

AN ORDINANCE PROVIDING THE TOWN COUNCIL OF THE TOWN OF GILBERT
WITH AUTHORITY TO DECLARE A NUISANCE AND CAUSE ITS ABATEMENT
OR REMOVAL.

WHEREAS, STATUTORY AUTHORITY IS GRANTED TO INCORPORATED TOWNS TO PREVENT INJURY OR ANNOYANCE WITHIN THE TOWN LIMITS FROM ANYTHING DANGEROUS, OFFENSIVE, OR UNHEALTHY, AND TO CAUSE ANY NUISANCE TO BE ABATED THAT IS IN VIOLATION OF REGULATIONS PROVIDED BY THE ARKANSAS BOARD OF HEALTH.

WHEREAS, STATUTORY AUTHORITY IS GRANTED TO INCORPORATED TOWNS TO ORDER OWNERS OF LOTS AND OTHER REAL PROPERTY WITHIN THE TOWN BOUNDARIES TO CUT WEEDS, TO REMOVE GARBAGE, RUBBISH, AND OTHER UNSIGHTLY AND UNSANITARY ARTICLES ON THE PROPERTY, AND TO ELIMATE, REPAIR, OR REMOVE ANY BUILDINGS, HOUSES, AND UNSANITARY ARTICLES THAT IN THE OPINION OF THE TOWN COUNCIL HAVE BECOME DILAPIDATED, UNSIGHTLY, UNSAFE, UNSANITARY, OR DETRIMENTAL TO THE PUBLIC WELFARE; AND WHEREAS THE TOWN COUNCIL DESIRES TO EXERCISE AND IMPLEMENT PROCEDURES REGARDING NUISANCES.

NOW THEREFORE BE IT ORDAINED:

SECTION 1: THE TERM "NUISANCE" AS USED HEREIN SHALL INCLUDE; OVERGROWN YARDS AND LOTS, BUILDINGS, HOUSES, RUBBISH, GARBAGE, OR OTHER ARTICLES THAT HAVE BECOME DILAPIDATED, UNSIGHTLY, UNSANITARY, UNSAFE, OR DETRIMENTAL TO PUBLIC WELFARE.

SECTION 2: IT SHALL BE UNLAWFUL FOR ANY PERSON(S), PARTNERSHIP(S), CORPORATIONS(S), OR ASSOCIATION TO OWN, POSSESS, OR MAINTAIN A NUISANCE WITHIN THE TOWN OF GILBERT.

SECTION 3: AN INITIAL INVESTIGATION OF AN ALLEDGED NUISANCE SHALL BE MADE BY A COMMITTEE COMPRISED OF THE MAYOR, ONE MEMBER OF THE TOWN COUNCIL, AND THE SEARCY COUNTY SANITARIAN. SUBSEQUENT TO SAID INVESTIGATION THE COMMITTEE OR ITS SPOKESMAN SHALL MAKE A RECOMMENDATION TO THE TOWN COUNCIL AS TO WHETHER AN ALLEDGED NUISANCE EXISTS.

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SECTION 4: SUBSEQUENT TO THE COMMITTEE'S RECOMMENDATION, THE TOWN COUNCIL SHALL DETERMINE BY RESOLUTION WHETHER ANY NUISANCE EXIST. THE TOWN COUNCIL SHALL FUTHER DETERMINE BY WRITTEN RESOLUTION WHAT COURSE OF ACTION SHOULD BE TAKEN REGARDING SAID NUISANCES AND THEIR ABATEMENT OR REMOVAL.

SECTION 5: ALL PROCEEDINGS FOR THE PREVENTION, ABATEMENT, OR REMOVAL OF ANY NUISANCE, ONCE DECLARED BY COUNCIL SHALL BE CEMMENCED EITHER BY:

A. NOTIFING THE OWNERS OF SAID NUISANCE IN WRITING INCLUDING AN ADEQUATE DESCRIPTION OF THE NUISANCE AND REQUEST THEIR COURSE OF ACTION FOR ITS REMOVAL OR ABATEMENT; OR

B. HAVING THE TOWN COUNCIL ISSUE A RESOLUTION ORDERING THE REMOVAL OR ABATEMENT OF THE NUISANCE WITHIN A SPECIFIC AND RESONABLE TIME: OR

C. FOLLOWING BOTH OF THE PROVISIONS IN SUBPARAGRAPHS (A) AND (B).

SECTION 6: IF THE CITY COUNCIL RESOLVES TO ORDER THE REMOVAL OR ABATEMENT OF ANY NUISANCE PURSUANT TO PARAGRAPH 5(B), SAID RESOLUTION SHALL INCLUDE AN ADEQUATE DESCRIPTION OF THE NUISANCE, AND THE SPECIFIC AND RESONABLE TIME WITHIN WHICH IT SHALL BE REMOVED OR ABATED. A CERTIFIED COPY OF SAID RESOLUTION SHALL BE MAILED TO THE OWNER THEREOF BY CERTIFIED MAIL AT THE OWNER'S LAST KNOWN ADDRESS. IN ADDITION A COPY OF SAID RESOLUTION SHALL BE POSTED AT A CONSPICUOUS PLACE ON THE BUILDING(S), STRUCTURE(S), HOUSE(S), WALL(S), OR PROPERTY CONTAINING THE NUISANCE. IF THE OWNER CANNOT BE LOCATED, THE RESOLUTION SHALL BE ADVERTISED IN THE LOCAL NEWSPAPER OF GENERAL CIRCULATION FOR NO LESS THAN TWO WEEKS TIME BEFORE THE TIME FOR ABATEMENT OR REMOVAL CAN COMMENCE TO RUN.

SECTION 7: IF THE NUISANCE IS NOT REMOVED OR ABATED AS REQUESTED IN PARAGRAPH 6, THEN THE NUISANCE MAY BE ABATED OR REMOVED BY THE MAYOR OR HIS DULY AUTHORIZED REPRESENTATIVES WITH SUCH ASSISTANCE AS NECESSARY. IN SUCH CASES, THE PARTY PROCEEDED AGAINST SHALL BE RESPONSIBLE FOR ALL COSTS INCURRED IN THE REMOVAL

OR ABATEMENT OF THE NUISANCE. THE PARTY PROCEEDED AGAINST SHALL NOT RECEIVE ANY COMPENSATION FOR LOSS OF PROPERTY IF REMOVAL OR ABATEMENT REQUIRES THE DESTRUCTION OR RAZING OF ANY HOUSE(S), BUILDING(S), STRUCTURE(S), WALL(S), AND CONTENTS THEREIN WHICH ARE PART OF THE NUISANCE.

SECTION 8: IN THE EVENT REMOVAL OF A NUISANCE PRODUCES ANY MARKETABLE SCRAP AND/OR BUILDING MATERIALS, THE SAME SHALL BE SOLD, UPON REASONABLE ADVERTISEMENT AND NOTICE IN THE LOCAL NEWSPAPER OF GENERAL CIRCULATION, AT PUBLIC SALE TO THE HIGHEST BIDDER. ALL PROCEEDS FROM SAID SALE SHALL BE DEPOSITED IN THE CITY GENERAL FUND OR INTO SUCH OTHER SPECIFIC ACCOUNT AS THE CITY COUNCIL MAY DESIGNATE.

SECTION 9: IF FOR ANY REASON ANY PORTION OF THIS ORDINANCE IS DEEMED INVALID, SUCH INVALIDITY SHALL NOT AFFECT THE REMAINING PORTIONS HEREOF WHICH SHALL REMAIN IN FULL FORCE AND EFFECT.

SECTION 10: ALL ORDINANCES OR PARTS THEREOF THAT ARE IN CONFLICT HERewith ARE HEREBY REPEALED.

SECTION 11: DECLARING AN EMERGENCY. IT IS HEREBY FOUND AND DETERMINED THAT AN EMERGENCY EXISTS WITH REFERENCE TO THE ABILITY OF THE TOWN OF GILBERT TO ADEQUATELY DISPOSE OF PROBLEMS RELATING TO THE ABATEMENT OF NUISANCES THEREBY RENDERING IT NECESSARY TO PROVIDE EFFECTIVE METHODS FOR IDENTIFYING AND DECLARING NUISANCES AND ORDERING THEIR REMOVAL OR TO PROVIDE SUFFICIENT PENALTIES TO ENCOURAGE THEIR PROMPT ABATEMENT OR REMOVAL. THEREFORE, AN EMERGENCY IS HEREBY DECLARED TO EXIST AND THIS ORDINANCE, BEING NECESSARY FOR THE PRESERVATION AND ADVANCEMENT OF THE PUBLIC HEALTH, SAFETY, AND WELFARE, SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE.

PASSED THIS 24th DAY OF MARCH 1992

APPROVED: Bill Lander
MAYOR

ATTEST: Emily Drow
CITY CLERK