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ORDINANCE 706

AN ORDINANCE REGULATING AND PROHIBITING CERTAIN NUISANCES, WEEDS, VEGETATION, SALVAGE AND JUNK; AND PROVIDING FOR THE ABATEMENT AND REMOVAL OF SAME AND PENALTY FOR VIOLATIONS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNE PLAIN, KANSAS:

Section 1. DEFINITIONS. (a) Person: Person shall mean a natural person or a legal entity such as, but not limited to, an individual, firm, corporation.

(b) Owner: Owner shall mean any person who, alone or jointly or severally with others:

(1) Shall have record legal title to any property, or structure thereon, with or without accompanying actual possession thereof; or,

(2) Shall have charge, possession, care or control of any property, or structure thereon, as owner, agent of the owner, tenant, executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner.

(c) Nuisance: Nuisance shall mean any property or condition which is injurious to health, or is a potential health hazard, or is indecent, offensive to the senses or an obstruction to the free use or enjoyment of property, so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood, neighbor or citizen of the City, or a majority of the persons subjected to the condition, such condition being no less a nuisance because the extent of the annoyance or damage inflicted is unequal.

Section 2. NUISANCES. It shall be unlawful for any person to maintain or to permit to exist any nuisance as herein described. Nuisances shall include, but not be limited to, the following conditions or materials which are declared to be injurious to the health and well-being of the citizens of the city, to-wit:

(a) Waste water discharged or allowed to accumulate in such a manner that it does allow or may allow direct human contact with human or animal excreta, organic or inorganic pollution of ground or surface water, breeding, harboring or attraction of insects and rodents, or the emission of offensive odors.

(b) Dead animals except those at slaughter houses and except those considered industrial refuse that are properly maintained for processing or disposal.

(c) The discharge into the atmosphere of any gaseous or particulate matter resulting from the combustion, reduction, processing particulate matter resulting from the combustion, reduction, processing or manufacturing of materials in industrial operations or commercial operations which cause or may cause injury to the health of individuals or damage to business or property, cause annoyance to a majority of persons so subjected or be considered an objectionable odor, or particulate emissions from a single source for a period or periods aggregating more than three minutes in any one hour which is of such opacity as to obscure an observer's view to less than 1/10th of a mile.

- (d) Open basement structures, excavations, swimming pools, storm cellars, or other excavations that offer hazards to children or other persons, collect water, or produce mosquitoes, except those excavations authorized by a current building permit and those excavations in use as part of occupied premises if maintained with adequate drainage and fencing consisting of material recognized for the purpose and having openings not larger than two inches.
- (e) Weeds that are over eight (8) inches high on lots and pieces of land and in streets and alleys in front of and abutting on any lot or piece of land in the city.
- (f) Water impoundments capable of causing mosquito infestations.
- (g) Salvage material, litter, refuse, junk or other materials of an offensive nature on any lot or premises; provided that building materials to be used within three (3) months for construction on the premises, if properly authorized by a current building permit, may be kept if stored at least eighteen (18) inches off the ground and not less than six (6) feet from the property line; or unless specific authority has been granted under appropriate city ordinances.
- (h) Conditions that encourage or permit unnecessary breeding of insects that are annoying or dangerous to residents of the city.
- (i) Premises or property of any kind which would permit the harboring of rodents, rats, mice or other vermin.

Section 3. EXAMINATION; NOTICES; REMOVAL OF NUISANCE BY CITY. In addition to the remedy of prosecution and enforcement as hereinafter provided, city personnel are authorized to enter into or upon any premises or establishment for the purpose of making a thorough examination to determine if a nuisance exists. If, upon investigation, the employee determines that a nuisance exists, he shall instruct the City Clerk to give notice as herein required to the owner or occupant of the premises on which the nuisance is located, or to such other person as may be necessary.

Upon receiving instructions from the employee as above stated, or upon receiving a complaint from any person, as to the violation of this ordinance, the City Clerk shall give notice of such violation in writing to the owner or occupant or other person in charge of lots or pieces of land in the city upon which the nuisance exists and who are in violation hereof, advising that such nuisance should be abated and removed immediately.

As soon as practical after the expiration of five (5) days from the date of the letter, said City Clerk shall cause to be abated and removed any nuisance which has not been so abated and removed as provided in the notice, including, but not limited to, the cutting of any weeds or obnoxious growths of vegetation over eight (8) inches high on lots and pieces of land and in the streets and alleys located in the city, and the removal of any and all junk, debris, salvage, litter, refuse or other offensive materials which are in violation hereof or which may be encouraging or permitting in any way the continuation of any nuisance defined herein. It is understood that the five (5) days referred to above may be extended by the City Council as it may determine necessary.

Section 4. MANNER OF ABATEMENT BY CITY; COST. The City Clerk shall cause the nuisance to be abated, removed or suppressed by enlisting the services of any city employee at the current work rate, or private contractors, and the cost thereof shall be taxed against the lot or tract of ground upon which the nuisance is located and maintained as provided by law. Such cost shall be

certified to the County Clerk of Sedgwick County, Kansas and to such other authorities as may be proper, after the nuisance has been abated or suppressed.

Section 5. VIOLATION IS A MISDEMEANOR; ORDER OF ABATEMENT. Any person who shall be convicted in the Municipal Court of violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be fined by not less than \$10.00 nor more than \$100.00. Each day that any such violation occurs shall constitute a separate offense and shall be punishable as a separate violation. Provided, however, that if, upon trial of any person found guilty of a misdemeanor hereunder, it shall appear to the Court that the nuisance complained of as prescribed in this ordinance is continuing, the Court shall enter such order as it shall deem appropriate to cause the nuisance to be abated.

Section 6. VALIDITY. Should any section, clause or provision of this ordinance be declared invalid by any court of competent jurisdiction, same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part declared invalid.

Section 7. REPEAL. This ordinance repeals Ordinance No 231 and all previous ordinances conflicting herewith.

Section 8. EFFECTIVE DATE. This ordinance shall be in full force and effect after its passage and publication once in the official city newspaper.

PASSED AND APPROVED by the Governing Body of the City of Garden Plain, Kansas, this 1st day

of May 2019



Kevin R. Hammond

Kevin Hammond, Mayor

Attest,

Kimberly C McCormick

Kimberly C McCormick, CMC
City Clerk