

ORDINANCE 158

AN ORDINANCE FOR THE DECLARATION AND ABATEMENT
OF PUBLIC NUISANCES

BE IT ORDAINED BY TOWN OF EGAN, PURSUANT to SOUTH DAKOTA CODIFIED LAW SDCL 9-29-13 and consistent with the purpose of creating and maintaining a compatible relationship of land uses, certain standards are established to protect the public health and safety, adjacent property values and preserve aesthetic values; then therefore,

BE IT ORDAINED BY THE TOWN OF EGAN AS FOLLOWS:

Section 1. Definitions.

Enforcement Officer: Enforcement officer means any designated representative of Town of Egan, including, without limitation, Town Board Trustees, law enforcement officers or Municipal Attorney.

Person: A person means any one or more of the following:

- a. An owner, occupant or agent,
- b. An assignee or collector of rents,
- c. A contract for deed vendee,
- d. A mortgagor in possession,
- e. A receiver, executor or trustee,
- f. A lessee,
- g. A mortgagee in possession,
- h. Other person, firm or corporation exercising apparent control over a property.

Public Nuisance: Unlawfully doing an act, or omitting to perform a duty. The specific acts, conditions, and things listed in Section 3 are hereby declared to constitute public nuisances.

Section 2.

No person or persons, owner, occupant or person in charge of any house, building, lot or premises, within the corporate limits of the Town of Egan shall create, maintain or commit, or permit to be created, maintained or committed, any public nuisance as defined in Section 1 of this ordinance, or as enumerated in Section 3 of this ordinance.

Section 3.

The following are hereby declared to constitute public nuisances:

- A. Abandoned property: Any wrecked, dismantled, or partially dismantled, inoperable, abandoned and/or unlicensed motor vehicles, abandoned mobile homes, trailers, boats, refrigerators, washing machines and other appliances, plumbing fixtures, furniture, building materials and any other similar articles in such condition.
- B. Garbage and refuse: Household waste, including, but not limited to, items such as paper, rags, trash, garbage, discarded clothing, shoes, curtains, linen and other apparel, tin cans, aluminum cans, plastic containers, glass containers, cleaning utensils, cooking

utensils, and discarded household fixtures, when such items are stored, collected, piled or kept on private or public property, and in view of adjacent properties or public rights-of-way.

- C. Landscaping: Any landscaping, visible from public property, that is substantially dead, damaged or characterized by uncontrolled growth, uncultivated plants, weeds, tall grass, uncultivated shrubs or growth (whether growing or otherwise) higher than six (6) inches; or any dead trees, bushes, shrubs or portions thereof.
- D. Buildings: All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use
- E. Fire hazard: Any structure, material, condition or practice constituting a fire hazard; or which will impair the extinguishing of any fire. Examples may include but are not limited to hay or straw bales, dilapidated structures, stockpiles of combustible materials or other items as determined by the Enforcement Officer to constitute a fire hazard.
- F. Animals. All domestic animals running at large.

Section 4. Public Nuisance Penalty .

- A. Any person who maintains, commits, or fails to abate a public nuisance as required under the provisions of this ordinance shall be subject to a maximum penalty of thirty (30) days in jail or a two hundred dollar (\$200.00) fine, or both. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Section 5. Protection of Authorized Operations.

Notwithstanding any provision of this Ordinance to the contrary, it is expressly declared that a person shall not be charged with a violation of this Ordinance and no relief can be sought against the person under the provisions of this Ordinance when the conduct or activity which is alleged to violate this Ordinance is conduct or activity which is authorized by permit, license, authorization, or approval issued by the United states of America, the State of South Dakota, Moody County, or Town of Egan, and any agency or department of those governmental entities.

Section 6. Abatement of public Nuisance

- A. Inspection of Premises. Whenever complaint is made to the Town Board that a public nuisance exists, or has existed, within the Town, the Board shall promptly notify the Enforcement Officer, who shall forthwith inspect or cause to be inspected the premises and shall make a written report of his findings to the Town Board.
- B. Abatement of Nuisance Posing Threat of Immediate Danger. If the Enforcement Officer shall determine that a public nuisance exists on private property and that there is an immediate danger to the public health, safety, peace, morals, or decency, the Town Board may direct the Enforcement Officer, to serve a notice on the owner, or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance and to post a copy of the notice on the premises. Such notice shall direct the owner, occupant or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within twenty-four (24) hours and shall state that unless

such nuisance is so abated, the Town will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same, as the case may be.

- C. Abatement of Nuisance Not Posing Threat of Immediate Danger. If the Enforcement Officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten immediate danger to the public health, safety, peace, morals or decency, he/she shall file a written report of his findings to the Town Board. The Town Board shall serve notice to abate or correct the public nuisance, in person or sent by certified mail with return receipt requested, to the person of the property to be abated, at his last known address or the address to which the tax for the property was last mailed. The notice shall contain the legal description of the property, statement of the violation, a statement that the person receiving the notice has thirty (30) days to abate or correct the violation. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the Town shall cause action to abate such nuisance be commenced in the name of the Town in the circuit court of Moody County in accordance with the provisions of SDCL Chapter 21-10.
- D. Abatement of Landscape Nuisance. The Town of Egan reserves the right to abate landscape nuisances via the regulations found within Town of Egan Municipal Code Ordinance # 157, title of ordinance.
- E. Cost of Abatement. In addition to the penalty imposed by this ordinance for the erection, contrivance, creation continuance or maintenance of a public nuisance, the Town may defray the cost of abating a public nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred. When the nuisance abated is an unsafe or dilapidated building, junk, trash, debris or similar nuisance arising from the condition of the property, the Town may commence a civil action against the owner of the real property for its costs of abatement in lieu of taxing the cost by special assessment.

Section 7. Separability.

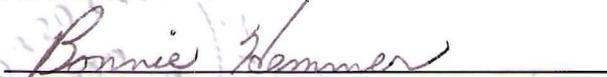
Separability. If any provision of this Ordinance shall be held invalid, it shall not effect any other provisions of this Ordinance that can be given effect without the invalid provision, and for this purpose, the provisions of this Ordinance are hereby declared to be separable.

Approved this 12th day of September, 2001.

TOWN OF EGAN


Town Board President

ATTEST:


Town Clerk

Adopted: September 12, 2001
Effective: October 17, 2001