

**CODIFIED LAW #25**  
**TOWN OF MISSION HILL**

***NOXIOUS WEEDS AND TALL GRASSES***

BE IT ORDAINED by the President and Board of Trustees of Mission Hill, South Dakota:

**Sec. 1 - Nuisance Declared - Noxious, Dangerous, and Unhealthy Vegetation**

All weeds or plants declared noxious, dangerous, and unhealthy vegetation specified under Town Ordinance #28, all weeds or plants declared to be primary noxious weeds or secondary noxious weeds by the State Weed Board and all forms of grasses and grassy weeds exceeding eight (8) inches in height shall be deemed noxious, dangerous, and unhealthy vegetation and are hereby declared to be nuisances.

**Sec. 2 - Duty to Cut or Treat Weeds and Tall Grass**

It shall be the duty of the owner and the occupants of any privately owned real estate located within the boundaries of the Town to keep the real estate free from noxious, dangerous, and unhealthy vegetation and to cut or treat that vegetation at such time as may be necessary to prevent the growth and reproduction of the vegetation and to prevent the vegetation from growing more than eight (8) inches in height.

**Sec. 3 - Dedicated Land**

It shall be the duty of any owner and the occupants of any privately owned real estate in the Town which abuts or adjoins a public street or alley that contains dedicated land that is not being utilized by the Town to keep the dedicated land free from noxious, dangerous, and unhealthy vegetation. In other words, the plats in the Town establish that many streets and alleys have been dedicated to include areas wider than actually used by the Town for such rights of way and that, if there is any noxious, dangerous, and unhealthy vegetation growing on the unused portion of those platted streets or alleys, the adjoining or adjacent landowners and the occupants, if any, shall be responsible for cutting or treating that vegetation.

**Sec. 4 - Notice to Cut or Treat Weeds and Grass**

Whenever it comes to the attention of the Town Board or its designee that noxious, dangerous, and unhealthy vegetation as defined in this Ordinance exists in the Town upon private property or dedicated land as provided in Sec. 3 above, a written notice shall be sent to the owners and to the occupants, if any, or to the abutting owner or occupant in the case of dedicated land, setting forth the presence and description of the noxious, dangerous, and unhealthy vegetation on the property and further stating that such vegetation must be cut or treated within seven (7) days after the sending of such notice or the Town will enter the property with lawful authority to cut or treat such vegetation and charge the owner of record and occupants a fee for such services. The notice shall be sent by certified mail to the pertinent owners and to the occupants, if any, at their last known postal address. Should there be more than one owner of record and/or more than one occupant, notice to one owner or occupant is deemed notice to all owners or occupants as the case may be.

**Sec. 5 - Weeds and Grass may be Cut or Treated by the Town**

If noxious, dangerous, and unhealthy vegetation as defined in this Ordinance is not cut or

treated within Seven (7) days notice as provided in Sec. 4 above, the owner and occupants, or abutting owner and occupants in the case of dedicated land, are deemed in violation of this Ordinance. In such instances, in addition to all other remedies available to the Town under its Ordinances and the law, designated agents of the Town may lawfully enter upon the property and cause the noxious, dangerous, and unhealthful vegetation to be cut or treated.

The fees assessed for such cutting and treatment of noxious, dangerous, and unhealthful vegetation shall be initially set at Forty Dollars (\$40.00) per hour for the labor involved, plus any expenses associated with the cutting or treatment, including but not limited to chemicals, equipment rental, equipment loading, transportation expenses, gasoline, oil and other fuel expenses. Such fees may be amended from time to time by the Town Board. Pursuant to proper notice as provided in Sec. 4 above, the owners and the occupants, or abutting owner and occupants in the case of dedicated land, shall be billed accordingly. In the event that the bill is not paid within 30 days, the charges shall be collected by means of special assessment against the owners' property or against the abutting owners' property in the case of dedicated land.

### **Sec. 6 - Special Assessment for Noxious Vegetation Cutting or Treatment**

The Town Board shall cause an account to be kept against each property tracking the fees assessed for cutting or treating the noxious vegetation during the growing season of each year, and the same shall be certified to the Town Finance Officer on or before the 15th day of November of each year.

The Auditor shall prepare an estimate of the assessment against each property for the cutting or treating of noxious vegetation for the preceding growing season, including therein the expense of levying such special assessment against the property. The estimate shall be submitted to the Town Board for its approval on or before the 15th day of January of each year.

The Auditor shall cause to be served upon the owners and occupants of the property by registered or certified mail of the time and place when the Town Board will meet for the purpose of approving such estimate.

Upon the day so named the Town Board shall meet and, if they find said estimate correct, they shall approve the same by resolution; or, if not correct, they shall correct or modify the same and approve the same as modified or corrected, and file such assessment roll with the Auditor.

From the date of the approval and filing of such assessment roll with the Auditor, the same shall be and become a special lien against the property described in the assessment roll and shall be collected in like manner as the law provides for special assessments for public improvements as are now collected.

### **Sec. 7 - Intent of Town Board**

It is the intention of the Town Board to provide a means for the Town to cause property that contain noxious, dangerous, and unhealthful vegetation as defined in this Ordinance to be cut and/or treated at no cost to the Town. It is further the intention of the Town Board that this Ordinance be construed as supplementing existing Ordinances, and this Ordinance only supercedes or replaces Section III of Ordinance #28 and those portions of other Ordinances that directly conflict with the language provided herein.

### **Sec. 8. Abatement of nuisances by injunction; other remedies not precluded.**

When any person shall do any act declared to be a nuisance by this or any other Ordinance of the Town, in addition to the remedies set forth in this or any other Ordinance of the Town, the Town may commence and complete an action in the proper courts to restrain a violation of the provision of this Town Ordinance or such nuisance by injunction, or other similar remedy. In addition, an action for abatement may be commenced by the Town attorney at the request of the Board of Trustees. The Town shall also be entitled to take advantage of any other lawful remedy available to it under the law. Action authorized by this Ordinance shall not be a bar to prosecution under this or any other Ordinance of the Town.

**Sec. 9. Severability.**

This Ordinance and the various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, it is hereby provided that the remainder of this Ordinance shall not be affected thereby.

IN WITNESS WHEREOF, the Town Board of the Town of Mission Hill has duly adopted this ordinance and caused it to be executed by the officers of the Board of Trustees of Mission Hill, South Dakota.

Scott Vanburen  
Town Board President

LeAnne J. Cutts  
Finance Officer

BOARD REVIEWED 10-14-14  
**ORDINANCE #111**