

## **ORDINANCE NO 159**

### **An Ordinance Entitled “AN ORDINANCE PROVIDING FOR THE CONTROL AND CUTTING OF WEEDS AND TALL GRASS WITHIN THE CITY OF COLOME’ AND REPEALING ORDINANCE NO. 88**

WHEREAS, in the City of Colome, there are, or may be in the future, lots or parcels of land upon which weeds and grass grow without being cut in such a manner as to constitute a menace to the health, morals, safety and general welfare of the people of the city of Colome, and which might tend to constitute a menace and be unsightly.

#### **SECTION 1                      NUISANCE DECLARED**

All weeds or plants declared to be primary noxious weeds or secondary noxious weeds by the state weed board, including ragweed, parsley, pigweed, nettle, thistle, sunflower, goldenrod, tumbleweed, burdock, cockle burrs, wild oats, sticktight, milkweed, mustard greens, and all other non-woody grasses suffered or allowed to grow during the growing season and all grass allowed to grow to a length exceeding ten (10) inches shall be deemed noxious, dangerous and unhealthful vegetation and are hereby declared to be nuisances.

#### **SECTION 2                      LOCALLY NOXIOUS WEEDS**

Weeds and plants that spread easily onto adjacent properties through creeping or windborne seeds in addition to state identified noxious weeds shall be deemed noxious, dangerous, and unhealthful vegetation and are hereby declared to be nuisances. Uncontrolled dandelions, field bindweed, (Creeping Jenny) and foxtail are examples of locally noxious weeds that shall not be allowed to overwhelm an area as to create a nuisance to adjacent properties.

#### **SECTION 3                      DUTY TO CUT WEEDS AND TALL GRASS**

It shall be the duty of the occupant, person in charge of, or owner of any lot, place, or area in the city to keep such lot, place or area, free from noxious vegetation and to cut, or spray with a generally accepted chemical for weed control, at such time as may be necessary to prevent the growth of the weeds, or to cut grasses and prevent from growing more than ten (10) inches in length. If the lot abuts or adjoins a street or alley that contains dedicated land which is not being utilized. Said person, shall in the same manner be responsible to cut weeds and tall grass in unused dedicated land. It is not the intention of this ordinance to allow entire lots to be sprayed with a chemical that will kill all vegetation so as to eliminate the need for mowing.

#### **SECTION 4            NOTICE TO CUT OR SPRAY WEEDS, AND, OR, CUT TALL GRASS.**

The City Finance Officer is hereby authorized and empowered at the beginning of, or during, the growing season to notify in writing, or by public notice, each owner, occupant, or person in charge of any such lot, place or area, to cut, or spray weeds with a generally accepted chemical for weed control, or remove any such weeds, tall grass, deleterious or unhealthful growths or other noxious matter found growing, lying or located on such property or upon the sidewalk abutting the same or the city's right-of-way abutting the same. Such notice shall be served to the owner, agent, or occupant at his or her last known address, or by one (1) publication in the official newspaper, and shall notify the owner, agent or occupant to cut, or spray weeds with a generally accepted chemical for weed control, or remove any such weeds, tall grass, deleterious or unhealthful matter within 7 days after the service of such notice or publication in the official newspaper.

The notice shall provide that each occupant, person in charge, or owner of any lot, place or area, shall cut and keep cut, or spray with a generally accepted chemical for weed control, at all times during the growing season all weeds and noxious vegetation, and to cut grass exceeding ten (10) inches in length, and shall further provide that in case of failure to so cut or spray such weeds with a generally accepted chemical, such weeds, noxious vegetation, and tall grass, the city will cause the same, either by the city or third party, to cut or spray weeds or cut tall grass.

#### **SECTION 5            FAILURE OR REFUSAL TO COMPLY**

Upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with the notice within 7 days thereof, the city Maintenance supervisor may cause such weeds, grass and noxious vegetation to be cut, or sprayed at a rate of one hundred (\$100.00) dollars per hour with a minimum charge of \$100.00 dollars plus the cost of levying such fines and costs against the property benefited, and for such purpose may enter upon any such lot, property, or area.

## **SECTION 6 COSTS ASSESSED**

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The City Finance Officer shall cause an account to be kept against each lot for the destruction of noxious weeds and, or tall grass upon the lot as provided in this ordinance and shall thereupon certify the account showing the amount, the description of the property and the owner thereof to the City Council, which shall thereupon add the assessment to the county or general assessment against the property and shall certify the special assessment, together with the regular assessment to the County Auditor, to be collected as same as assessments or taxes for general purposes.

## **SECTION 7 RECOVERY BY CITY**

The city shall seek financial restitution for failure to mow/ spray, and, or, after mowing/ spraying has been executed by (1) direct billing to occupants, person in charge of, or the property owner, (2) by taking civil action against the occupants, person in charge of, or the property owner, or (3) by assessing the cost against the property in the discretion.

## **SECTION 8 INTENT OF COUNCIL**

It is the intention of the council to provide a means for the city to cause lots and parcels of land that contain noxious vegetation and, or, tall grasses, to be controlled at no cost to the City.

**BE IT FURTHER ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLOME, TRIPP COUNTY, SOUTH DAKOTA, THAT ORDINANCE # 88 IS HEREBY REPEALED IN ITS ENTIRETY AND THAT ALL ORDINANCES AND PARTS OF IN CONFLICT HERewith ARE HEREBY REPEALED.**

This ordinance shall be in full force and effect twenty (20) days after its passage, approval, and publication.

**CITY OF COLOME**

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Todd Hauf, Mayor

ATTEST:

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Carol Moyer, Finance Officer

First Reading: August 1, 2011

Second Reading: September 6, 2011

Passage and Approval: September 6, 2011

Publication: September 14, 2011