the center of the infestation at a minimum of fifty feet wide each season thereafter until the desired goals of the weed management plan have been met.

(c) Priority Management Areas:

(i) Infestations adjacent to property lines, easements, rights-of-way, ditches, canals, streams, rivers, trails, wildlife migration routes and private and public roadways: Buffering will be required each growing season and applied to the entire perimeter of the infestation at a minimum of fifty feet wide at the proper timing in order to prevent seed formation and root spread. Annual stepped inward buffering and reduction management is required.

(ii) Lands which have been recently disturbed are highly susceptible to infestation by noxious weeds and should be revegetated with native, drought tolerant plants. These lands should be regularly monitored to prevent infestation.

(C) Support of private enterprise

(1) It is the intent of the BOCC:

(a) not to compete with private enterprise.

(b) to encourage an expansion in services of commercially licensed pesticide applicators.

(c) to encourage the development of new noxious weed management businesses.

(D) Environmental quality shall remain the highest priority of the Clear Creek County Noxious Weed Management Plan.

Sec. 105. Management Plan

(A) Program of integrated management

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(1) It is the intent of the BOCC to implement a coordinated program of integrated management (sometimes referred to as "IM"). The purpose of integrated management is to achieve healthy and productive natural and agricultural ecosystems through a balanced program. This program will include, but is not limited to, education, preventative measures, and good stewardship and control methods.

(2) Integrated management is a strategy using a comprehensive, interdisciplinary approach for plant management. By viewing a problem in its entirety, one is better able to design a management plan that is safe, cost effective and achieves the desired results, without unreasonable damage to natural controls or the environment. An IM approach to weed management includes choosing from a variety of available weed control strategies and predicting their long term effects.

(3) The major weed control tactics to be utilized in an IM program are:

(a) Education should be the number one priority (e.g., plant identification, life cycles, damaging effects and mapping of infestations).

(b) Prevention (e.g., eliminating undesirable plant seed dispersal, irrigation management, soil fertility and range management).

(c) Mechanical and physical (e.g., cutting, mowing, burning, cultivation and cross fencing).

(d) Cultural (e.g., crop rotation, establishment of competitive vegetation and mulching).

(e) Biological (e.g., grazing, predators, parasites and pathogens).

(f) Chemical (e.g., weed oils, herbicides, and plant growth regulators).

While these tactics can be used singularly, they are usually most effective when used in combination. Once it is determined why the infestations are occurring, strategies can be developed to reduce existing weed populations and preclude future infestations.

Sec. 106. Education

(A) Education must be the first step in the plan. It must be an ongoing process, ever changing and utilizing all available resources.

(B) The Weed Management Office may partner with the Colorado State University Cooperative Extension (sometimes hereinafter referred to as "Cooperative Extension") in communicating to the public broad efficient and cost effective weed management programs.

(C) The role of Cooperative Extension in the management of noxious weeds will be that of education. Cooperative Extension will help people identify and understand their needs and problems in regard to noxious weed management and will provide practical solutions to these problems using research-based information and new technology.

(D) The objective of the Weed Management Office in partnership with Cooperative Extension and other governmental agencies will be to provide the community with the necessary educational and technical assistance required to implement this plan.

Sec. 107. Implementation

The Weed Management Office through its officers and agents will:

(A) Comply with laws governing pesticide application and licensing requirements and follow pesticide label directions.

(B) Maintain a current list of designated noxious weeds.

(C) Strive to obtain, complete and update maps showing noxious weed infestations within the county.

(D) Assist county property owners and managers in preparation of weed management plans. Each plant management plan should be an integrated plan utilizing all effective tools where applicable. The plan must be sustainable and financially sound; provide short term control, containment, and reduction strategies and long term management/monitoring activities. It will take the concerted efforts by all landowners/managers in the county to bring weeds under control. Cooperation is essential to the success of this plan.

(E) Develop a set of standards and guidelines outlining steps to be taken in the preparation of these plans.

(F) Standardize procedures detailing how recommendations for individual management plans will be prepared. The Weed Management Office will set a timetable for responding to a suspected noxious weed infestation. The steps are:

(1) Request for inspection (if necessary) or observation from right-of-way;

(2) Notification of inspection;

(3) Inspection;

(4) Notification of infestation (if discovered) and control recommendation;

(5) Assist landowner in preparation of management plan or wait for management plan from arbitration panel if requested by owner/manager;

(6) Supervise plan as necessary;

(7) Inspect results of control measures;

(8) Submit invoices for all enforcement work;

(9) Certify any unpaid assessments to the county treasurer; and

(10) Submit any unpaid invoices for work performed by the Weed Management Office on public lands managed by a state board, department or agency to the controller when appropriate.

(G) Maintain adequate records showing purchases, inventory application and billing for chemical treatments on lands not owned by the county.

(H) Prepare a five-year work plan to be reviewed annually.

(I) Annually prepare a work plan in conjunction with budget request.

(J) Supervise the application of weed control programs on county property and rights-of-way.

(K) Continuously survey, map and treat infestations and monitor treated areas to ensure treatments have been effective.

(L) Report to the BOCC on an annual basis.

(M) Assist Cooperative Extension with public awareness and education programs.

Sec. 108. Prevention measures

(A) The first priority is to prevent the introduction of noxious weeds.

(B) One method is to stop transporting viable seed or propagating plant parts by mechanical means. All equipment should be cleaned when leaving infested areas to prevent contaminating rights-of-way or other areas.

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(C) The use of certified weed-free seed and feed is strongly recommended. Feed containing viable noxious weed seeds should not be purchased, transported, or used. Since designated noxious weeds will often set seed prior to normal harvest dates, crops should be treated if they are to be moved from the infested area.

(D) Once seeds have reached maturity, they can remain viable for years. During this time, they can re-infest the same area long after the weed problem appears to have been solved, or they can be transported to other areas. This can occur naturally by wind and water or by movement of vehicles or equipment. Seeds are also transported great distances by domestic animals and wildlife.

(E) Many common noxious weed problems occur as a result of soil disturbances, such as: land development, overgrazed pastures, unhealthy turf, clear cut woodlands, pipeline construction, energy/gravel development, and improperly maintained road edges. Land management practices that minimize soil disturbance are invaluable in the prevention and control of undesirable plant species.

Sec. 109. Mechanical control

Mechanical control includes cultivation, mowing, hand pulling and burning. All of these measures, when used correctly, can be of great help when used in conjunction with another type of control. When used alone, they rarely have a positive long-range effect due to the excellent survival ability of noxious weeds. It may, in fact, make the problem worse through spreading seed or plant parts and by eliminating the desirable competitive species on site.

Sec. 110. Biological control

(A) Biological control is the control of undesirable plants through the use of living organisms. The organism may be an insect, plant, pathogen or livestock, such as sheep, goats or cattle.

(B) Recent programs have shown livestock to be valuable in controlling many weed species. This is especially true in instances of large infestations and in environmentally sensitive areas. When moving livestock used for biological control from infested areas, care should be taken to prevent transportation of seeds to a clean area. If possible, livestock should be quarantined for five days to allow all seed to pass through the digestive track. Seed may also need to be sterilized or removed from the animals' hair or wool.

(C) Several varieties of insects which can be used on various plants are commercially available. They may be purchased by individuals to be used as part of an integrated plan. This type of control is still in its infancy. It is being researched

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and directed by the Colorado Department of Agriculture Insectary in Palisade, Colorado. Ideally, insects will provide an economical and environmentally safe control method. However, there are certain problems associated with this type of control. First, there is a limited supply of all species and purchasing insects may require a large initial investment. The compatibility of herbicides and insects is not well known. Also, participation in this project may preclude the use of certain types of control, which could allow infestations to multiply and set seed. To prevent this, land operators must prepare an integrated plan to effectively control these infestations. Research indicates insects may be a valuable control method to be used in integrated pest management plans in the future.

Sec. 111. Chemical control

(A) All chemical application must be done according to the label of each individual product.

(B) The choice of chemicals and application rates used should be the least environmentally damaging as determined by information currently available. This determination may come from the label and the recommendations in the Colorado Pesticide Guide, available from the Colorado State University Cooperative Extension Service. It may also be tempered by the wishes of land owners and the experience of personnel trained and licensed in pesticide application,

(C) While chemicals are a powerful tool, it must be realized that they are just a tool and should be used as a part of an integrated management plan.

Sec. 112. Designation of Noxious Weeds.

(A) <u>List A Weeds:</u>

All populations of List A species are designated for eradication. **List A species** must be eradicated in accordance with all the provisions of the applicable state noxious weed management plans. State noxious weed management plans are available through the County Weed Management Office. **Bold font** below indicates the species is in Clear Creek County:

African rue (*Peganum harmala*)
Bohemian knotweed (*Polygonum x bohemicum*)
Camelthorn (*Alhagi pseudalhagi*)
Common crupina (*Crupina vulgaris*)
Cypress spurge (*Euphorbia cyparissias*)
Dyer's woad (*Isatis tinctoria*)
Elongated mustard (*Brassica elongata*)

Giant knotweed (*Polygonum sachalinense*)
Giant reed (*Arundo donax*)
Giant salvinia (*Salvinia molesta*)
Hydrilla (*Hydrilla verticillata*)
Japanese knotweed (*Polygonum cuspidatum*)
Meadow knapweed (*Centaurea pratensis*)
Mediterranean sage (*Salvia aethiopis*)
Medusahead (*Taeniatherum caput-medusae*)
Myrtle spurge (*Euphorbia myrsinites*)
Orange hawkweed (*Hieracium aurantiacum*)
Purple loosestrife (*Lythrum salicaria*)
Rush skeletonweed (*Chondrilla juncea*)
Squarrose knapweed (*Centaurea virgata*)
Tansy ragwort (*Senecio jacobaea*)
Yellow starthistle (*Centaurea solstitialis*)

(B) List B Weeds:

(1) All populations of List B species are designated for management unless designated for eradication. List B species must be managed in accordance with all the provisions of this Section including the applicable state noxious weed management plans. **Bold font** below indicates the species is in Clear Creek County and designated for eradication:

Absinth wormwood (*Artemisia absinthium*)
Black henbane (*Hyoscyamus niger*)
Bouncingbet (*Saponaria officinalis*)
Bull thistle (*Cirsium vulgare*)
Canada thistle (*Cirsium arvense*)
Chinese clematis (*Clematis orientalis*)
Common tansy (*Tanacetum vulgare*)
Common teasel (*Dipsacus fullonum*)
Corn chamomile (*Anthemis arvensis*)
Cutleaf teasel (*Dipsacus laciniatus*)
Dalmatian toadflax, broad-leaved (*Linaria dalmatica*)
Dalmatian toadflax, narrow-leaved (*Linaria genistifolia*)
Dame's rocket (*Hesperis matronalis*)
Diffuse knapweed (*Centaurea diffusa*)
Eurasian watermilfoil (*Myriophyllum spicatum*)
Hoary cress (*Cardaria draba*)
Houndstongue (*Cynoglossum officinale*)
Leafy spurge (*Euphorbia esula*)
Mayweed chamomile (*Anthemis cotula*)
Moth mullein (*Verbascum blattaria*)
Musk thistle (*Carduus nutans*)
Oxeye daisy (*Chrysanthemum leucanthemum*)

Perennial pepperweed (*Lepidium latifolium*)
Plumeless thistle (*Carduus acanthoides*)
Quackgrass (*Elytrigia repens*)
Russian knapweed (*Acroptilon repens*)
Russian-olive (*Elaeagnus angustifolia*)
Salt cedar (*Tamarix chinensis, T.parviflora, and T. ramosissima*)
Scentless chamomile (*Matricaria perforata*)
Scotch thistle (*Onopordum acanthium*)
Scotch thistle (*Onopordum tauricum*)
Spotted knapweed (*Centaurea maculosa*)
Spurred anoda (*Anoda cristata*)
Sulfur cinquefoil (*Potentilla recta*)
Venice mallow (*Hibiscus trionum*)
Wild caraway (*Carum carvi*)
Yellow nutsedge (*Cyperus esculentus*)
Yellow toadflax (*Linaria vulgaris*)

(2) Size and Location:

All landowners and land managers with priority weed species are required to implement the following minimal management strategies.

(a) Isolated small populations of one acre or less: Intensive best management practices applied with eradication goals in mind. Prevent seed formation and root spread on an annual basis.

(b) Satellite populations (one acre or less) proximate to larger populations: Intensive best management practices applied with eradication, containment, and reduction goals in mind. Prevent seed formation and root spread on an annual basis.

(c) Large populations of more than one acre: Use of effective, best management practices. Apply containment and perimeter buffering management practices at a minimum of fifty feet wide each growing season. Prevent seed formation and root spread on an annual basis.

Additionally, containment and perimeter buffering/reduction practices shall be stepped inward toward the center of the infestation at a minimum of fifty feet wide each season thereafter until the desired goals of the weed management plan have been met.

(3) Priority Management Areas Consists of:

(a) Infestations adjacent to property lines, easements, rights of ways, ditches, canals, streams, rivers, creeks, trails, wildlife migration

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routes, private and public roadways. Buffering will be required each growing season and applied to the entire perimeter of the infestation at a minimum of fifty feet wide at the proper timing in order to prevent seed formation and root spread. Annual stepped inward buffering and reduction management is required.

(C) List C Weeds:

All populations of List C species are designated for recommended and voluntary management unless they are designated for mandatory management by the BOCC. **Bold font** below indicates the species is in Clear Creek County:

Bulbous Bluegrass (*Poa bulbosa*)
Chicory (*Cichorium intybus*)
Common burdock (*Arctium minus*)
Common mullein (*Verbascum thapsus*)
Common St. Johnswort (*Hypericum perforatum*)
Downy brome (*Bromus tectorum*)
Field bindweed (*Convolvulus arvensis*)
Halogeton (*Halogeton glomeratus*)
Johnsongrass (*Sorghum halepense*)
Jointed goatgrass (*Aegilops cylindrica*)
Perennial sowthistle (*Sonchus arvensis*)
Poison hemlock (*Conium maculatum*)
Puncturevine (*Tribulus terrestris*)
Redstem filaree (*Erodium cicutarium*)
Velvetleaf (*Abutilon theophrasti*)
Wild-proso millet (*Panicum miliaceum*)

(D) Ban on Cultivation and/or Importation of List A, B, or C Weeds:

Persons are prohibited from cultivating or importing seeds, propagated plant parts or live plants, named on the Colorado Noxious Weed Lists A, B or C, in/into Clear Creek County or the State of Colorado. All listed species are non-native and create economic or ecological hardships in Clear Creek County; Colorado; and other States or North American regions.

Part II: NOXIOUS WEED MANAGEMENT AND ENFORCEMENT

Sec. 201. Duty to manage undesirable plants, Landowner's responsibility

It is the duty of all persons to manage and prevent the spread of all Noxious Weeds.

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Sec. 202. Local Priority Weed List

The BOCC may elevate the status of any List B or List C noxious weed located within Clear Creek County to that of a List A or List B noxious weed as deemed necessary by the BOCC.

The BOCC may apply to the Commissioner for a waiver of compliance with an eradication designation set forth by the Commissioner for any particular List A or List B Noxious Weed located in Clear Creek County, pursuant to the terms of C.R.S. § 35-5.5-108.5(3)(c). If such a waiver is approved, the Noxious Weed in question shall be reclassified as either a List B or List C Weed as may be determined by the BOCC.

Sec. 203. Designation of Additional Undesirable Plants

The BOCC may designate additional undesirable plants or weeds not otherwise designated as State noxious weeds for eradication or management within Clear Creek County pursuant to the terms of C.R.S. § 35-5.5-108(3), after a public hearing with thirty (30) days prior notice to the public. Any declaration of additional noxious weeds shall include the management objectives for all affected landowners.

Sec. 204. Clear Creek County Noxious Weed Management Plan Renewal

The Noxious Weed Management Plan must be renewed and approved by the BOCC not less than once every three years, but nothing shall prevent the BOCC from approving changes or adjustments to the Management Plan in the interim years. The Weed Management Office shall maintain the Management Plan and the Noxious Weed List and make them available to the general public.

Sec. 205. Importation/Cultivation

Persons are prohibited from intentionally cultivating or importing seeds, propagative plant parts or any noxious weed into or within Clear Creek County, and any such Person doing so shall be prosecuted pursuant to C.R.S. § 35-5.5-104.5.

Sec. 206. Administration

The BOCC shall provide for the administration and enforcement of the Management Plan authorized by the Colorado Noxious Weed Act through the use of agents, delegates or employees, and may hire additional staff or provide for the performance of all or part of the Management Plan through outside contract. The primary

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duty and responsibility of administering the Management Plan is hereby delegated by the BOCC to the Weed Management Office. The County Weed Supervisor shall be the BOCC's primary agent in administration and enforcement thereof. Any agent, delegate, employee, staff or contractor applying or recommending the use of chemical management methods shall be certified by the Department for such application or recommendation..

Sec. 207. Local Advisory Board

The BOCC has appointed itself as the Local Advisory Board. The Local Advisory Board shall have all of the authority and powers set forth in C.R.S. § 35-5.5-107.

Sec. 208. Identification and Inspection for Noxious Weeds - Methods of Identification

(A) Private and Public Lands

(1) The County Weed Supervisor and weed management staff, acting as agent, delegate and staff of the BOCC, shall have the right to enter upon any premises, lands, or places whether public or private, during reasonable business hours to inspect for the existence of noxious weed infestations, when at least one of the following has occurred:

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

(b) A neighboring landowner or occupant has reported a suspected noxious weed infestation and requested an inspection; or

(c) An authorized agent of the BOCC has made a visual inspection from a public right-of-way or area and has reason to believe that a noxious weed infestation exists.

(B) Where entry onto private premises is required to investigate the existence of noxious weeds, on-site inspections may be scheduled at any reasonable time with the landowner or occupant's consent. No entry onto such lands shall be permitted unless one of the following occurs: (1) verbal permission to inspect the property is granted by the landowner or occupant of said property, or (2) such landowner or occupant is notified of such pending inspection by certified mail at least 10 days prior to such inspection. If after notification landowner or occupant fails to respond within ten (10) days to the request to inspect the premises or otherwise denies access to the County Weed Supervisor or weed management staff, the County Weed Supervisor may seek an inspection warrant issued by a county or district court having jurisdiction over the land pursuant to the provisions of C.R.S. § 35-5.5-109(2)(b) or 35-5.5-108.5(5)(b)(I).

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Sec. 209. Notice of Presence of Noxious Weeds - Notice Letter

(A) Private Lands

(1) Upon a discovery of noxious weeds on private lands, the Weed Management Office has the authority to notify the landowner or occupant of the presence of noxious weeds. The Notice Letter shall include the following:

(a) The property inspection date;

(b) The landowner and/or occupant of record;

(c) The property tax ID number or legal description of the property;

(d) The noxious weed(s) to be managed;

(e) If the species is on List A, or List B and designated for eradication, identification of eradication as the required management objective;

(f) Advise the landowner/occupant to, **within ten (10) days**:

(i) Comply with terms of notification;

(ii) Acknowledge terms of the notification and submit an acceptable management plan and schedule for the completion of the plan for compliance; or

(iii) Request an arbitration panel to determine the final management plan;

(g) Identification of the integrated weed management techniques presented by the Commissioner for eradication or the best available control methods of integrated management;

(h) The consequences for non-compliance with the notice, an offer of Weed Management Office consultation in the plan development, and notice of landowner and/or occupant's right to request a hearing before the arbitration panel;

(i) Statement that Weed Management Office will seek an inspection warrant (right of entry) from the county or district court having jurisdiction over the land, to enter property and manage identified

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noxious weeds unless landowner and/or occupant complies with notice, submits an acceptable plan and schedule for completion of the plan or submits a written request for an arbitration panel.

(B) Public Lands

(1) The Weed Management Office may give notice to any state board, department, or agency that administers or supervises state lands within Clear Creek County, to manage noxious weeds on its land and said weeds.

(2) Such notice shall specify the best available method(s) of integrated management and will include the same information as itemized in Section 209(A) above.

Sec. 210. Weed Management Office Consultation

Where possible, the Weed Management Office shall consult with the affected landowner, occupant, state board, department or agency in the development of a plan for the management of noxious weeds on the premises or lands.

Sec. 211. Eradication and Management of Weeds - Landowner, Occupant or Public Agency Response

(A) A Landowner, occupant or state board, department or agency receiving notification of the presence of noxious weeds pursuant to Section 209 above shall respond within a reasonable time after receipt thereof, but in no event to exceed five (5) days if eradication is ordered and ten (10) days if management is ordered, by any of the following:

(1) Complying with the terms of the notification;

(2) Acknowledging the terms of the notification and submitting an acceptable plan and schedule for the completion of the plan for compliance; or

(3) If only management is ordered, requesting an arbitration panel to determine the final management plan. The panel shall be selected by the BOCC, through its delegates, agents, and employees, and shall include:

(a) A weed management specialist or weed scientist;

(b) A landowner of similar land in Clear Creek County; and

(c) A third member chosen by agreement of the first two panel members.

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(d) The landowner or occupant is entitled to challenge any one member of the panel and the BOCC, through its delegates, agents and employees shall name a new panel member from the same category.

Costs for the arbitration panel shall be paid by the requesting landowner or occupant. The decision of the arbitration panel shall be final and costs for the panel shall be due when the decision is reached.

Sec. 212. Enforcement - Direct Action by County to Manage Weeds

In the event the landowner, occupant, or state board, department or agency fails to comply with any notice to eradicate or manage identified noxious weeds or implement the plan developed by the arbitration panel, the Weed Management Office shall provide for the eradication or management of such weeds in any manner deemed necessary by the Weed Management Office and in compliance with the provisions of C.R.S. § 35-5.5-108.5(9), 35-5.5-109(5), or 35-5.5-110(3).

Sec. 213. Restrictions on the County Weed Management Office

The Weed Management Office shall not compel or provide for the management of noxious weeds on private property without applying the same or greater management measures to land or rights-of-way owned or administered by the BOCC that are adjacent to the private property.

Sec. 214. Assessments and Recovery of Cost for Treatment and Eradication of Noxious Weeds – Private Lands

If the Weed Management Office provides for and/or compels the management or eradication of noxious weeds on private lands, the County is entitled to recover the total amount of all reasonable costs incurred in the eradication of the noxious weeds in the following manner:

(A) If the Weed Management Office compels and/or provides for the management of noxious weeds pursuant to the provisions of C.R.S. § 35-5.5-109, the BOCC is entitled to assess the whole cost thereof, including up to twenty percent (20%) for inspection and other incidental costs in connection therewith, upon the lot or tract of land where the noxious weeds are located.

(B) Such assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.

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(C) Such assessment may be certified to the Clear Creek County Treasurer and collected as other taxes are collected.

(D) Any funds collected shall be paid to the County Treasurer and utilized for noxious weed management.

Sec. 215. Recoverable Costs/Method of Collection – Eradication of List A Weeds

(A) If the BOCC compels and provides for the eradication of noxious weeds pursuant to their classification as List A weeds or List B weeds designated for eradication, the County is entitled to assess the whole cost of eradicating such weeds, including the costs of inspection, eradication and other incidental costs, upon the lot or tract of land where the noxious weeds are located.

(B) Such assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.

(C) Such assessment may be certified to the Clear Creek County Treasurer and collected as other taxes are collected.

(D) Any funds collected shall payable to the Clear Creek County Treasurer and utilized for noxious weed management.

Sec. 216. Landowner or Occupant Protest

(A) The Weed Management Office shall send a "Payment Notice/Potential Lien Assessment" letter by certified and regular mail to the landowner or occupant prior to any assessment on landowner or occupant's property.

(B) The landowner or occupant shall be given thirty (30) days from the date on the Payment Notice/Potential Lien Assessment Letter to respond.

(1) In the event landowner or occupant fails to respond to the letter within the prescribed thirty (30) days, the Weed Management Office shall assess a lien on landowner or occupant's property and may certify such lien with the Clear Creek County Treasurer.

(2) If the landowner or occupant responds within the prescribed thirty (30) days and disputes the amount of the assessment, he or she is entitled to be heard before the BOCC as to his or her concerns.

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Sec. 217. Assessments of Cost - Hearing

(A) The landowner or occupant, or an attorney on his or her behalf, will be allowed to present testimony to the BOCC as to why they should not assess a tax lien on landowner or occupant's property for the costs outlined in the Payment Notice/Potential Lien Assessment letter.

(B) A member of the Weed Management Office will be present at the hearing to provide evidence favoring the imposition of a tax lien on landowner or occupant's property.

(C) The Weed Management Office must show that prior to compelling the management of noxious weeds on landowner and/or occupant's property the Weed Management Office applied the same or greater management measures to any land or rights-of-way owned or administered by the BOCC that are adjacent to the private property.

(D) The Weed Management Office must show that the level of management called for in the notice, or the management plan developed by the arbitration panel, has been successfully achieved.

(E) At the hearing the BOCC may grant, amend, or deny the lien assessment or continue the matter to a subsequent date.

(F) If the BOCC grants the lien assessment, a Resolution for Certification of Assessed Costs as granted by the BOCC shall be filed with the County Treasurer's Office.

Sec. 218. Limitations

The BOCC shall not assess the cost of providing for or compelling the management of noxious weeds on private property until the level of management called for in the notice, or the management plan developed by the arbitration panel, has been completed.

Sec. 219. Recoverable Costs/Method of Collection – Public Lands

(A) Any expenses incurred by the Weed Management Office undertaking the eradication or management of noxious weeds on public lands shall be a proper charge against such state board, department, or agency that has jurisdiction over the lands.

(B) An agreement for the reimbursement of incurred expenses shall be reached within two (2) weeks after the date such charge is submitted to such state board, department or agency. The agreement shall be set forth in writing.

(C) If an agreement is not reached or the charge is not immediately paid, such charge shall be submitted to the controller, who shall treat such amount as an encumbrance on the budget of the state board, department or agency involved or such charge may be recovered in any court with jurisdiction over such lands.

Sec. 220. Miscellaneous - Additional provisions

(A) The Weed Management Office, through its delegates, agents, and employees, shall have the right to enter upon any premises, lands or places, whether public or private, during reasonable business hours for the purposes of ensuring compliance with this Noxious Weed Management Plan. Entry upon any premises, lands or places, whether public or private, shall be consistent with Section 208 herein.

(B) No agent, employee, or delegate of the County shall have a civil cause of action against a landowner or occupant for personal injury or property damage incurred while on public or private land for purposes consistent with the above requirements except when the landowner or occupant willfully or deliberately caused such damages.

(C) It shall be the duty of the BOCC to confirm that all public roads, public highways, public rights-of-way, and any easements appurtenant thereto, under its jurisdiction, are in compliance with C.R.S. § 35-5.5-101, et seq., and any violations thereof shall be the financial responsibility of the appropriate local governing body or state board, department, or agency.

Sec. 221. Cooperation with federal and state agencies

The BOCC may enter into cooperative agreements with federal, tribal, municipal and state agencies for the integrated management of undesirable plants within their respective territorial jurisdictions.

Sec. 222. Public nuisance - Abatement

All undesirable plants at any and all stages thereof, their carriers, and any and all premises, plants and things infested or exposed to infestation may be declared to be a public nuisance by the BOCC. Once declared, such nuisances shall be subject to all laws and remedies relating to the prevention and abatement of nuisances. The BOCC, in a summary manner or otherwise, may take such action, including removal and destruction,

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with reference to such nuisance as in its discretion appears necessary. The remedies of this section shall be in addition to all other remedies provided by law.

INTRODUCED, FIRST READ, ORDERED PUBLISHED IN FULL AND SET FOR PUBLIC HEARING ON THE 11th DAY OF June, 2013.

BOARD OF COUNTY COMMISSIONERS
CLEAR CREEK COUNTY

Timothy J. Mauck, Chairman

Phil Buckland, Commissioner

Tom Hayden, Commissioner

ATTEST:

Deputy Clerk and Recorder

APPROVED AS TO FORM:

for

Robert W. Loeffler, County Attorney

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READ, PASSED AND ADOPTED UPON FIRST READING AFTER PUBLIC HEARING AND ORDERED PUBLISHED BY TITLE ONLY THIS 23rd DAY OF July, 2013.

BOARD OF COUNTY COMMISSIONERS
CLEAR CREEK COUNTY

Timothy J. Mauck, Chairman

Phil Buckland, Commissioner

Tom Hayden, Commissioner

APPROVED AS TO FORM:

for

Robert W. Loeffler, County Attorney

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ACKNOWLEDGMENT

I, E A Luther, Deputy Clerk and Recorder of the County of Clear Creek, State of Colorado, do hereby acknowledge and attest that the above-stated Ordinance is correct and was introduced and testimony heard at regular meetings of the Board of County Commissioners, on June 11, 2013; with publication of such meetings and the full text of the proposed ordinance appearing in the Clear Creek Courant, June 19, 2013, issue.

E A Luther
Deputy Clerk and Recorder

7-23-13
Date