

## **ORDINANCE 10-18**

### **AN ORDINANCE ESTABLISHING THE DAGGETT COUNTY WEED CONTROL BOARD, ESTABLISHING RULES GOVERNING THE CONTROL OF NOXIOUS WEEDS WITHIN DAGGETT COUNTY, AND PROVIDING FOR A MEANS OF ENFORCEMENT AND COST COLLECTION**

**WHEREAS**, noxious weeds are a statewide problem and deemed to be a public nuisance in Daggett County; and

**WHEREAS**, noxious weeds that are uncontrolled inflict economic damage to the resources of the county; and

**WHEREAS**, the State of Utah has set forth statutes that direct the county in a statewide noxious weed control program; and

**WHEREAS**, the State of Utah relies on the counties to be the primary party responsible for implementing noxious weed control; and

**WHEREAS**, Title 4 Chapter 17 of the Utah Code Annotated, entitled Utah Noxious Weed Act, provides for the County Authority to control noxious weeds within the county; and

**WHEREAS**, Daggett County has determined that a noxious weed control program is most effective if all residents of the county participate; and,

**WHEREAS**, it is in the best interest of the county to establish the Weed Control Board, establish rules governing the control of noxious weeds within Daggett County, and to provide for a means of enforcement and cost collection for efforts to control noxious weeds; and,

**BE IT HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS that:**

**SECTION I.** The following shall be adopted as the Daggett County Noxious Weed Ordinance and shall read as follows:

#### **A. Definitions**

1. "**Commission**" means the Daggett County Commission.
2. "**State Commissioner**" means the Commissioner of Agriculture and Food or the commissioner's representative.

3. **"County"** means Daggett County, Utah.
4. **"County noxious weed"** means any plant which is not on the state noxious weeds list, but is especially troublesome in Daggett County, and is declared by the Daggett County Commission to be a noxious weed within Daggett County.
5. **"Noxious weed"** means any plant the State Commissioner or Daggett County Commissioners, determines to be especially injurious to public health, crops, livestock, land, or other property.
6. **"Reasonable notice"** means notice given by any means, whether oral or written, that would provide actual notice to the landowner of action to be taken. It is presumed that notice should actually be received three (3) working days after it was sent.
7. **"Targeted noxious weeds"** means those weeds on the noxious weed list that the Daggett County Weed Control Board has specifically targeted for eradication efforts.
8. **"Weed Control Board"** means the Daggett County Weed Control Board.

#### **B. Creation of Weed Control Board.**

There shall be created a Weed Control Board within Daggett County, consisting of five (5) appointed members. At least two (2) members of the board will be farmers or ranchers whose primary source of income is derived from the production of agriculture within Daggett County. Members will be appointed by the Commission for a term of four (4) years. Board members may be reimbursed for expenses as determined by the Commission. Members may be removed for cause and any vacancy which occurs on the Weed Control Board shall be filled by appointment for the unexpired term of the vacating member. Daggett County currently has an acting committee known as the "Weed Board" and the initial Weed Control Board shall be the five members of the existing "Weed Board" with initial terms corresponding to the current terms of the "Weed Board".

#### **C. Responsibilities of the Weed Control Board.**

- 1) The Weed Control Board is responsible, under the general direction of the Commission, for the formulation and implementation of a coordinated noxious weed control program designed to prevent and control noxious weeds within the county. Such a program shall focus on a particular type of noxious weed on a countywide basis or on a specific weed or variety of noxious weeds within a sector of the county.
- 2) The Weed Control Board is required, under the general direction of the Commission, to cooperate with other county weed control boards to prevent and control the spread of noxious weeds.
- 3) The Weed Control Board may recommend, and the Commission may declare a particular weed or competitive plant, not appearing on the state noxious weed list, a noxious weed within the county. The Commission may also petition the State Commissioner for removal of a particular noxious weed from the state noxious weed list. The Commission may not petition the State Commissioner to remove a noxious weed unless it has first conducted a public hearing, after due notice.

#### **D. Declaration of Noxious Weeds.**

In addition to any noxious weeds on the State's list, the Commission may declare, by ordinance, a particular weed or competitive plant, not appearing on the state noxious weed list, a county noxious weed within the county

#### **E. Notice and Control of Noxious Weeds and Public Nuisance.**

- 1) The Weed Control Board, before May 1 of each year, shall post a general notice of the noxious weeds and targeted noxious weeds within the county in at least three public places within the county. The same notice shall be published, on at least three occasions, in a newspaper or other publication of general circulation within the county.
- 2) If the Weed Control Board determines that particular property within the county requires prompt and definite attention to prevent or control targeted noxious weeds, it shall serve the owner or the person in possession of the property, personally or by certified mail, a notice specifying when and what action should be taken on the property. Methods of prevention or control may include definite systems of tillage, cropping, use of chemicals, and use of livestock.
- 3) An owner or person in possession of property who, within five (5) days after notice, fails to take action to control or prevent the spread of noxious weeds as specified in the notice or fails to request a hearing or appeal, shall be deemed to be maintaining a public nuisance.
- 4) Control of weeds in rights of ways for Class A, Class B and Class C roads shall be the responsibility of the public entity having jurisdiction over said roads.
- 5) This ordinance is not intended to apply to research labs or experiment stations operated by a governmental agency or educational entity for the study of noxious weeds and the control thereof, provided that said lab or experiment station has been approved by the weed control board.

#### **F. Failure to Control Noxious Weeds and Liability of Property Owner.**

- 1) If the owner or person in possession of the property fails to take action to control or prevent the spread of noxious weeds within five (5) working days after the property is declared a public nuisance, the Weed Control Supervisor or authorized agent may, after reasonable notification, enter the property, without the consent of the owner or the person in possession, and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds.
- 2) Any expense incurred by the county in controlling the noxious weeds is paid by the property owner of record or the person in possession of the property, as the case may be, within 90 days after receipt of the charges incurred by the county. If not paid within 90 days after notice of the charges, the charges, together with interest at the prevailing legal rate, become a lien against the property and are collectible by the County Treasurer at the time general property taxes are collected.

#### **G. Right to Hearing and Appeal.**

- 1) Any person served with notice to control noxious weeds may request a hearing to appeal the terms of the notice before the Weed Control Board within five (5) days of receipt of such notice. The Weed Control Board must hold a hearing on the matter within ten (10) days of receipt of the request. The landowner or person in possession who has requested the hearing may appeal the decision of the Weed Control Board to the Commission. Said appeal to the Commission shall be filed within five (5) days of the date of the Weed Control Board's decision.
- 2) Any person served with notice to control noxious weeds who have had a hearing before both the Weed Control Board and the Commission may further appeal the decision of the Commission by filing written notice of appeal with a court of competent jurisdiction, within thirty (30) days of the Commission's decision.

**SECTION II. Repealer.**

All existing ordinances of Daggett County pertaining to noxious weeds are hereby repealed as of the effective date of this ordinance.

**SECTION III. Effective Date.** This ordinance shall become effective fifteen days after the date of approval and adoption hereof and upon proper notice as set forth in State law.

Dated this 15<sup>th</sup> day of June, 2010

ATTEST:

BOARD OF DAGGETT  
COUNTY COMMISSIONERS:

  
\_\_\_\_\_  
Vicky McKee  
County Clerk/Treasurer

  
\_\_\_\_\_  
Stewart Leith, Chairman

  
\_\_\_\_\_  
Henry Gutz, Member

  
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Floyd Briggs, Member

