

# Ordinance 157

An Ordinance amending Title 157 concerning Weed Control.

BE IT ORDAINED by the governing body of the City of Egan, South Dakota:

That Section 5 of Title 157 of the City of Egan Ordinance is hereby amended and shall read as follows:

## Section 2. Lawn Maintenance and Duty of Owner.

No owner of any lot, place or area within the town or the agent of such owner or the occupant of such lot, place or area, shall permit on such lot, place or area or upon any sidewalk abutting the same any grass, weeds, or deleterious or unhealthful growths or other noxious matter, or any combination thereof exceeding the height of six inches (6"), and that may be growing, lying or located thereon, and the growing of such grass, weeds or other noxious or unhealthful vegetation is hereby declared to be a nuisance.

## Section 3. Notice to Destroy.

Notice shall be given to property owners whose property within the City on which the height of the grass, weeds or deleterious or unhealthful growths or other noxious matter, or any combination thereof has exceeded the height of six inches (6") and that such grass, weeds or deleterious or unhealthful growths or other noxious matter that exceed said height shall be removed within forty-eight hours. ***The notice need not be given personally but may be given generally through the official newspaper annually.*** The published notice shall constitute notice as required by this Section.

### Section 3.1. Exception.

Property owners with parcels of land that exceed one City Lots in size may petition the City Board for relief from the requirements of this Maintenance requirement. The Board may approve or disapprove the petition and establish other criteria that must be complied with. If the exception is approved, minimum upkeep standards shall require 1) the property, including boulevards, must be mowed at least twice a year, and 2) the control of noxious weeds.

### Section 3.2. City May Remove.

If the owner or person in possession of property fails to abate the nuisance within of the time specified, the city may take remedial action to abate the nuisance and to charge the cost thereof against the property owner or person in possession of the property. A separate charge will be incurred each time this action is initiated, and may be assessed by special assessment against the property.

## Section 4. Right of Hearing Regarding Determination and Removal

The owner or any person affected shall have the right to a hearing before the City Board for investigation and review of the enforcement officer's determination and Assessment of Costs. Such right to a hearing must be exercised by the filing of a request for hearing in writing with the Finance Officer at City Offices within five (5) days after the date of removal of the condition. The request for a hearing shall state the objections to the enforcement officer's determination and shall be signed by the party requesting the hearing. Upon receipt of the request for a hearing the Finance Officer shall present the matter to the City Board at its next regular or special meeting. The City Board shall schedule a hearing on the matter at which time affected parties shall have a right to appear, be represented by counsel, testify and present evidence in their case. The hearing shall be scheduled not less than five (5) days from the date the request is presented to the City Board at a duly called meeting. The City shall at the time of the hearing,

hear and decide, whether the affected property contained weeds, grass, or deleterious or unhealthful growths, or other noxious matter such that it permitted removal under this title.

#### Section 5. Removal Costs.

If the City removes materials and such decision to remove is affirmed in the event of a hearing, the cost to the owner or person in possession of the property shall be **one-hundred and twenty five dollars (\$125.00) flat fee per time for cutting.**

Section 5.1. City's Cost Assessed. The City Finance Officer shall cause an account to be kept against each lot for the abatement and shall mail to the owner or occupant a bill for such abatement.

#### Section 6. Hearing for approval of Assessment.

In the event that the bill is not paid within 30 days of billing, the City Finance Officer shall prepare an assessment against such lot or lots for lawn mowing or the removal of snow or ice. The assessment shall be submitted to the City Council for its approval. A notice shall be published in the official newspaper advising the property owner of the time and place the City Council will meet for the purpose of approving such assessment. Such notice shall be published at least one (1) week prior to the date set for said hearing.

#### Section 6.1 Approval of Assessment.

Upon the day named for the hearing at which the assessment of costs incurred by the City under Section 6 shall be submitted for approval, the City Board shall meet. If they find said assessment to be reasonable and correct, the City Board shall approve the same, with or without modification or amendments, as they may deem proper, and file such assessment with the City Finance Officer.

#### Section 7. Lien Declared.

From the date of approval and filing of the assessments made under this Section, the same shall be a special lien against the various pieces of property described in said assessment and shall be collected in like manner as special assessments are now collected for public improvements, or otherwise permitted under the law.

#### Section 8. Recovery by City.

In lieu of spreading the cost of abatement as a special assessment against property under this Section, at the discretion of the City Council, said amount may be recovered in a civil action against the owner or occupant of said property.

#### Section 9. Liability of Offenders.

Any person whose duty it shall be to abate these nuisances as provided in this Section, in addition to the penalties prescribed for the violation of Title 158 of this Ordinance shall be liable to the City for any damage caused by the neglect.

#### Section 10. Penalty for failure to comply with Section.

Any person, whose duty it is to abate these nuisances as provided in this Section within the time prescribed shall, for a violation thereof, be subject to the penalties that may be imposed for a violation of this Ordinance in addition to the other penalties described in this Section.

#### Section 11. Grass, Weeds, or Deleterious or Unhealthful Growths or other Noxious Matter Defined.

The following grass, plants, weeds, shall be deemed noxious, dangerous or unhealthful for purposes of this Title: UA Species of rag weed, all species of cockle burrs, all species of thistles, dandelions, plantains, sweet clover, wild morning glory, black mustard and pig weed.

Dated this 20th day of July, 2016.

Jerome Olson  
Board Chairman

ATTEST: Alicia Olson  
Finance Officer

First Reading: June 22, 2016  
Second Reading & Adoption: July 20, 2016  
Published: August 3, 2016  
Effective: August 9, 2016