



City of Grand Island

Tuesday, May 11, 2004

Council Session

Item F2

#8903 - Consideration of Amending Chapter 17 of the Grand Island City Code Relative to Nuisance Violations

Staff Contact: Doug Walker

Council Agenda Memo

From: Douglas R. Walker, City Attorney

Meeting: May 11, 2004

Subject: Revisions to Nuisance Ordinances

Item #'s: F-2

Presenter(s): Douglas R. Walker, City Attorney

Background

In 2003, the City made changes to the nuisance ordinance to speed up the process of cleaning up properties that have trash and litter problems and present health issues. Under the present code sections, the Health Department is involved in investigating problem properties and enforcing the City Code. For more flexibility in initiating and prosecuting violations of the code for trash and litter, changes are being proposed to Section 17-4.2 and 17-4.3 which would permit the Code Compliance Officer to also investigate complaints in this area and initiate the process for cleaning up problem properties. Changes are also recommended to change the language in the City Code from “junked” vehicles to unlicensed or inoperable vehicles.

Discussion

City Code Compliance personnel sometimes receive citizen complaints or observe properties that have trash and litter problems that may present health issues for neighborhoods. The City Attorney’s Office also receives some of the complaints for health issues that involve trash and litter and the proposed ordinance will enable the Code Compliance Officer and the City Attorney’s Office to initiate the process of cleaning up properties that have a problem with litter and trash. The Health Department may also be involved if that method of enforcing the City Code is used rather than going through the City Code Compliance Officer. The proposed changes will give city personnel more flexibility in dealing with properties that have trash and litter problems.

You will also find in the proposed nuisance ordinance revisions to Sections 17-39, 17-40, 17-41 and 17-42. The changes that are being proposed involve rephrasing the definition of the types of vehicles that violate City Code. The vehicles that were formerly termed as “junked vehicles” will now be termed as “unlicensed or inoperable vehicles”. The definitions in Section 17-39 have been revised to reflect the change in terminology and

we have also deleted the reference to the storage definition and have added to the definition for inoperable vehicles to include partially wrecked or dismantled vehicles. Section 17-41 of the City Code has also been amended to eliminate the fourteen day requirement to speed up the process of cleaning up properties that have unlicensed or inoperable vehicles and parts.

Alternatives

It appears that the Council has the following alternatives concerning the issue at hand. The Council may:

1. Approve the ordinance revisions as drafted.
2. Disapprove or /Deny the ordinance revisions.
3. Modify the proposed revisions to the City Code to meet the wishes of the Council
4. Table the issue

Recommendation

City Administration recommends that the Council approve the ordinance revisions as drafted.

Sample Motion

Approve the ordinance which would revise Sections 17-4.1, 17-4.2, 17-4.3, 17-39, 17-40, 17-41 and 17-42 of the Grand Island City Code.

ORDINANCE NO. 8903

An ordinance to amend Chapter 17 of the Grand Island City Code; to amend Sections 17-4.1, 17-4.2, and 17-4.3 pertaining to nuisance violations; to amend Sections 17-39, 17-40, 17-41 and 17-42 pertaining to junked vehicles; to repeal Sections 17-4.1, 17-4.2, 17-4.3, 17-39, 17-40, 17-41, and 17-42, as now existing, and any ordinance or parts of ordinances in conflict herewith; and to provide for publication and the effective date of this ordinance.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA:

SECTION 1. Section 17-4.1 of the Grand Island City Code is hereby amended to read as follows:

§17-4.1. Penalty for Violation

Any person violating §17-4 shall upon conviction be deemed guilty of a code violation misdemeanor. Each day shall constitute a separate offense and be punishable as provided in this Code.

SECTION 2. Section 17-4.2 of the Grand Island City Code is hereby amended to read as follows:

§17-4.2. Notice to Remove; Noncompliance with Notice

Whenever it shall come to the knowledge of the Health Director or the Code Compliance Officer or their his/her designee, that there exists upon such lot or parcel of ground such nuisance, the Health Director or Code Compliance Officer or their his/her designee shall cause a notice to abate and remove said nuisance within five (5) days to be served upon the owner or the owner's authorized agent, and upon the tenant or occupant of said premises. Said notice shall be served either in person or by mailing such notice by first-class mail, postage prepaid and by certified or registered mail. If such owner, lessee, tenant, or occupant shall have failed or refused to abate and remove such nuisance ~~at~~ the expiration of the date fixed upon such notice, the Director of Health or the Code Compliance Officer or their his/her designee may cause such nuisance to be removed from such parcel or lot, and from any roads, streets, or alleys abutting thereon as set forth in Section 17-4.3 of this Chapter.

SECTION 3. Section 17-4.3 of the Grand Island City Code is hereby amended to read as follows:

§17-4.3. Procedure for Removal for Noncompliance

If the Health Director or Code Compliance Officer determines that there exists upon any lot or parcel of ground the conditions described above in such a manner as to constitute an immediate nuisance and hazard to the public health and safety, the director or Code Compliance Officer shall request the Mayor to declare that such an

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immediate public nuisance exists, and after any such declaration, the Health Director or Code Compliance Officer shall cause to be issued a written notice to abate and remove such public nuisance from such lot or parcel of land within twenty-four (24) hours. Said notice shall be served by personal service upon the owner or the owner's authorized agent, and to any tenant, lessee, or occupant of the premises. If such owner, tenant, lessee, or occupant shall have failed or refused to abate and remove such nuisance at the expiration of the twenty-four (24) hours from delivery of the notice, the Health Director or Code Compliance Officer shall cause such nuisance to be removed from such parcel or lot and from any roads, streets, or alleys abutting thereon.

SECTION 4. Article IV. of Chapter 17 of the Grand Island City Code is hereby renamed "Unlicensed or Inoperable Vehicles".

SECTION 5. Section 17-39 of the Grand Island City Code is hereby amended to read as follows:

§17-39. Definitions

The following definitions are applicable to all Code sections pertaining to unlicensed junked or inoperable vehicles:

- (1) Unlicensed Vehicle ~~Junked Vehicle~~ means any vehicle as defined in Chapter 22 of the City Code which is ~~in storage and is inoperable~~ or totally or partially wrecked or dismantled, or which does not display valid license plates.
- (2) Building means a structure with four walls and a roof erected in compliance with the city building codes.
- ~~(3) Storage means placement, maintenance, or keeping for any length of time in excess of seventy two hours.~~
- ~~(3)(4)~~ Wrecked means a vehicle that has been damaged to such an extent that such vehicle, if operated on the streets or highways, would be in violation of one or more state statutes or city code sections pertaining to the condition of vehicles being operated on the alleys, streets or highways.
- ~~(4)(5)~~ Dismantled means lacking any vehicle part, the absence of which, if such a vehicle were operated on the streets or highways, would cause such vehicle to be in violation of one or more state statutes or city code sections pertaining to the condition of vehicles being operated on the alleys, streets or highways.
- ~~(5)(6)~~ Inoperable means having one or more parts necessary for the operation of a vehicle either not attached to such vehicle or in non-working condition, including but not limited to a fully charged battery and all tires fully inflated. Inoperable shall include totally or partially wrecked or dismantled vehicles.

SECTION 6. Section 17-40 of the Grand Island City Code is hereby amended to read as follows:

§17-40. Unlicensed or Inoperable ~~Junked~~ Vehicles; Public Nuisances

The storage of any unlicensed or inoperable junked vehicle or any vehicle parts on any tract of land within the City of Grand Island shall be deemed a public nuisance and may be abated pursuant to §20-15 of the Grand Island City Code upon written request by the Grand Island Police Department or the Code Compliance Officer to the City Attorney pursuant to §20-15 of the Grand Island City Code. It shall be unlawful for any owner, owner's duly authorized agent or person in possession, charge or control, or the occupant of such a tract to cause, maintain, or permit such public nuisance to exist on said property, except in a manner as set forth below.

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SECTION 7. Section 17-41 of the Grand Island City Code is hereby amended to read as follows:

§17-41. Storage of Unlicensed or Inoperable~~Junked~~ Vehicles

Unlicensed or inoperable ~~Junked~~ vehicles and vehicle parts, whether junked, salvaged, or new, may be stored:

(1) On any tract being used as a salvage yard, which is in full compliance with all city code sections pertaining to such businesses, including zoning.

(2) On any tract being lawfully used for a business activity related to unlicensed or inoperable ~~junked~~ vehicles, such as an automotive body shop, so long as the unlicensed or inoperable ~~junked~~ vehicles and parts are stored in an area that is screened from adjoining property and the public right-of-way by a sight-obscuring fence at least six feet in height, or such unlicensed or inoperable ~~junked~~ vehicles and ~~vehicle junked~~ parts are removed from the premises ~~within fourteen days of becoming junked~~; provided, that unlicensed or inoperable ~~junked~~ vehicles being displayed for sale as whole units by a licensed automobile dealer are not subject to this screening requirement.

(3) On any other tract, so long as such unlicensed or inoperable ~~junked~~ vehicles and such vehicle parts are placed within a building.

SECTION 8. Section 17-42 of the Grand Island City Code is hereby amended to read as follows:

§17-42. Removal of Unlicensed or Inoperable~~Junked~~ Vehicles

(A) The chief of police or any police supervisor may cause the removal of any unlicensed or inoperable ~~junked~~ vehicle or ~~junked~~ vehicle parts:

(1) from any public property; or

(2) from any private property with the permission of the owner or occupant thereof or by authority of a Court order.

(B) The towing, impoundment, and disposal provisions set forth in Chapter 22 shall be applied to all unlicensed or inoperable ~~junked~~ vehicles and ~~junked~~ vehicle parts removed under authority of this section.

SECTION 9. Sections 17-4.1, 17-4.2, 17-4.3, 17-39, 17-40, 17-41 and 17-42 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 10. That this ordinance shall be in force and take effect from and after its passage and publication, within fifteen days in one issue of the Grand Island Independent as provided by law.

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Enacted: May 11, 2004.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk