



City of Grand Island

Tuesday, February 14, 2006

Council Session

Item F4

#9029 - Consideration of Amendments to Chapter 1 of the City Code Relative to Definitions

Staff Contact: Doug Walker

Council Agenda Memo

From: Douglas R. Walker, City Attorney

Meeting: February 14, 2006

Subject: Revisions to Chapter 1 of the Grand Island City Code
Relative to Definitions

Item #'s: F-4

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

Background

One of the goals set forth this year by City Administration, the Mayor and City Council was to make revisions to the Grand Island City Code to update it to reflect current state law to clarify ambiguous portions of the code and delete sections of the code that have become obsolete.

Discussion

The proposed ordinance would revise several sections in Chapter 1 of the Grand Island City Code. There are several changes made in Section 1-2 regarding definitions and rules of construction. Also changed was Section 1-8(2) to reflect a change that has occurred in state law which now allows up to \$500 in fines for violations of the City Code rather than \$100 which was the standard under state statute when this section was adopted. Also recommended for revision is Section 1-13 regarding the sale of property which has been changed to reflect the change in the method of doing business via the internet and electronic medium.

Alternatives

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

1. Move to approve the revisions to the City Code as drafted by city staff.
2. Disapprove or deny the ordinance which would revise the City Code in which event the current provisions of the code would remain in effect.

3. Modify the recommendations of city staff for changing the City Code.
4. Take no action on the issue.

Recommendation

City Administration recommends that the Council approve the changes recommended by city staff to Chapter 1 of the City Code.

Sample Motion

Motion to approve the ordinance revising code sections 1-2, 1-8 and 1-13 of the Grand Island City Code.

ORDINANCE NO. 9029

An ordinance to amend Chapter 1 of the Grand Island City Code; to amend Sections 1-2, 1-8, and 1-13 pertaining to general housekeeping issues; to repeal Sections 1-2, 1-8, and 1-13 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 1-2 of the Grand Island City Code is hereby amended to read as follows:

§1-2. Definitions and Rules of Construction

In the construction of this Code and all other ordinances of the City, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the council or the context clearly requires otherwise:

City. The words "city", "the city," or "this city" shall be construed as if followed by the words "of Grand Island, Nebraska."

Code. The words "the Code" or "this Code" shall mean "The Grand Island City Code."

Computation of Time. The time within which an act is to be done is computed by excluding the first day and including the last, unless the last day falls upon any legal holiday or on Saturday, in which case the period runs until the end of the next day.

Council. Whenever the word "council" is used, it shall be construed to mean the council of the City of Grand Island, Nebraska.

County. The words "the county" or "this county" shall mean Hall County, Nebraska.

Day. A day is a 24-hour period of time between any midnight and the ~~midnight~~ following midnight.

Daytime, Nighttime. "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.

Gender. The masculine gender includes the feminine ~~and neuter~~.

In the City. The words "in the city" shall mean and include all territory over which the city now has or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

Joint Authority. All words giving joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Month. The word "month" shall mean a calendar month.

Number. The singular number includes the plural and the plural includes the singular.

Oath. "Oath" includes affirmation.

Offense. The doing of any act or thing prohibited or the failing to do any act or thing commanded to be done in this Code within the city is hereby declared to be an offense against the public peace, safety, morals, and general welfare of the people of the City.

Or, And. "Or" may be read "and," and "and" may be read "or," if the sense requires it.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or of a part of such building or land, or vendee in possession under a land sale contract.

Person. "Person" includes but is not limited to individuals, corporations, associations, firms, partnerships and limited liability companies~~joint stock companies~~.

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Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.

Property. The word "property" shall include real and personal property.

Public place. The words "public place" shall mean any public place or building or any private place, business or building, open to and frequented by the public.

Real property. ~~Real property shall mean any estate or interest in land, including all buildings, fixtures and improvements thereon and all rights-of-way, easements, rents, issues, profits, income, tenements, hereditaments, privileges and appurtenances thereunto belonging, used or enjoyed with said land, or any part thereof. The words "real property" shall include lands, tenements and hereditaments.~~

Shall, may. "Shall" is mandatory and "may" is permissive.

Signature or subscription by mark. "Signature" or "subscription by mark" includes a mark when the signer or subscriber cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when one witness shall sign his own name thereto.

State. The word "the state" or "this state" shall be construed to mean the State of Nebraska.

Tenant or occupant. The words "tenant" or "occupant," applied to a building or land, shall include any person holding a written or an oral lease of or who occupies the whole or a part of such building or land, either alone or with others.

~~Tenses. The present tense includes the past and future tenses, and the future includes the present.~~

To. "To" means "to and including" when used in reference to a series of sections of this Code or when reference is made to the Nebraska Revised Statutes.

Week. A week consists of seven consecutive days.

Writing. Writing includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this Code, it shall be made in writing, in the English language, unless it is expressly provided otherwise.

Year. The word "year" shall mean a calendar year, except where otherwise provided.

SECTION 1. Section 1-8 of the Grand Island City Code is hereby amended to read as follows:

§1-8. Citation; Failing to Appear; Penalty

(1) Any person who fails to appear or otherwise comply with the command of a citation shall be guilty of an infraction.

(2) Any person convicted of violating this section shall be punished by a fine of not more than ~~five~~ one hundred dollars or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

SECTION 1. Section 1-13 of the Grand Island City Code is hereby amended to read as follows:

§1-13. Sale of Abandoned Property

The chief of police is hereby empowered to offer for sale and to sell at public auction including sale by internet or other electronic medium to the highest bidder, ~~for cash~~, all personal property, except impounded vehicles, and except property of a nature dealt with in §1-14 which may come within the custody of the police department by reason of its being abandoned, recovered, confiscated, impounded, or unclaimed. Notice of such sale shall be printed once in a legal newspaper published in the City of Grand Island at least ten days prior to the sale; provided, that no such property shall be offered or sold unless it shall have remained unclaimed by the lawful owner for a period of

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six months after it shall have come within the custody of the chief of police or the police department, or, in the case of property taken from or deposited by, persons arrested, detained, or accused of a crime, shall have remained unclaimed for a period of six months after the discharge, liberation or departure of the person from whom such property was taken or by whom such property was deposited.

It shall be the responsibility of the chief of police to make such effort as he deems reasonable to notify the lawful owner of any such property that it will be sold or otherwise disposed of upon a given date.

All money received from the sale of the unclaimed property shall be paid to the chief of police, whose duty it shall be to account for such money collected by him to the city treasurer who shall place the same in the police fund.

SECTION 2. Sections 1-2, 1-8, and 1-13 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: February 14, 2006.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk