



# **City of Grand Island**

**Tuesday, September 28, 2004**

**Council Session**

## **Item F1**

**#8936 - Consideration of Amending Chapter 20 of the Grand Island City Code Relative to Nuisances**

**Staff Contact: Doug Walker**

# **Council Agenda Memo**

**From:** Douglas R. Walker, City Attorney

**Meeting:** September 28, 2004

**Subject:** Nuisance Code Changes

**Item #'s:** F-1

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

## **Background**

At the September 7, 2004, Study Session, a new nuisance ordinance was discussed with the City Council that would make additions to Sections 20-11 and 20-13. The ordinance will also add a new Section 20-13.1 to the City Code which is now being submitted to you for final passage.

## **Discussion**

The changes that were made to the ordinance as originally proposed are as follows:

1. In Section 20-11, it has been revised to state that objects will be removed immediately upon giving personal notice or posting property where items are on the city street right-of-way.
2. Code Section 20-11, subsection (C) has an additional sentence which sets forth a daily storage fee, a disposal fee and an administrative fee for items that are removed from the right-of-way by the city. This is being done to cover the city's costs in removing the items and to remove any incentive for people seeking to dispose of their property by having the city handle it.
3. Proposed Section 20-13 has been revised since the September 7<sup>th</sup> meeting to remove the old subsection (C) which was "offends decency". The other sections of this ordinance are the same as proposed earlier.
4. Proposed Section 20-13.1, subsection (A) has been revised to remove the words "hides" and "skins". Elsewhere in this subsection of the ordinance any part of a dead animal, fish or fowl may be considered a nuisance if it is in an odorous, putrid, unsound or unwholesome condition.

5. Subsection (D) of proposed Section 20-13.1 has been revised to address the concerns that were expressed at the earlier meeting regarding animal manure. This subsection now addresses issues of animal manure in a quantity that would cause an abundance of flies, odorous conditions or other health hazards or which is kept or handled in violation of any provisions of the City Code.
6. In subsection (E) of Section 20-13.1, there has been one word changed in line three from the word “provided” to the word “approved”, which is more appropriate in that sentence. All other remaining portions of the ordinance are the same as presented to the City Council at the September 7, 2004 meeting.

### **Alternatives**

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

1. Approve the ordinance as revised and proposed by city administration.
2. Disapprove or /Deny the ordinance as currently drafted.
3. Make further modifications to the proposed ordinance to meet the wishes of the City Council.
4. Table the issue.

### **Recommendation**

City Administration recommends that the proposed ordinance as revised since the September 7<sup>th</sup> meeting be approved as drafted.

ORDINANCE NO. 8936

An ordinance to amend Chapter 20 of the Grand Island City Code; to amend Section 20-11 pertaining to obstructing public right-of-way; to amend Section 20-13 pertaining to nuisances; to add Section 20-13.1 defining a nuisance; to repeal Sections 20-11 and 20-13 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 20-11 of the Grand Island City Code is hereby amended to read as follows:

**§20-11. Obstructing Public Right-of-Way**

(A) It shall be illegal for any person, corporation or entity to erect, plant, place, or maintain, fences, hedges, shrubbery, or other natural or man-made objects or structures on any public right-of-way which interfere with or are hazardous to the City's or the general public's use of the right-of-way. No such objects may be placed on any public right-of-way without the prior consent of the City.

(B) When the City discovers any objects on the city right-of-way as described in Subsection (A) herein, the City will notify the adjacent property owner or tenant that said objects shall be removed immediately upon giving personal notice or posting the property.

(C) Any objects not removed pursuant to Subsections (A) and (B) herein may be removed by city personnel and taken to the Grand Island Police Department impoundment facility or such other facility as the city deems appropriate for storing said objects. If the objects are not claimed by the owners within thirty days after being placed in storage, then the city may dispose of the property as it deems appropriate. If said objects are auctioned, the City may retain sufficient funds to pay all of the expenses of removal from the right-of-way and storage. Any person who has items removed from the right-of-way by the City shall pay a daily storage fee, the cost of disposal and an administrative fee of \$50.00.

SECTION 2. Section 20-13 of the Grand Island City Code is hereby amended to read as follows:

**§20-13. Nuisances; Generally Defined**

A nuisance consists in doing any unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either: The following are hereby declared to be public nuisances:

(A) Violates Any violation of any provision of this Code or any ordinances of the City of Grand Island or statute of the State of Nebraska which is consistently repeated or of a continuous and ongoing nature, if uncorrected.

## ORDINANCE NO. 8936 (Cont.)

(B) ~~Is an~~ Any act or thing done, made, permitted, allowed, or conducted on any property, public or private, by any person, firm, or corporation, their agents or servants, detrimental to the health, or to the damage or injury of any of the inhabitants of the City.

(C) Is offensive to the senses.

(D) Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the City.

(E) In any way renders other persons insecure in life or the use of property.

(F) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

### SECTION 3. Section 20-13.1 is hereby added to Chapter 20 of the Grand Island

City Code to read as follows:

#### **§20-13.1. Nuisances; Specifically Defined**

The maintaining, using, placing, depositing, leaving or permitting of any of the following specific acts, omissions, places, conditions, and things are hereby declared to be nuisances:

(A) Any odorous, putrid, unsound or unwholesome grain, meat, feathers, vegetable matter, or the whole or any part of any dead animal, fish, or fowl.

(B) Privies, vaults, cesspools, dumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.

(C) Filthy, littered or trash-covered cellars, houseyards, bamyards, stable-yards, factory-yards, mill yards, vacant areas in rear of stores, granaries, vacant lots, houses, buildings, or premises.

(D) Stockpiling animal manure in a manner that causes an abundance of flies, malodorous conditions or creates other health concerns, or which is kept or handled in violation of any ordinance of the City.

(E) Liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish or any waste vegetable or animal matter in any quantity; provided, nothing herein contained shall prevent the temporary retention of waste in receptacles in a manner approved by the health officer of the City, nor the dumping of non-putrefying waste in a place and manner approved by the health officer.

(F) Tin cans, bottles, glass, cans, ashes, small pieces of scrap iron, wire metal articles, bric-a-brac, broken stone or cement, broken crockery, broken glass, broken plaster, and all trash or abandoned material, unless the same be kept in covered bins or galvanized iron receptacles.

(G) Trash, litter, rags, accumulations of barrels, boxes, crates, packing crates, mattresses, bedding, used furniture, used appliances, excelsior, packing hay, straw or other packing material, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, old automobiles or parts thereof, or any other waste materials when any of said articles or materials create a condition in which flies or rats may breed or multiply, or which may be a fire danger or which are so unsightly as to depreciate property values in the vicinity thereof.

(H) Any unsightly building, billboard, or other structure, or any old, abandoned or partially destroyed building or structure or any building or structure commenced and left unfinished, which said buildings, billboards or other structures are either a fire hazard, a menace to the public health or safety, or are so unsightly as to depreciate the value of property in the vicinity thereof.

(I) All places used or maintained as junk yards, or dumping grounds, or for the wrecking and dissembling of automobiles, trucks, tractors, or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, or machinery of any kind, or of any of the parts thereof, or for the storing or leaving of any machinery or equipment used by contractors or buildings or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment of life or property by others, or which are so unsightly as to tend to depreciate property values in the vicinity thereof.

(J) Stagnant water permitted or maintained on any lot or piece of ground.

(K) Stockyards, granaries, mills, pig pens, cattle pens, chicken pens or any other place, building or enclosure, in which animals or fowls of any kind are confined or on which are stored tankage or any other animal or vegetable matter, or on which any animal or vegetable matter including grain is being processed, when said places in which said animals are confined, or said premises on which said vegetable or animal matter

ORDINANCE NO. 8936 (Cont.)

is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate therefrom, to the annoyance of inhabitants of the City, or are maintained and kept in such a manner as to be injurious to the public health.

(L) All other things specifically designated as nuisances elsewhere in this Code.

SECTION 4. Sections 20-11 and 20-13 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 5. 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.

Enacted: September 28, 2004.

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Jay Vavricek, Mayor

Attest:

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RaNae Edwards, City Clerk