

CITY OF DE SMET
ORDINANCE NO. VIII-4A

WEEDS

BE IT ORDAINED BY THE CITY OF DE SMET, COUNTY OF KINGSBURY, STATE OF SOUTH DAKOTA:

Section VIII-1-1. WEEDS: DUTY OF OWNER – No owner of any lot, place or area within the City 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 weeds, grass or deleterious or unhealthful growths or other noxious matter that may be growing, lying or located thereon, and the growing of such weeds or other noxious or unhealthful vegetation is hereby declared to be a nuisance.

Section VIII-1-2. NOTICE TO DESTROY - A law enforcement officer or health officer is hereby authorized and empowered to notify in writing the owner of any such lot, place or area within the city or the agent of such owner or the occupant of such premises, to cut, destroy or remove any such weeds, grass or deleterious or unhealthful growths or other noxious matter found growing, lying or located on such property or upon the sidewalk abutting same. Such notice shall be by certified mail addressed to said owner, agent or occupant at his known address.

Section VIII-1-3. RIGHT OF HEARING FROM LAW ENFORCEMENT’S OR HEALTH OFFICER’S DETERMINATION – The owner or any person affected shall have the right to a hearing before the city council for investigation and review of the law enforcement officer’s or health officer’s determination. Such right to a hearing must be exercised by the filing of a request for hearing in writing with the finance officer at city hall within five (5) days after the date of posting, publishing, serving or mailing of notice to cut, destroy or remove as provided in Section 2 above. The request for a hearing shall state the objections to the law enforcement officer’s or health 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 council at its next regular or special meeting. The city council shall schedule a hearing on the matter at which time affected parties shall have a right to appear, be represented by council, 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 council at a duly called meeting. The city shall at the time of the hearing, hear and decide, whether the affected property does contain weeds, grass, or deleterious or unhealthful growths, or other noxious matter such that it constitutes a nuisance.

Section VIII-1-4. ACTION UPON NON-COMPLIANCE – Upon the failure to file a written request for hearing within five (5) days as hereinabove provided and upon failure, neglect or refusal of any owner, agent or occupant so notified to comply with said notice within fifteen (15) days after the mailing thereof, the law enforcement officer or health officer is hereby authorized and empowered to provide for the cutting, destroying, or removal of such weeds, grass or deleterious unhealthful growths or other noxious matter and to defray the cost of the destruction thereof by special assessment against the property.

Section VIII-1-5. WEED REMOVAL COSTS – If the owner or occupier of the land fails to cut the weeds, as provided for in the preceding section, the City shall cut the weeds. The cost to the landowner shall be fifty dollars (\$50.00) for the first hour of cutting and twenty-five dollars (\$25.00) for each additional hour of cutting, with a fifty-dollar (\$50.00) minimum charge.

Section VIII-1-6. COST ASSESSED – The law enforcement officer or health officer shall cause an account to be kept against each lot for the destruction of noxious weeds and mowed grass upon said lot as herein provided and shall certify the same to the City Finance Officer upon the completion of the work in destroying such weeds and abating said nuisance and the City Finance Officer shall thereupon certify said account showing the account, the description of the property and the owner thereof to the Count Auditor who shall thereupon add such assessment as a special

assessment together with the regular assessment to the County Treasurer to be collected as municipal taxes for general purposes. Said assessment shall be subject to review and equalization the same as assessments or taxes for general purposes.

Section VIII-1-7. RECOVERY BY CITY – In lieu of spreading the cost of the destruction of such weeds and grass and other deleterious matter against said property in the discretion of the city council, said amount may be recovered in a civil action against the owner or occupant of such property.

Section VIII-1-8. NOXIOUS PLANT AND WEEDS DEFINED – The following plants and weeds shall be deemed to be noxious, dangerous and unhealthful vegetation to-wit: AU Species of rag weed, all species of cockle burrs, all species of tumbleweeds, all species of thistles, dandelions, plantains, sweet clover, wild morning glory, black mustard and pig weed.

Mark Hoek, Mayor

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ATTEST:
Eileen Wolkow, City Finance Officer