

ORDINANCE 499

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF
BAYFIELD AMENDING THE MUNICIPAL CODE CHAPTER 9
NUISANCES AND NOXIOUS WEEDS**

WHEREAS, the State of Colorado adopted the Noxious Weed Act of 1990 (C.R.S. 35-5.5-101-119) that determined certain noxious weeds pose a threat to the continued economic and environmental value of the land in Colorado and they must be managed by all landowners in the state; and

WHEREAS, the Town of Bayfield's Municipal Code does not comply with all the requirements of the Noxious Weed Act; and

WHEREAS, the Town of Bayfield's Municipal Code Article II on Nuisances is outdated and needs to be amended; and

WHEREAS, on March 12, 2024 the Planning Commission held a noticed public hearing on the proposed amendments and recommended approval through Resolution 2024-3; and

WHEREAS, on March 19, 2024 the Board of Trustees held a noticed public hearing on the proposed amendments; and

WHEREAS, after considering the recommendation by the Planning Commission and any public testimony received, the Board of Trustees finds the amendments to Chapter 9 of the Municipal Code of the Town of Bayfield to be in the best interest of the citizens of the Town of Bayfield.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BAYFIELD, COLORADO, THAT

Section 1: The Bayfield Municipal Code Chapter 9 Article II. –Nuisances should be amended as follows:

Sec. 9-41. - Definition.

Anything which is injurious to the health or morals, indecent or offensive to the senses, or an obstruction to the free use of property so to interfere with the comfortable enjoyment of life or property is declared a nuisance and as such shall be abated. Among those things hereby declared nuisances are those buildings and other structures destroyed by fire or which by neglect have deteriorated, becoming a fire hazard, an eyesore or otherwise an offensive structure.

State Law reference— Public nuisances defined, § 16-13-303 et seq., C.R.S. 1973.

Sec. 9-42 - Specific nuisances.

(a) In addition to any other conditions or activities described in this Code, the ownership, leasing, occupying, managing or possessing of any property, structure or premises upon which any of the following conditions are found to exist is declared to be a nuisance that may be abated by any lawful procedure:

- (1) The premises are a detriment to public health, safety or general welfare;
- (2) The premises are so defective, unsightly, or in such condition of disrepair that they substantially diminish the value of surrounding property or are otherwise substantially detrimental to surrounding properties. Examples of this condition shall include, but shall not be limited to, the keeping on, or disposing of, on or the scattering over the premises of any of the following:
 - a. Junk, trash, refuse or debris;
 - b. Abandoned, discarded or unusable objects or equipment such as furniture, stoves, hot water heaters, refrigerators, freezers, automobiles;
 - c. Stagnant water that constitutes a health hazard;
 - d. An excavation or an open foundation for which a building permit has expired; or
 - e. Uncovered wells or cisterns; or
 - f. Noxious weeds as determined under Chapter 9, Article IV of the code
- (3) The premises are so out of harmony or conformity with the maintenance standards of adjacent properties as to cause substantial diminution of the enjoyment, use, or property values of such adjacent properties;
- (4) The premises are abandoned, boarded up, partially destroyed, or left in an unreasonable state of partial construction;
- (5) Buildings have dry rot, warping or termite infestation;
- (6) The premises have a substantial number of broken windows which cause hazardous conditions and invite trespassers and malicious mischief;
- (7) The landscaping on the premises has not been maintained as follows:
 - a. Trees and shrubs have not been trimmed and are overhanging public rights-of-way
 - b. Weeds or other growth over 12 inches and that have not been removed or cut except in areas where such removal is impractical such as irrigation ditches or other inaccessible areas; or
 - c. Dead or diseased plants have not been removed or replaced.
- (8) The exterior of commercial establishments or multifamily buildings have not been maintained so as to present a neat and orderly appearance which is compatible with the area.

- (b) The items described herein are intended to allow for a reasonable method of controlling nuisances by providing notice of conditions that may constitute a nuisance, but are not intended to be exclusive of any other condition that constitutes a nuisance.

Sec. 9-43. - Determination of violation.

Whenever the town manager or their designated agent is informed or otherwise determines that any premises or property within the town is alleged to be a nuisance, they shall cause an investigation to be made into the premises and shall make findings with reference to such investigation. If as a result of such investigation it is found that a nuisance does exist, a notice to abate pursuant to Sec. 9.45. shall be prepared by the town manager or their designated agent.

Sec. 9-44. - Abatement without notice on public property.

In case of any nuisance in or upon any publicly owned property including public rights-of-way, or public grounds in the town, the town manager or their designated agent may abate the same forthwith without notice.

Sec. 9-45. - Notice to abate.

If a nuisance has been determined to exist on any premise or property within the town pursuant to Sec. 9.43., a written notice to abate shall be prepared by the town manager or their designated agent to include the findings required pursuant to Sec. 9-42. and shall also order and direct the owner of such property to abate such nuisance within ten (10) days from the date the notice to abate was sent. Such notice shall be mailed to the owner of record at the address reflected in the records of the county assessor via certified mail, return receipt requested.

Sec. 9-46. – Failure to comply.

If the owner of such property fails to abate the nuisance within the time provided within the written notice, the town manager or their designated agent shall cause a citation or summons and complaint to be filed in the municipal court and to be served upon the owner of the subject property. Pursuant to provisions of this Article, liability for the failure to abate a nuisance from said premise or property shall rest solely upon the owner thereof. It shall not constitute a defense to any prosecution under the provisions of this Code that the property is occupied by an individual or individuals other than the owner thereof or that the owner has engaged the services of an agent for purposes of management of said property.

Sec. 9-47. – Abatement by town.

If the owner of the subject property fails to appear in response to the municipal court summons or citation or fails to comply with the orders of said court or, in those instances where the owner of the subject property cannot be found after the exercise of reasonable diligence, the

town shall cause the abatement of such nuisance from said premise or property at the cost and expense of the owner of such property.

Sec. 9-48. - Recovery of expenses.

The owner of the subject premise or property shall be billed the actual cost to the town for such abatement of a nuisance. If the owner of the property fails to reimburse the town for the cost within thirty (30) days of the billing thereof, the town manager or their designated agent shall cause a La Plata County Treasurer certified property tax lien to be placed against the subject property for the cost of such abatement.

Secs. 9-49—9-69. - Reserved.

Section 2: The Bayfield Municipal Code Chapter 9 Article IV. –Noxious Weeds should be added as follows:

Sec. 9.80. – Definitions.

The following terms used in this article shall have the following meanings:

Control means preventing a plant from forming viable seeds or vegetative propagules.

Integrated management means the planning and implementation of a coordinated program utilizing a variety of methods for management of noxious weeds, which methods may include but are not limited to education, preventive measure, good stewardship, and biological, chemical, mechanical or cultural control methods.

Noxious Weed means a plant species that is not indigenous to the state of Colorado, nor to the native plant community in which it is found, aggressively invades or is detrimental to economic crops or native plant communities, and is either poisonous to livestock, a carrier of detrimental insects, diseases, or parasites, or the direct or indirect effect of its presence is detrimental to the environmentally sound management of natural or agricultural ecosystems, and which is designated as undesirable by section 35-5.5-101 et seq., C.R.S. 1973, or by the advisory commission.

Sec. 9.81. – Advisory commission.

- (a) *Creation:* An advisory commission is hereby created, which shall consist of all members of the appointed planning commission.
- (b) *Powers and duties:* The commission shall recommend adoption of a noxious weed management plan to the board of trustees through a resolution that can be amended as needed. The plan shall include species lists in accordance with the state management objectives from the Colorado Noxious Weed Management Act, a county noxious weeds list, and include control methods for integrated management of noxious weeds in the town.

- (c) *Review of plan:* The commission shall review the approved management plan at least once every three years, and develop and recommend such amendments or changes as the commission deems necessary and prudent.

Sec. 9.82. – Declaration of nuisance

The town manager or their designated agent shall enforce the adopted noxious weed management plan. The investigation, discovery and abatement of noxious weeds on any public or privately owned property shall abide by the nuisance abatement laws of the state and as provided in Article II of Chapter 9 of this Code.

Sec. 9.83. – Powers and duties of board of trustees.

The board of trustees shall have the following powers and duties with respect to the implementation and enforcement of the noxious weed management plan:

- (a) *Adoption of plan:* Upon recommendation from the commission, the board of trustees shall adopt the noxious weed management plan by resolution.
- (b) *Cooperation:* The board of trustees may resolve at any time to enter into intergovernmental agreements with the county or the state for implementation support of the management plan.
- (c) *Public lands:* The board of trustees shall comply with the management plan to control noxious weeds on all public property and public rights-of-way.

ADOPTED AND TITLE ORDERED PUBLISHED THIS 19TH DAY OF MARCH, 2024.

Mayor:



Ashleigh Tarkington

Attest:

Dustin Hayden, Town Clerk