



City of Grand Island

Tuesday, July 26, 2005

Council Session

Item F6

#8991 - 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: July 26, 2005

Subject: Amending Chapter 20 of the Grand Island
City Code Relative to Nuisances

Item #'s: F-6

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

Background

Last year the City Council amended the City Code to add Section 20-13.1. Issues have come up regarding the ability to establish in court whether a nuisance being present on a property depreciates the value of other properties in the vicinity. Because of the difficulty in establishing depreciation to property values in the area, we are recommending that this language be stricken from Section 20-13.1(g) and subsection (h). We are also recommending that language in subsection (i) be stricken which has the depreciation of property language as well as essentially interfere with the comfortable enjoyment of life. Establishing these nuisance standards to the satisfaction of a county court trying a case would be difficult. Therefore, it was felt that an amendment deleting these provisions of the ordinance is necessary. We are also recommending that subsection (k) be deleted regarding properties on which animals or animal matter are being processed since this ordinance could conceivably be applied to some agricultural processing businesses in the community.

Discussion

City staff is recommending that Section 20-13.1 be revised to remove the provisions that will be difficult to prove to the satisfaction of a court and to enforce. We are also recommending that the provision regarding properties on which animals or vegetable matter would be processed be deleted as well since this code section could conceivably apply to agricultural processing firms located within the city.

Alternatives

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

1. Move to approve the ordinance.
2. Choose not to pass the ordinance.
3. Postpone the issue to future date.
4. Take no action on the issue.

Recommendation

City Administration recommends that the Council move to approve the ordinance.

Sample Motion

Motion to suspend the rules for three separate readings and move for final passage of this ordinance.

ORDINANCE NO. 8991

An ordinance to amend Chapter 20 of the Grand Island City Code; to amend Section 20-13.1 pertaining to the definition of nuisances; to repeal Section 20-13.1 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 20-13.1 of the Grand Island City Code is hereby amended 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, barnyards, 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 Central District Health Department, 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, ~~or 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.~~

ORDINANCE NO. 8991 (Cont.)

(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 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.~~

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

SECTION 2. Section 20-13.1 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 3. The validity of any section, subsection, sentence, clause, or phrase of this ordinance shall not affect the validity or enforceability of any other section, subsection, sentence, clause, or phrase thereof.

SECTION 4. 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: July 26, 2005.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk