ORDINANCE NO. 332

ORDINANCE DEFINING "PUBLIC PARKS" TO INCLUDE TENNIS COURTS, BALL DIAMONDS AND OTHER PUBLIC RECREATION FACILITIES; REGULATING THE USE, AND CONDUCT IN PARKS; PROVIDING PERMITS FOR THE USE OF SAID PARKS AND SAID RECREATION AREAS; AND PERMITS FOR PARADES UNDER CERTAIN CONDITIONS; AND PROVIDING A PENALTY FOR ANY VIOLATION THEREOF.

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

SECTION 1. Intent. Declaration of purpose and intent of ordinance provisions regulating conduct of persons using the City Park and recreation facilities. It is necessary for the benefit of the public at large to impose certain rules and regulations upon the use of public parks. It is the intent of this ordinance that all persons may peacefully enjoy the use of the public parks, and to this end, any permits or authorizations required to be obtained from the City may not be refused except for lawful reasons applied uniformly to all persons. The permits allowed or required by this code shall be used only for the purpose of scheduling the use of public parks, and to assure that all users receive the maximum available use of the properties for their intended use. Any denial of permits for reasons other than the lack of available facilities is intended only for the protection of the rights of all citizens to the full and peaceful use of the public parks. Permits will be denied when facilities are not available and where the proposed use will infringe upon the general public's use of the area involved to such an extent as to deprive the general public the use of the public parks for the use intended, or where the intended use is unlawful, or where the use, although lawful, will be done in an unlawful manner.

SECTION 2. Definitions.

A. Parks, when referred to herein, shall mean public parks, public recreation facilities, tennis courts, basketball courts, horse shoe throwing areas, shelter houses, baseball diamonds and any and all streets and parking areas located therein, and under the ownership, jurisdiction or control of the City and/or the Board.

B. Whenever the word "Board" is utilized herein, it refers to a Board of Park Commissioners which Board, may, in the future, be created or established by the City.
SECTION 3. Hours, Opening and Closing. All parks shall be closed to the public during the hours from twelve o'clock midnight to six o'clock a.m. the following morning, and it is unlawful for any person to be in or upon any park, or to park vehicles on any parks, streets, drives or parking areas within the parks.

Nothing contained herein, however, shall be construed to prohibit the movement of vehicular traffic over and through parks, and said streets and park drives when open for traffic.

The City may modify or change the opening and closing hours as provided herein by adopting a resolution establishing opening and closing hours, other than as provided herein for any park, or any part thereof and by causing the applicable hours of opening and closing to be posted at the park, or any part thereof to be affected. The opening or closing hours provided for by the resolution shall become effective when the resolution has been adopted by the City and notice of the applicable opening and closing hours has been so posted.

Nothing provided herein shall prevent the City and/or Board from establishing rules and regulations by which all or any part of the parks may be closed to public access, either for construction or maintenance purposes or under conditions existing on said property which may endanger public safety or welfare.

SECTION 4. Rallies, Demonstrations and Public Gatherings. It is unlawful for any person or persons to hold or stage any rally, demonstration or public gathering in or upon any public parks, without first obtaining a written permit from the City, and then only in the areas designated for such activity by the City.

For the purposes of this Section, a rally, demonstration or public gathering shall mean any spontaneous or planned meeting by ten (10) or more people which is intended to or which results in a display of group or individual feelings toward a person or a cause, or which is intended to or which results in arousing group enthusiasm.

Providing that a spontaneous gathering of ten (10) or more persons as above described shall not become unlawful until the actions of the group or members thereof disrupt, impair, or interfere with the rights of another person or persons using the park, and until said group or the individual members thereof, have been requested to cease and desist such use or occupancy of the park by any law enforcement officer or any authorized representative of the City or Board, said group or its individual members fail or refuse to obey...
considered unlawful, regardless of whether or not a permit was granted.

SECTION 5. Parades. It is unlawful for any person or persons to hold or stage any parade in or upon any park without first receiving a written permit from the City.

SECTION 6. Distribution of Advertising Material. It is unlawful for any person to post, distribute, display, or exhibit signs, pictures, advertisements, circulars, handbills, or other written, drawn, or printed material in any of the parks; provided however, that any group of persons lawfully meeting in the public parks, may post or distribute noncommercial written or printed material among the members of the group, and only to the members and in the immediate area occupied by the group. Further, the persons constituting said group or the permittee if there is one, shall, before leaving the park area, pick up and dispose of all litter and written material resulting from the distribution of said written material. This Section shall not apply to persons under contract with the City or concessionaires employed or contracted by the City.

SECTION 7. Sale or Soliciting. It is unlawful for any person to engage in any business or commercial activity or sale or attempted sale of any articles, commodity or service or to solicit money or funds in any manner for any purpose or thing in any manner in the public parks; provided, however, that any group of persons lawfully using the public parks, or recreation facilities may solicit among the persons constituting the group and to those persons only for contributions and/or gratuities. It is the intent of this Section to prohibit, among other things, the mass solicitation of funds and contributions by any person or persons from others, other than patrons using the park or recreation facility. This Section shall not apply to persons or concessionaires employed by or under contract with the City.

SECTION 8. Music, Lectures, Orations, Addresses, Speeches, and Related Acts. It is unlawful for any person to render in any of the public parks, without first having obtained a permit to do so from the City, any musical, vocal, or instrumental presentation, oration, address, speech, sermon, or lecture. If a permit is granted, such activity shall take place only in those areas designated for such purposes by the City; provided that nothing herein is intended to prevent any spontaneous or planned musical, vocal, or instrumental presentation, oration, address, speech, sermon or lecture within a group of persons lawfully using the public parks, if the musical, vocal, or instrumental
with any other scheduled event occurring within the public parks, or as long as it does not physically impede, disrupt or hinder other people using the public parks. The spontaneous or planned musical, vocal or instrumental presentation, oration, address, speech, sermon or lecture within a group shall not physically impede, disrupt or hinder other people using the public parks. Any person or persons who, after having been advised by any law enforcement officer or authorized representative of the City, shall at once cease and desist from such conduct.

SECTION 9. Audio and Sound Amplifiers. Audio or sound amplifiers of any type are not authorized for use in any of the public parks without first acquiring a written permit from the City.

SECTION 10. Injuring Property or Removing Equipment. It is unlawful for any person to mark, deface, disfigure, injure, tamper with or displace or remove any buildings, tables, benches, railings, paving or paving materials, water lines or other public utilities or parts or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, trees, shrubs, flowers, flower bulbs, grass or other landscaping or part thereof, statues, posts or other boundary markers or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal, in any public parks.

Provided nothing contained herein shall prevent any person or persons from moving any portable table or bench which has been placed in the park for use by the public to an adjoining or nearby table within the immediate location of the temporary table or bench; however, no temporary table or bench shall be moved from its original location in such a manner that it is disassociated from the use and the area for which it was first placed in the park.

SECTION 11. Sanitation, Trash, Rubbish and Related Matters. It is unlawful for any person in any public park to:

A. Throw, discharge or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any public parks, or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of the waters;

B. Have brought in or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage or refuse, or
shall be placed in the proper receptacles where these are provided; where
receptacles are not so provided, all such rubbish or waste shall be carried
away from the property by the person responsible for its presence and properly
disposed of elsewhere.

SECTION 12. Chasing Game and Animals. It is unlawful for any person to
chase, kill, set snares for or catch any birds or wild animals in or upon any
of the public parks; provided, nothing herein shall prevent any authorized City
official from carrying out duties imposed by law in relation to the control of
diseased animals or disease carriers.

This section shall not apply to employees of the City of Garden Plain,
Kansas, acting under City Ordinance or at the direction of the City Governing
Body.

SECTION 13. Fishing and Hunting. It is unlawful for any person to fish
or hunt in or upon any public parks.

SECTION 14. Bicycles. It is unlawful for any person in a park to:

A. Ride a bicycle on any area of a park other than such areas
   as are designated for bicycling. A bicyclist shall be permitted to wheel or
   push a bicycle by hand in or over any grassy area or wooded trail or on any
   paved area reserved for pedestrian use;

B. Leave a bicycle in a place other than a bicycle rack when such
   is provided and there is a space available.

SECTION 15. Picnics. Picnics may be held only in such areas within public
parks, which have been designated for that purpose by the City.

Permits for picnic areas may be issued by the City and/or Board, designating
and reserving certain areas for the exclusive use of the permittee during a
definite period of time.

Picnics at which more than twenty persons are present shall not be held in
any park without having first obtained a permit to do so from the City.

SECTION 16. Interference with Others. It is unlawful for any person to
interfere with the rights of another person to use the public parks, or to
commit any act designed to intimidate, coerce or hinder another person who has
been granted a permit, desiring to use the said parks.

No person shall use or occupy any park area in any manner that disrupts,
impairs, or interferes with the rights of another person or persons lawfully
any person who, having been advised by any law enforcement officer or authorized representative of the City of Garden Plain Kansas, to cease and desist such other use or occupancy, shall at once do so.

Interference with the rights of others shall include but not be limited to, the following:

A. Impeding, disrupting, hindering or denying another person the right to enter, use or leave any park or recreation facility; or

B. Impeding another person in the lawful use of park or recreation facilities through the use of restraint, abduction, coercion and intimidation, or by force and violence, or threat thereof;

C. Impeding, disrupting or hindering another person by any act or intrusion into an area for which the other person has a permit issued by the City of Garden Plain, Kansas, for that facility and at that time, and in which said permittee is then present for the purpose of occupying the facility; or

D. Refusing or failing to leave any such park or recreation facilities upon being requested to do so by any law enforcement officer or authorized representative of the City charged with maintaining order in such public parks, if such person is committing, threatens to commit or incites others to commit any act which would or would if completed, disrupt, impair, or interfere with the rights of another person to lawfully use the property or facilities or which would violate any of the terms of this ordinance.

Any person who, after having been advised by any law enforcement officer or authorized representative of the City to cease and desist such use or occupancy, shall do so.

SECTION 17. Use of Playgrounds and Equipment. It is unlawful for any person over the age of twelve years and any person over the weight of seventy pounds to occupy or use playgrounds and playground equipment designed and intended for the use of children. Nor shall any person use or occupy playground equipment other than for the purposes intended.

Nothing herein however, shall prevent adults from "swinging their children, or assisting their children in using the playground equipment providing they do not sit on or occupy same.

SECTION 18. Alcoholic Liquor. It shall be unlawful for any person to have in his possession or consume alcoholic liquor in or upon any public parks. Alcoholic liquor as referred to herein is defined under Section 1. of the City of Garden Plain Ordinance No. 157, and specific reference is made thereto.
no open beer parties shall be allowed in any of the public parks. No cereal malt beverage shall be sold in any public parks without first obtaining the proper cereal malt beverage license and a permit to do so from the City. No person who, having been advised by any law enforcement officer or authorized representative of the City to cease and desist, shall refuse or neglect to do so.

SECTION 20. Fires and Burning. It shall be unlawful for any person to have a bonfire, ground fire or to burn in any manner other than in a charcoaler, with legs, or other facility designated by the City for the purpose of cooking meats or food for a picnic. Hot coals and ashes shall be doused with water until completely out and then shall be placed in a trash container provided in the park area or shall be removed from the park area by the persons using said fire. At no time shall said coals or ashes be dumped or deposited on the ground or placed in any waters in or contiguous to any public parks.

SECTION 21. Tennis Courts. It shall be unlawful for any person to enter onto the tennis courts in any footwear other than tennis shoes. Bicycling, skateboarding, roller skating or any other activity other than tennis playing is expressly prohibited. No food or beverage of any kind whatever shall be allowed on the tennis courts. Cigarette, cigar, pipe or any type of smoking whatsoever is prohibited on the tennis courts. Persons waiting to use said tennis courts shall remain outside of the court area until a court is available for use.

SECTION 22. Ball Park and Athletic Fields. It shall be unlawful for any person, while in the parks to commit any of the following acts:

A. To bring, carry, or in any other manner transport or to assist another person to bring, carry or in any other manner transport into and upon the premises any food or beverage of any kind whatever contained in a glass bottle or other container of breakable material;

B. To have, possess, hold or in any other manner have in hand, on hand or at one's command or disposal, any food or beverage of any kind whatsoever contained in a glass bottle or other container of breakable material.

C. To toss, heave, hurl, cast, or in any manner to throw or cause to be tossed, heaved, hurled, cast or in any manner to be thrown, any matter of any kind whatsoever in, onto or out of the park area, except the balls utilized in a particular sport authorized in the park and while regularly
engaged in said sport as a participant. Further, no person shall toss, heave, hurl, cast, or in any manner throw or cause to be tossed, heaved, hurled, cast or in any manner to be thrown, any matter of any kind whatsoever upon the areas designated as the ballfield, tennis courts, volleyball courts and athletic fields where events or games are usually presented or played;

D. Nothing herein contained shall be so construed as to make it an offense for or to prevent any tradesman or supplier of a concessionaire duly licensed by the City from delivering merchandise and supplies to said concessionaire at any of the premises, notwithstanding the fact the merchandise and supplies are contained in glass or breakable containers; further, nothing herein contained shall prevent a concessionaire duly licensed by the City from selling food or beverages from glass or breakable containers so long as the food and beverage is served to the concessionaire's customer in paper or some soft material, nonbreakable container. Further, nothing herein contained shall prevent any person or persons from carrying food and beverages onto any area of such public parks, that has been designated for that purpose which is contained in nonglass, nonbreakable containers.

E. Any person having in their possession any food or beverages in a glass or other similar breakable container who attempts to enter any public parks, shall be denied entrance by either the person or entity responsible for a planned and scheduled event, their authorized agent or any police or law enforcement officer or an authorized representative of the City. Any person who, having been advised to cease and desist, shall immediately do so.

SECTION 23. Animals and Livestock. No animal nor any livestock shall be brought onto and ridden onto any public parks, recreation facilities under the ownership, jurisdiction or control of the City and/or Board other than a dog on a leash.

SECTION 24. Application For Permits or Reservations. All applications for permits required under this ordinance shall be made through the office of the City Clerk at least three days in advance of the proposed event, except picnic permits will be issued upon application, when facilities are available. All applications shall be completed on forms provided by the City and in such form and manner as the City may require.

SECTION 25. Display of Permits. All permits issued under this ordinance shall, upon request by any law enforcement officer or authorized representative
Section 26. Violations. Any person violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be fined not more than $500.00 or imprisoned in jail for a period not exceeding thirty (30) days or by both such fine and imprisonment. Each day any violation of this ordinance occurs shall constitute a separate offense and shall be punishable hereunder as a separate violation. In addition, and as a condition of parole, the municipal court judge may require the violator to make reasonable restitution to the City for any damage caused by the violator as a result of this violation hereunder.

SECTION 27. Deposits. A clean up and damage deposit may be required from any permittee requesting use of the park and if there shall be more than twenty at any park meeting or gathering, a clean up and damage deposit of up to $100.00 may required. The City and/or Board shall determine the amount of deposit which shall be paid to the City Clerk, said determination shall be based upon:

A. The type of activity contemplated;
B. The number of persons contemplated to be in attendance;
C. The age of participants or audience.

Within a reasonable time after the permittee has vacated the premises, an authorized representative of the City shall view the premises to determine the extent of any damage and clean up required and shall instruct the City Clerk accordingly. The City Clerk shall remit back to the permittee any and all funds not needed to repair any damage or clean up to the area.

SECTION 28. Crowd Control. Permittee may also be required by the City prior to the issuance of the permit, to hire one or more qualified law enforcement officers for crowd control, which officers shall be in attendance during the scheduled activity.

SECTION 29. Validity. Should any section or provision of this ordinance for any reason be held void, unconstitutional or invalid, it shall not affect the validity of any other section or provision hereof which is in itself not void, unconstitutional or invalid.

SECTION 30. This ordinance shall be in effect after its passage and publication in the official city newspaper, The Cheney Sentinel.

ADOPTED AND PASSED by the Governing Body of the City of Garden Plain, Kansas, this 7th day of May, 1980.

ATTEST:

[Signature]