

ORDINANCENO. 456

AN ORDINANCE OF THE BOARD OF CITY COMMISSIONERS FOR THE CITY OF MANGUM, OKLAHOMA, AMENDING TITLE 5, CHAPTER 1, ARTICLE A, SECTION 6 BY EXPANDING THE DEFINITION OF OWNER AND INCLUDING A DEFINITION FOR PROPERTY; DECLARING THE ACCUMULATION OF WEEDS, NOXIOUS PLANTS, TRASH OR THICKETS AS A PUBLIC NUISANCE; DECLARING ANY PERSON THAT VIOLATES THE PROVISIONS OF THIS SECTION TO BE GUILTY OF A PUBLIC NUISANCE; RENUMBERING THE SUBSECTIONS; DECLARING AN EMERGENCY; PROVIDING FOR SEVERABILITY; AND AMENDING ALL ORDINANCES OR RESOLUTIONS IN CONFLICT.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND BOARD OF COMISSIONERS OF THE CITY OF MANGUM, OKLAHOMA;

§ 1. That a new Title 5, Chapter 1, Article A, section 6 is amended and renumbered as follows:

5-1A-6: CLEANING AND MOWING PROPERTY:

A. Definitions: For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

CLEANING: The removal of trash from property.

OWNER: The owner of record as shown by the most current tax rolls of the County Treasurer's office or any person, firm, or corporation having legal or equitable interest in the property, including an officer, guardian, executor, administrator, mortgagee in possession, or a managing or leasing agent of such person, firm, or corporation.

PROPERTY: Property means the entirety of an owner's property, inclusive of all lots, tracts, or parcels of land and such lots, tracts, or parcels of land along the sidewalk, street, or unpaved alley adjacent to such lot, tract, or parcel of land, and along or in streets, dedicated alleys, alley easements, utility easements, or other public ways that runs on, through, or across or abuts such lot, tract, or parcel of land, with such property line extending from and to the center of any adjacent or bounding street, alley, or alley easement,

TRASH: Any refuse, litter, ashes, leaves, debris, paper, combustible materials, rubbish, offal, waste or matter of any kind or form which is uncared for, discarded or abandoned.

WEED: 1. Includes, but is not limited to, poison ivy, poison oak or poison sumac and all vegetation at any state of maturity which:

a. Exceeds twelve inches (12") in height, except healthy trees, shrubs or produce for human consumption grown in a tended and cultivated garden unless the trees and shrubbery, by their density or location, constitute a detriment to the health, benefit and welfare of the public and

community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of the weeds;

b. Regardless of height, harbors, conceals or invites deposits or accumulation of refuse or trash;

c. Harbors rodents or vermin;

d. Gives off unpleasant or noxious odors;

e. Constitutes a fire or traffic hazard; or

f. Is dead or diseased.

2. The term "weed" shall not include tended crops on land zoned for agricultural use which are planted more than one hundred fifty feet (150') from a parcel zoned for other than agricultural use. (2002 Code § 96.04)

B. In addition to other public nuisances declared by other sections of this code or law, Weeds, noxious plants, trash, or thickets which are allowed to stand at any season of the year upon an owner's property constitutes a public nuisance.

C. Any owner of any property within the corporal city limits that allows the accumulation of weeds, noxious plants, trash, or thickets to grow or stand upon his or her property, is guilty of violating this section of this code.

D. Cleaning And Mowing Procedures: The Board of Commissioners, or appointed administrative officer, may cause property within the City limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the following procedure:

1. Notice To Clean Or Mow:

a. At least ten (10) days' notice shall be given to the owner of the property by mail at the address shown by the current year's tax rolls in the County Treasurer's Office before the Board of Commissioners holds a hearing or takes action. The notice shall order the property owner to clean the property of trash or to cut or mow the weeds or grass on the property, as appropriate, and the notice shall further state that unless the work is performed within ten (10) days of the date of the notice, the work shall be done by the City and a notice of lien shall be filed with the County Clerk against property for the costs due and owing the City. At the time of mailing of notice to the property owner, the City shall obtain a receipt of mailing from the postal service, which receipt shall indicate the date of mailing and the name and address of the mailer.

b. If the property owner cannot be located within ten (10) days from the date of mailing by the City Board of Commissioners, notice may be given by posting a copy of the notice on the property or by publication, as defined in 11 Oklahoma Statutes section 1-102, one time not less than ten (10) days prior to any hearing or action by the City. If the Board of Commissioners anticipates summary abatement of a nuisance in accordance with the provisions of subsection C of this section, the notice, whether by certified mail, posting or publication, shall state that any accumulations of trash or excessive weed or grass growth on the owner's property occurring within six (6) months after the removal of trash or cutting or mowing of weeds or grass on the property pursuant to notice may be summarily abated by the Board of Commissioners, that the costs of the abatement shall be assessed against the owner and that a

lien may be imposed on the property to secure the payment, all without further prior notice to the property owner.

2. Consent Given For City To Clean And Mow: The owner of the property may give his written consent to the City authorizing the removal of the trash or the mowing of the weeds or grass. By giving written consent, the owner waives his right to a hearing by the City.

3. Hearing Regarding Abatement Requirement: A hearing may be held by the Board of Commissioners to determine whether the accumulation of trash or the growth of weeds or grass has caused the property to become detrimental to the health, benefit and welfare of the public and the community or a hazard to traffic, or creates a fire hazard to the danger of property.

4. Entry Powers Of City To Clean Or Mow; Notice Of Lien: Upon a finding that the condition of the property constitutes a detriment or hazard, and that the property would be benefited by the removal of conditions, the agents of the City are granted the right of entry on the property for the removal of trash, mowing of weeds or grass and performance of the necessary duties as a governmental function of the City. Immediately following the cleaning or mowing of the property, the City Clerk shall file a notice of lien with the County Clerk describing the property and the work performed by the City, and stating that the City claims a lien on the property for the cleaning or mowing costs.

5. Costs; Lien Provisions:

a. The Board of Commissioners shall determine the actual cost of cleaning and mowing and any other expenses that may be necessary in connection therewith, including the cost of notice and mailing. The City Clerk shall forward by mail to the property owner specified in subsection B1 of this section a statement of actual cost and demanding payment. If the cleaning and mowing are done by the City, the cost to the property owner for the cleaning and mowing shall not exceed the actual cost of the labor, maintenance and equipment required. If the cleaning and mowing are done on a private contract basis, the contract shall be awarded to the lowest and best bidder.

b. If payment is not made within thirty (30) days from the date of the mailing of the statement, the City Clerk shall forward a certified statement of the amount of the cost to the County Treasurer, and the same shall be levied on the property and collected by the County Treasurer as other taxes authorized by law. Until fully paid, the cost and the interest thereon shall be the personal obligation of the property owner for and after the date the cost is certified to the County Treasurer.

c. In addition, the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the County Treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection, the County Treasurer shall collect a fee of five dollars (\$5.00) for each parcel of property. The fee shall be deposited to the credit of the General Fund of the County.

d. At any time prior to the collection as provided in this subsection B5, the City may pursue any civil remedy for collection of the amount owing and interest thereon including an action in personam against the property owner and an action in rem to foreclose its lien against the property. A mineral interest, if severed from the surface interest and not owned by the surface

owner, shall not be subject to any tax or judgment lien created pursuant to this section. Upon receiving payment, if any, the City Clerk shall forward to the County Treasurer a notice of payment and directing discharge of the lien. (2002 Code § 96.03; amd. 2018 Code)

E. Reoccurrence Of Nuisance: If the Board of Commissioners causes property within the City limits to be cleaned of trash and weeds or grass to be cut or mowed in accordance with the procedures provided in subsection B of this section, any subsequent accumulations of trash or excessive weed or grass growth on the property occurring within a six (6) month period may be declared to be a nuisance and may be summarily abated without further prior notice to the property owner. At the time of each summary abatement, the City shall notify the property owner of the abatement and the costs thereof. The notice shall state that the property owner may request a hearing within ten (10) days after the date of mailing the notice. The notice and hearing shall be as provided in subsection B of this section. Unless otherwise determined at the hearing, the cost of abatement shall be determined and collected as provided in subsection B5 of this section. Provided, however, that this subsection shall not apply if the records of the County Clerk show that the property was transferred after notice was given pursuant to subsection B of this section.

F. Exemptions: The provisions of this section shall not apply to any property zoned and used for agricultural purposes. (2002 Code § 96.04; amd. 2018 Code)

§ 2. An emergency is declared to exist; therefore, this Ordinance is effective immediately.

§ 3. That if any court with proper jurisdiction, or any act by any legislature, makes any provision of this Ordinance invalid, the remainder of such ordinance will remain in full force and effect.

§ 4. That all ordinances or parts of ordinances in conflict with this ordinance are repealed.

ADOPTED this ____ day of August, 2019.

Mary Jane Scott, Mayor

ATTEST:

Billie Chilson, City Clerk

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a. Exceeds twelve inches (12") in height, except healthy trees, shrubs or produce for human consumption grown in a tended and cultivated garden unless the trees and shrubbery, by their density or location, constitute a detriment to the health, benefit and welfare of the public and community or a hazard to traffic or create a fire hazard to the property or otherwise interfere with the mowing of the weeds;

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- c. In addition, the cost and the interest thereon shall be a lien against the property from the date the cost is certified to the County Treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments and prior and superior to all other titles and liens against the property, and the lien shall continue until the cost shall be fully paid. At the time of collection, the County Treasurer shall collect a fee of five dollars (\$5.00) for each parcel of property. The fee shall be deposited to the credit of the General Fund of the County.
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