

## RESOLUTION

### FIRST READING OF ORDINANCE AND SET PUBLIC HEARING DATE

**RESOLUTION NO. XXXXXX** First Reading on Proposed Ordinance Number 2021-01, establishing a revised Weed Control Ordinance, pursuant to Section 30-15-401(1)(I.5), COLO. REV. STAT. Said Ordinance was read into the record. It was moved by Commissioner X and duly seconded by Commissioner X to set a public hearing on the proposed Ordinance for January 12, 2021, at 9:30 a.m. The proposed ordinance was ordered to be published in The Villager newspaper at least ten days prior to January 12, 2021. The text of the proposed Ordinance is as follows:

### ARAPAHOE COUNTY, COLORADO

#### ORDINANCE NO. 2021-01

**AN ORDINANCE SETTING FORTH ARAPAHOE COUNTY POLICIES AND PROCEDURES REGULATING THE ACCUMULATION OF WEEDS AND BRUSH ON COMMERCIAL AND RESIDENTIAL LOTS OF TWO ACRES OR LESS, PROVIDING FOR THE REMOVAL THEREOF; AND PROVIDING PENALTY PROVISIONS FOR VIOLATIONS AND ENFORCEMENT PERTAINING THERETO.**

WHEREAS, pursuant to Section 30-15-401(1)(I.5), COLO. REV. STAT., the Board of County Commissioners of Arapahoe County ("Board") has the power to adopt ordinances to provide for and compel the removal of weeds and brush from lots and tracts of property and from alleys behind and sidewalk areas in front of such properties within the unincorporated territory of the County, including the authority to provide for and compel the removal of weeds and brush from residentially and commercially zoned lots of two acres or less; and

WHEREAS, the Board finds the accumulation of weeds on residential property and commercial lots of two acres or less is a public health hazard and/or a public nuisance; and

WHEREAS, the Board also finds that in order to preserve the public peace, health, safety, and welfare of the citizens of Arapahoe County, the following Ordinance should be adopted.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Arapahoe County as follows:

## **SECTION I. INTENT**

The Board finds, determines, and declares that the accumulation of weeds on property is a public health hazard and a public nuisance in that such accumulations depreciate property values in the neighborhood, create a health and fire hazard, and encourage the proliferation of pests and rodents and that the regulation of weeds is necessary to protect the health, safety, and welfare of the residents of Arapahoe County.

## **SECTION II. DEFINITIONS**

As used in this Ordinance, the following words are defined as follows:

- A. "*Board*" means the Board of County Commissioners of Arapahoe County, Colorado.
- B. "*Commercial Lot*" means any lot zoned for non-residential uses, including those zoned as Planned Unit Developments, regardless of actual land use, which is two acres or less in size and which is not agricultural land as defined in C.R.S. 39-1-102(1.6).
- C. "*Director*" means the Director of the Arapahoe County Department of Public Works and Development.
- D. "*Lot*" means a parcel of land occupied or designed to be occupied by a main building. A lot may or may not be shown as a lot on a duly recorded plat. A lot includes a tract or other area of property shown on a recorded plat, such as for drainage facilities or other public use purposes, or otherwise held as common interest property under Colorado law.
- E. "*Property Owner*" means the owner of records, as shown by the tax rolls of Arapahoe County and/or the records of the County Clerk and Recorder of Arapahoe County, of any real property to which this Ordinance applies.
- F. "*Residential Lot*" means any lot zoned for residential uses, including PUD zoned lots, regardless of actual land use, which is two acres or less in size.
- G. "*Weeds*" means any unsightly, useless, troublesome, or injurious plant, including grasses and/or all vegetation which has grown to maturity or to a height in excess of six (6) inches, including but not limited to, Field Bindweed, Leafy Spurge, Canada Thistle, Russian Knapweed, Perennial Sowthistle, Puncturevine, Silver-leaf Povertyweed, Mouseear Povertyweed, Fanweed, Mustards, Purple-flowered Groundcherry, Russian Thistle, Fireweed, Redroot Pigweed, Smooth Pigweed, Prostrate Pigweed, Sandbur, Hairy Stickseed, Buffaloburs, White Horsenettle and Carolina Horsenettle, Common Ragweed, cocklebur, and dandelion. This definition shall not include flower gardens, shrubberies, vegetable gardens, small

grain plots, successional grasses utilized for erosion control, and pastures used for feed, fodder, or forage, provided the same are adequately weeded and maintained.

- H. "Zoning Administrator" means the Arapahoe County Zoning and Animal Services Manager or designated agent.

### **SECTION III. APPLICABILITY**

This Ordinance shall apply to residential and commercial lots, as defined herein, within the unincorporated areas of Arapahoe County, and within any incorporated municipality in Arapahoe County that consents to the application of this Ordinance within the municipality, and to the alleys behind and the sidewalk areas in front of such properties. This Ordinance shall not apply to any property zoned as:

Obsolete Zoning Districts

RR-C (Rural Residential C)

Current Zoning Districts

A-E (Agricultural)

A-1 (Agricultural)

RR-A (Rural Residential A)

RR-B (Rural Residential B)

C (Cultural)

O (Open)

F (Floodplain)

Nor shall this Ordinance apply to land currently in agricultural use as is defined in Section 39-1-102(1.6), as amended.

### **SECTION IV. CUTTING AND REMOVAL OF WEEDS REQUIRED**

Residential and commercial lot property owners shall cut, or cause to be cut, all weeds growing on their lots and remove or cause the removal of the cut weeds to a legal refuse disposal site. It shall be unlawful for any person to violate the provisions of this Section.

### **SECTION V. WEED REMOVAL PROCEDURES**

A. Upon information received of a complaint by Arapahoe County staff, the Zoning Administrator shall investigate said complaint to insure compliance with this Ordinance. If the Zoning Administrator determines weeds exist in violation of this Ordinance, prior to initiating the procedures set forth in this Ordinance to bring such property into compliance, the Zoning Administrator shall cause to have posted for a period of ten (10) days upon such property a placard containing a Notice of Violation in substantially the following form:

TO THE OWNERS OF THE FOLLOWING DESCRIBED PROPERTY:

(Property Description)

NOTICE IS HEREBY GIVEN THAT THERE EXISTS UPON THIS PROPERTY ACCUMULATIONS OF WEEDS WHICH MUST BE REMOVED AND DISPOSED OF IN ACCORDANCE WITH THE PROVISIONS OF ARAPAHOE COUNTY ORDINANCE NO. 2021-01.

NOTICE IS FURTHER GIVEN THAT, UNLESS SUCH WEEDS ARE REMOVED AND DISPOSED OF WITHIN FIFTEEN DAYS FROM \_\_\_\_\_, THE BOARD OF COUNTY COMMISSIONERS SHALL CAUSE THE SAME TO BE REMOVED AND DISPOSED OF, IN WHICH EVENT THE OWNERS OF THIS PROPERTY SHALL BE LIABLE FOR THE COST OF REMOVAL THEREOF AS SET FORTH IN THE ABOVE ORDINANCE.

ARAPAHOE COUNTY, COLORADO

By: \_\_\_\_\_  
Zoning Administrator of  
Arapahoe County, Colorado

B. In addition to the posting of the placard on the subject property, the Zoning Administrator shall serve on the property owner, by registered or certified mail, return receipt requested, a copy of the Notice of Violation as set forth on the placard. This Notice shall be mailed to the property owner's address as shown on the tax rolls of Arapahoe County, and at the discretion of the Zoning Administrator, any additional address which the Zoning Administrator deems appropriate.

C. Failure to Receive Notice. A property owner's failure to receive any Notice of Violation provided for in this Ordinance shall not invalidate any proceedings under this Ordinance.

D. Extension of Time. The Zoning Administrator, at his or her discretion, may grant a reasonable extension of time to effect the removal of the weeds if the request for extension is received within the time period for removal set forth in the Notice of Violation. Any extension as may be granted herein shall not exceed an additional fourteen (14) day duration.

## **SECTION VI.**

A. Failure to Comply with the Notices - County Action. If the weeds are not removed within the time specified in the aforementioned Notices or upon expiration of any extensions of time granted by the Zoning Administrator, the Zoning Administrator is authorized and empowered to request appropriate County personnel or an approved private contractor to enter upon the subject property and remove the weeds.

B. Administrative Search Warrants. If the Zoning Administrator is denied access to a property which has an accumulation of weeds prohibited under this Ordinance, application for an administrative entry and seizure warrant for the removal of such weeds may be made with the Arapahoe County Court or the Arapahoe County District Court. The Arapahoe County Attorney's Office shall provide representation of the County in such matter. The application for administrative entry and seizure warrant shall include a sworn affidavit stating the factual basis for such warrant, evidence that the property owner has received notice of the weed violation and has failed to remove the weeds within fifteen (15) days of the date of such notice, a general description of the location of the property in question, and the proposed disposal of such weeds. The administrative entry and seizure warrant shall be executed by the Zoning Administrator within ten (10) days of the date of issuance. A copy of such warrant shall be provided or mailed to the property owner, and proof of the execution of such warrant shall be filed with the court.

C. Employment of Private Contractors. The Zoning Administrator is authorized to employ private contractors with the approval of the Director to remove the weeds. The cost of removal by a private contractor shall be paid by the County upon receipt of an invoice approved by the Zoning Administrator and countersigned by the Director.

D. Statement and Notice of Costs. Whenever any costs are incurred by Arapahoe County in causing the removal of any weeds, the Zoning Administrator shall cause a statement to be prepared showing the total costs of the removal, including an additional ten (10) percent for inspection and other incidental costs in connection with their removal. The Zoning Administrator shall serve the statement on the property owner by registered or certified mail, return receipt requested, at the property owner's address as shown by the Arapahoe County tax rolls, and at the discretion of the Zoning Administrator, any additional address which he or she deems appropriate. The statement shall notify the property owner that weed removal work has been performed pursuant to this Ordinance, state the date the work was performed, the nature of the work performed, and instruct the property owner to pay the statement in full within thirty (30) days of the date set forth therein.

E. Appeals from the Zoning Administrator's Actions - Assessment of Costs. The aforementioned statement in subsection D above shall also notify the property owner that any complaints or objections relating to the statement of costs shall be made in writing by the property owners to the Director with a copy submitted to the Zoning Administrator within fifteen (15) days from the date set forth in the statement of costs. Said statement shall reflect that any appeal, if taken, will be heard and determined by the Director at a hearing prior to the adoption of any resolution by the Board assessing the cost of such work. All property owners filing timely written requests for a hearing shall be advised of the time and place of their hearing before the Director at least ten (10) days in advance of said hearing.

At the hearing, the Director shall consider all complaints and objections relating to the statement of costs, may make such modifications as may be deemed equitable and just, or may confirm the statement of costs. The Director's decision and findings shall be

transmitted to the Board of County Commissioners. The Board shall thereupon, by resolution, assess the cost of the work against the real property from which weeds have been removed. The property owner shall be given thirty (30) days to pay the costs after the assessment resolution is adopted. If the assessment is not paid within such time, the Clerk to the Board of County Commissioners shall certify the amount of assessment due to the Arapahoe County Treasurer.

In the event an appeal is not filed by a property owner and payment of the assessment has not been received, the Zoning Administrator shall submit to the Board of County Commissioners the statement of costs after thirty (30) days have elapsed from the initial billing date. The Board shall thereupon by resolution assess the cost of work against the real property from which weeds have been removed.

#### **SECTION VII. COLLECTION OF THE ASSESSMENT - LIEN ON PROPERTY**

A. Collection of Assessment. Following adoption of the assessment resolution, the Clerk to the Board of County Commissioners shall certify the same to the County Treasurer who shall collect the assessment, together with an additional ten (10) percent penalty for the cost of the collection, in the same manner as other taxes are collected. The laws of this State for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of the assessments.

B. Assessment Deemed Lien - Priority. Any assessment made pursuant to this Ordinance shall constitute, from the effective date of the assessment resolution, a lien in the several amounts assessed against the real property on which the weeds were removed until paid and shall have priority over all other liens except general taxes and prior special assessments.

#### **SECTION VIII. PENALTY FOR VIOLATIONS**

Any person who violates this Ordinance commits a Class 2 Petty Offense and upon conviction thereof shall be punished by a fine of five hundred dollars (\$500.00) for the first offense, seven hundred and fifty dollars (\$750.00) for the second offense, and one thousand dollars (\$1,000.00) for a third and any subsequent offense. The penalty assessment procedures set out in § 16-2-201, C.R.S., may be followed in enforcing this Ordinance. In addition to the penalties prescribed above, persons convicted of a violation of this Ordinance shall be subject to a surcharge of ten dollars (\$10) that shall be paid to the clerk of the court by the defendant as provided by § 30-15-402(2)(a), C.R.S.

**SECTION IX. EFFECTIVE DATE**

This Ordinance shall take effect thirty (30) days after the final publication following adoption.

The vote was:

Commissioner Baker, \_; Commissioner Conti, \_; Commissioner Holen, \_;  
Commissioner Jackson \_; Commissioner Sharpe \_.

The Chair declared the motion carried and so ordered.