

ORDINANCE NO. 2022-009

AN ORDINANCE AMENDING ARTICLE V, CHAPTER III, REGARDING
"TREES" & CHAPTER VI OF THE CITY CODE OF THE CITY OF KILLDEER
RELATING TO OFFENSES.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KILLDEER, NORTH
DAKOTA, AS FOLLOWS:

**Section 1: Chapter 3, Article 5, entitled "TREES" is hereby amended and re-
enacted as follows:**

3.0501 PURPOSE.

It is the purpose of this ordinance to promote and protect the public health, safety, and general welfare by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the City of Killdeer, North Dakota.

First Reading March 15, 2004, Final Reading and Passage April 5, 2004.

3.0502 AUTHORITY AND POWER.

There is hereby created and established a Killdeer City Tree Board for the City of Killdeer, which shall consist of five members, citizens and residents of this city, who shall be appointed by the Killdeer City Commission, election to the Killdeer Park Board. Members of the Tree Board shall to serve without compensation. It shall be the goal of the Tree Board to be comprised of one (1) member of the Killdeer City Commission, two (2) members of the Killdeer City Park Board, and two (2) members of the general public residing in the City of Killdeer, or some combination thereof.

First Reading March 15, 2004, Final Reading and Passage April 5, 2004.

3.0503 TERM OF OFFICE.

The term of the five persons to be appointed by election shall be two and four year terms. the same as their Park Board-In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the un-expired portion of the term.

First Reading March 15, 2004, Final Reading and Passage April 5, 2004.

3.0504 APPLICABILITY.

This ordinance provides full power and authority over all frees, plants and shrubs located within street rights-of-ways, parks and public places of the city; and to trees, plants and shrubs located on private property that constitute a hazard or threat.

First Reading March 15, 2004, Final Reading and Passage April 5, 2004.

3.0505 OPERATION.

The Tree Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

First Reading March 15, 2004, Final Reading and Passage April 5, 2004.

3.0506 UTILITIES.

No street trees other than those species listed as small trees may be planted under or within ten (10) lateral feet of any overhead utility wires or over or within five (5) lateral feet of any underground water line, sewer line, transmission line or other utility.

First Reading March 15, 2004, Final Reading and Passage April 5, 2004.

3.0507 PUBLIC TREE CARE.

The City of Killdeer shall have the right to plant, prune, spray, preserve and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes and public grounds, as may be necessary to ensure safety when serving City utilities or to preserve the symmetry and beauty of such public grounds. The Tree Board, with City Commission approval, may remove or cause to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

First Reading March 15, 2004, Final Reading and Passage April 5, 2004.

3.0508 TRIMMING.

Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches so that such branches shall not obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or right-of-way. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with visibility of any traffic signs, such pruning to be confined to the area immediately above the right-of-way.

First Reading March 15, 2004, Final Reading and Passage April 5, 2004.

3.0509 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The City shall have the right to cause the removal of any dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property, or harbor insects or disease which constitute a potential threat to other trees within the city, The Tree Board will notify in writing the owners of such trees. The removal shall be done by said owners at their expense within sixty days after the date of service notice, In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

First Reading March 15, 2004, Final Reading and Passage April 5, 2004.

3.0510 REVIEW BY CITY COMMISSION.

The City Commission shall have the right to review the conduct, acts and decisions of the Tree Board. Any person may appeal any ruling or order of the Tree Board to the City Commission who may hear the matter and make a final decision.

First Reading March 15, 2004, Final Reading and Passage April 5, 2004.

3.0511 SEVERABILITY.

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

First Reading March 15, 2004, Final Reading and Passage April 5, 2004.

Section 2: ARTICLE 6, CHAPTER 1 entitled "OFFENSES AGAINST PERSONS" is hereby amended and re-enacted as follows:

6.0101 DISORDERLY CONDUCT

~~No person in the city shall disturb, tend to disturb, or aid in disturbing the peace of others by violent, tumultuous, offensive or obstreperous conduct, and no person shall knowingly permit such conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him/her or under his/her control.~~

6.0102 ASSAULT

~~No person in the ci ty shall beat, strike, wound, imprison, or inflict violence on another where the circumstances show malice or assault another with intent to commit murder, rape, mayhem, robbery, or larceny. Nor shall any person assault another with a lethal weapon, instrument, or thing with intent to commit upon the person of another any bodily injury where no considerable provocation appears, to where the circumstances of the assault show malice.~~

6.0103 VAGRANCY

No person in the city shall have the status or condition of a "vagrant". The following persons shall be deemed vagrants:

1. Burglars' Tools.

Any person upon whose person or in whose possession shall be found any instrument, tool, or other implement for picking locks or pockets, or any implement that is usually employed or that reasonably may be inferred to have been designed to be employed in the commission of any felony, misdemeanor or the violation of any ordinance, and who shall fail to account satisfactorily for the possession of the same.

2. Unlawful Occupancy.

Any person wandering abroad and occupying, lodging, or sleeping in any vacant or unoccupied barn, garage, shed, shop, or other building or structure, or in any automobile, truck, railroad car, or other vehicle, without owning the same or without permission of the owner or person entitled to the possession of the same, or sleeping in any vacant lot during the hours of darkness and not giving a satisfactory account of himself or herself.

3. Begging.

Any person wandering abroad and begging; or any person who goes about from door to door of private homes or commercial business establishments, or places himself or herself in or upon any public way or public place to beg or receive alms for himself or herself.

6.0104 DISTURBING RELIGIOUS WORSHIP

No person in the city shall disquiet or disturb any congregation or assembly for religious worship by making a noise or by rude or indecent behavior, or profane discourse within their place of worship, or so near the same as to disturb the order or solemnity of the meeting.

6.0105 POSSESSION OF MARIJUANA

~~A person is guilty of a criminal offense if he/she possesses less than one/ half ounce of marijuana as defined by Section 19-3.1-01 of the North Dakota Century Code provided, however, that the penalty assessed shall be subject to ss 4 of Section 19-03.1-23 of the North Dakota Century Code.~~

6.0106 KEEPING OF WILD ANIMALS PROHIBITED

A person is guilty of a criminal offense if he/she keeps or maintains any wild animal within the jurisdictional limits of the city of Killdeer. Any circus, animal show, carnival or other entity which shall receive a permit from the board of city commissioners to exhibit wild animals, shall be exempt from the provisions hereof.

Section 3: ARTICLE 6, CHAPTER 2 entitled "OFFENSES AGAINST PUBLIC SAFETY" is hereby amended and re-enacted as follows:

6.0201 WEAPONS, CARRYING CONCEALED

~~No person in the city shall wear under his clothes, or conceal about his person, or display in a threatening manner, any dangerous or deadly weapon, except as authorized by law, including, but not by way of limitations, any pistol, revolver, sling shot, cross-knuckles or knuckles of lead, brass, or other metal, or any bowie knife, or any knife resembling a bowie knife, or any knife with a switch-blade or device whereby the blade or blades can be opened by a flick of a pressure on the handle, or other mechanical contrivance.~~

6.0202 WEAPONS, POSSESSION OF, EXCEPTIONS WHEN

~~No person in the city shall have in his/her possession, except within his/her own domicile, or carry or, use, a loaded revolver or pistol of any description, shotgun, or rifle which may be used for the explosion of cartridges, or any air-gun, "B-B gun", gas-operated gun or spring gun, or any instrument, toy or weapon commonly known as a "peashooter", "sling-shot", or "beany" or any bow made for the purpose of throwing or projecting missiles of any kind by any means whatsoever, whether such instrument is called by any name set forth above or by any other name.~~

1.——~~Exception for licensed and other specific premises. The prohibition of subsection 6.0202 above shall not apply to licensed shooting galleries or in private grounds or premises under circumstances when such instrument can be fired, discharged or operated in such a manner as not to endanger persons or property, and also in such manner as to prevent the projectile from traversing any grounds or space outside the limits of such gallery, grounds or residence.~~

2.——~~Exception for authorized officials. The prohibition of this subsection shall not be construed to forbid United States marshals, sheriffs, constables, and their deputies, and any regular,~~

~~special, or ex officio police officer, or any other law enforcement officer from carrying or wearing while on duty such weapons as shall be necessary in the proper discharge of their duties.~~

~~6.0203 WEAPONS, FORFEITURE OF~~

~~Every person convicted of a violation of sections 6.0201 or 6.0202 shall forfeit to the city such dangerous or deadly weapon so concealed or displayed.~~

~~6.0204 WEAPONS, DISPOSITION OF~~

~~Every police officer, upon making any arrest and taking a weapon used in violation of this article, shall deliver the same to the chief of police or other designated official, to be held by him/her until the final determination of the prosecution for said offense; and upon the findings of guilt, it shall then be the duty of said municipal judge or other designated official to deliver said weapon forthwith to the chief of police who shall make disposition of the weapon.~~

~~6.0205 THROWING MISSILES~~

~~It shall be unlawful for any person in the city to throw any stone, snowball or any other missile upon or at any vehicle, building, tree, or other public or private property, or upon or at any person in any public or private way or place or enclosed or unenclosed ground.~~

~~6.0206 FALSE ALARMS~~

~~No person in the city shall intentionally make, turn in, or give a false alarm of fire, or of need for police or ambulance assistance, or aid or abet in the commission of such act.~~

~~6.0207 FALSE REPORTS~~

~~No person in the city shall make to, or file with, the police department of the city any false, misleading, or unfounded statement or report concerning the commission or alleged commission of any crime occurring in the city.~~

~~6.0208 INTERFERENCE WITH OFFICERS~~

~~No person in the city shall resist any police or fire officer, any member of the police or fire departments, or any person duly empowered with police or fire authority, while in the discharge or apparent discharge of his/her duty, or in any way interfere with or hinder him/her in the discharge of his/her duty.~~

Section 4: ARTICLE 6, CHAPTER 3 entitled "OFFENSES AGAINST PROPERTY" is hereby amended and re-enacted as follows:

6.0301 AGAINST PUBLIC AND PRIVATE PROPERTY

a. Injury or Removal. No person in the city shall willfully, maliciously, wantonly, negligently or otherwise injure, deface, destroy or remove real property or improvements thereto, or moveable or personal property, belonging to the city or to any person in the city.

b. Scattering Rubbish. No person in the city shall throw or permit to be deposited or scattered upon any sidewalk, alley, street, bridge or public passageway, or upon any private property, any waste or other material of any kind.

c. Posting Notices. No person in the city shall fasten in any way any show-card, poster or other advertising device upon public or private property in the city unless legally authorized to do so.

d. Tampering with Vehicles. No person in the city shall, without the consent of the owner or person in charge of a vehicle, climb into or upon such vehicle with the intent to commit any crime, malicious mischief or injury thereto, or who, while a vehicle is at rest and unattended, shall attempt to manipulate any of the levers, starting devices, brakes or other mechanism thereof or to set such vehicle in motion. Except, the provisions of this section shall not apply when such act is done in an emergency in furtherance of public safety or convenience or by or under the direction of an officer in the regulation of traffic or the performance of any other official duty.

6.0302 AGAINST PUBLIC PROPERTY

a. Tampering. No person in the city shall tamper with, injure, deface, destroy or remove any sign, notice, marker, fire alarm box, fireplug, topographical survey monument or any other personal property erected or placed by the city.

b. Obstructing Passageways. No person in the city shall place or erect upon public way or passageway to any building an obstruction of any type, provided that this subsection shall not prevent the duly authorized or required placing of temporary barriers or warning signs for the purpose of safeguarding the public.

c. Removal of Earth. No person shall move, disturb, or take any earth, stone or other material from any public street, alley, park or other public ground.

Section 5: ARTICLE 6, CHAPTER 4 entitled "OFFENSES AGAINST MORALS" is hereby amended and re-enacted as follows:

~~6.0401 PROSTITUTION~~

~~1. Committing. No person in the city shall commit or offer or agree to commit a lewd act or an act of prostitution or moral perversion.~~

~~2. Securing. No person in the city shall secure or offer another for the purpose of committing a lewd act or an act of prostitution or moral perversion.~~

~~3. Frequenting. No person in the city shall be in or near any place frequented by the public, or any public place, for the purpose of inducing, enticing, or procuring another to commit a lewd act or an act of prostitution or moral perversion.~~

~~4. Meretricious Display. No person in the city shall make a meretricious display in or near any public place, any place frequented by the public, or any place open to the public view.~~

~~5. Transportation. No person in the city shall knowingly transport any person to any place for the purpose of committing a lewd act or an act of prostitution or moral perversion.~~

~~6. Permitting. No person in the city shall knowingly receive, or offer or agree to receive any person into any place or building for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or to knowingly permit any person to remain in any place or building for any such purpose.~~

~~7. Directing. No person in the city shall direct or offer to direct any person to any place or building for the purpose of committing any lewd act or act of prostitution or moral perversion.~~

~~8. Aiding. No person in the city shall aid, abet, allow, permit, or participate in the commission of any of the acts prohibited in subsections 1-7 above.~~

6.0402 VULGAR LANGUAGE

~~No person in the city shall use vulgar, profane, or indecent language on any public street or other public place or in any public dance hall, club dance, skating rink, or place of business open to public patronage.~~

6.0403 INDECENT EXPOSURE

~~No person in the city shall publicly expose his/her person or make any indecent gestures.~~

6.0404 WINDOW PEEPING

~~No person in the city shall look, peer, or peep into, or be found loitering around or within view of, any window not on his own property with the intent of watching or looking through said window.~~

6.0405 ANIMALS

1 Cruel ty to Animals. No person in the city shall overdrive, overload, drive when overloaded, overwork, torture, cruelly beat, mutilate, or needlessly kill, or carry or transport in any vehicle or other conveyance in a cruel and inhuman manner, any animal; or cause any of these acts to be done.

2 Food and Shelter. No person in the city shall fail to provide any animal in his/her charge or custody with necessary sustenance, drink, and the protection from the elements, or cause any of these acts to be done.

3 Abandonment. No person in the city shall abandon any animal or cause such act to be done.

4 Poisoning Dogs and Cats. No person in the city shall poison any dog(s) or cat(s) or distribute poison in any manner whatsoever with the intent or for the purpose of poisoning any dog(s) or cat(s).

Section 6: ARTICLE 6, CHAPTER 5 entitled "GAMBLING" is hereby amended and re-enacted as follows:

6.0501. Intent

Maintenance of the public welfare and safety requires, and it is the intention hereof to establish, conditions upon which the City of Killdeer may authorize sites for the conduct of games of chance within the City of Killdeer, North Dakota.

6.0502 Site Authorization Required.

No persons shall conduct games of chance within the city limits of Killdeer without first having obtained authorization to conduct games of chance at a particular site as herein provided.

6.0503 Same-- Term

All site authorizations issued hereunder shall be for a period of not more than one (1) year and shall expire on the thirtieth day of June in each year. A short— term site authorization permit may be issued for a period not to exceed six (6) months at a rate equal to fifty (50) percent of the annual permit fee.

6.0504 General Provisions

All licensees receiving authorization to conduct games of chance upon the sites within the City of Killdeer shall be required to comply with the following regulations upon approval of such application:

(1) No eligible organization shall operate more than two (2) blackjack tables per site location within the City of Killdeer.

(2) No eligible organization shall conduct games of chance after 1:00 a.m. on Sundays, before 8:00 a.m. on Mondays, or between the hours of 1:00 a.m. and 8:00 a.m. on all other days of the week, nor conduct games of chance on Good Friday, Thanksgiving Day, Christmas Day, or after 6:00 p.m. on Christmas Eve, or between the hours of 1:00 a.m. and 8:00 p.m. on the day of any statewide special, primary, or general election. However, any eligible organization conducting bingo shall be allowed to conduct bingo on Sundays between the hours of 8:00 a.m. and 1:00 a.m. on Mondays.

(3) Blackjack may be conducted only upon the premises licensed to sell liquor "on-sale".

(4) Upon written request by the city, every eligible organization conducting games of chance in the City of Killdeer shall provide the city its quarterly report required to be filed with the Attorney General of the State of North Dakota, or such other similar reports indicating the amount of revenues, type and amount of expenditures, profits and distribution of proceeds. Such report shall be filed with the city within five (5) working days of the written request.

(5) Applications for authorizations to conduct games of chance within the City of Killdeer shall include a diagram specifying the location within a building at which games of chance shall be conducted including specific locations of blackjack tables. In the event such location changes, the same must be with the approval of the chief of police to whom such authority has been delegated by the city commission.

(6) Only personnel authorized by the city shall be allowed to conduct games of chance within the City of Killdeer. No person shall be authorized to conduct said games of chance who has been convicted of a federal or state law concerning the sale, distribution, operation, conduct or assistance of games of chance or unlawful gambling; and must not have been convicted of any felony during the three (3) years immediately prior to the application for a work permit pursuant to this article.

First Reading: May 4, 1992, Second Reading: May 18, 1992; Publication: May 26, 1992

6.0505. Termination and revocation of site authorizations.

1) Site authorizations issued pursuant to this article shall be deemed cancelled and revoked and terminated upon the happening of any one (1) or more of the following contingencies:

- A) When the eligible organization ceased conducting games of chance at the location authorized;
- B) When the licensee has violated any of the provision of this article;
- C) When the licensee ceases to be eligible to conduct games of chance pursuant to the laws of the State of North Dakota;

2) When any license is terminated or revoked, or the licensee voluntarily ceases conducting games of chance, no portion of the license fee previously paid shall be returned to the licensee or anyone claiming under or through such licensee; or

3) In the event the city commission acts to revoke, suspend or terminate any site authorization issued hereunder, the commission shall cause notice of hearing to be mailed to the licensee by registered or certified mail not less than five (5) days before such hearing. In the discretion of the city commission an authorization to conduct games of chance at sites within the City Killdeer may be suspended pending such hearing.

6.0506. Revocation or suspension of permits--Cause

Failure to comply with any of the requirements herein, or with any laws of the State of North Dakota, or the rules and regulations of the Attorney General governing games of chance, shall be cause for revocation or suspension of eligible organization's permit to conduct games of chance at a particular site or a work permit issued hereunder.

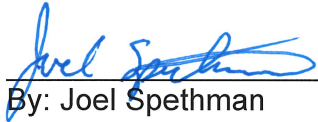
6.0507. Same--Hearing

The city commission may revoke or suspend a permit granted pursuant to this article upon notice to the eligible organization or work permit holder and after hearing to consider revocation or suspension before the city commission. Said notice shall specify the time and place of such hearing and shall be served on the eligible organization or work permit holder in the manner provided by law.

Section 7: Repeal of Ordinances in Effect. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Section 8: Severability. In the event any section of this Ordinance is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Ordinance shall continue in full force and effect.

Section 9: Effective Date: This Ordinance shall be in full force and effect from and after final passage.



By: Joel Spethman
City Commission President,
City of Killdeer

ATTEST:



Matt Oase, City Auditor

First Reading: 12-19-2022
Second Reading: 01-09-2023
Final Reading: 01-09-2023