



# **City of Grand Island**

**Tuesday, February 10, 2009**

**Council Session**

## **Item F2**

**#9205 - Consideration of Amendments to Chapter 32 of the Grand Island City Code Relative to Streets and Sidewalks**

**Staff Contact: Steven P. Riehle, City Engineer/Public Works Direc**

# Council Agenda Memo

**From:** Steven P. Riehle, Public Works Director  
Wes Nesor, Assistant City Attorney

**Meeting:** February 10, 2009

**Subject:** Consideration of Amendments to Chapter 32 of the  
Grand Island City Code Relative to Streets and  
Sidewalks

**Item #'s:** F-2

**Presenter(s):** Steven P. Riehle, Public Works Director

## Background

The Mayor, City Council and City Administration established a goal of revising the Grand Island City Code. The proposed revisions to Chapter 32 of the City Code have been drafted for City Council consideration.

## Discussion

The changes and additions that are being proposed to Chapter 32 are as follows:

- Section 32-12, Excavations; Barricades and Lights, is being revised to eliminate the requirement for lights and to require retroreflectorized barricades. The Manual on Uniform Traffic Control Devices does not require lights, but they may be used to supplement barricades. Lights are also frequently stolen.
- Section 32-24, Permits; Application, shall include that no permit or fee is required for construction of an ADA compliant handicap ramp.
- Section 32-25, Permit; Fee, shall include that a single no-fee permit may be issued to contractors performing work for the city in multiple locations.
- Section 32-26, Responsibility of Permittee, is being revised to extend the response time for the City to mill curb. We will be as responsive as we can be, but curb milling should not be a priority and interfere with normal City work.
- Section 32-27 and 32-28, are being revised to change the name "Street and Alley Paving Fund" to "General Fund".

- Section 32-31, Barricades and Lights, is being revised to eliminate the requirement for safety guards and lights to conform with Section 32-12 from above.
- Section 32-52 and 32-53, are being revised to eliminate the requirement for the Public Works Department to provide staking for driveways and sidewalks. Staking should be a contractor or property owner responsibility.
- Section 32-54, Material; Location; Curb Length, is being revised to allow for hot-mix asphalt driveways.
- Section 32-58, Sidewalks; Assessments; Bonds, is being revised regarding assessment of repairs to sidewalks without creating a sidewalk district.
- Section 32-72.7, Amber Blinking Lights or Flares, is being revised to change lights and flares to barricades. The Manual of Uniform Traffic Control Devices requires barricades, but lights are optional. Flares are no longer used.
- Section 32-74.1, Objects in the Right-of-Way, is a new section of the City Code and has been added to eliminate City liability for damage to private property placed on City property.

### **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 to revise the City Code. The code would remain in effect as is.
3. Modify the recommendations of city staff for changing the City Code.
4. Take no action on the issue

### **Recommendation**

Public Works Administration recommends that the Council approve the changes to Chapter 32 of the City Code.

### **Sample Motion**

Move to approve Ordinance 9205 revising code sections in Chapter 32 of the Grand Island City Code.

ORDINANCE NO. 9205

An ordinance to amend Chapter 32 of the Grand Island City Code; to amend Section 32-12 pertaining to Retroreflectorized Barricades, Section 32-24 pertaining to Permits and Application, Section 32-25 pertaining to Permit Fees, Section 32-26 pertaining to the Responsibility of the Permittee, Section 32-27 pertaining to Charges for Pavement Cuts, Section 32-28 pertaining to Call-Out Charge, Section 32-31 pertaining to Barricades and Lights, Section 32-52 pertaining to Prerequisites Generally, Section 32-53 pertaining to Duties of Public Works Director, Section 32-54 pertaining to Material; Location; Curb Length, Section 32-58 Sidewalks; Assessments; Bonds, Section 32-72.7 pertaining to Barricades and Section 32-74.1 pertaining to Objects in the Right-of-Way; to repeal Sections 32-12, 32-24, 32-25, 32-26, 32-27, 32-28, 32-31, 32-52, 32-53, 32-54, 32-58, 32-72.7 and 32-74.1 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 32-12, 32-24, 32-25, 32-26, 32-27, 32-28, 32-31, 32-52, 32-53, 32-54, 32-58, 32-72.7 and 32-74.1 of the Grand Island City Code is hereby amended to read as follows:

**§ 32-12 Excavations; Barricades**

No person shall leave any excavation made in any street or highway open at any time without retroreflectorized barricades at such excavations. The name of the company responsible for the excavation shall be clearly visible on the barricades.

**§ 32-24 Permits; Application**

The application for a permit to make a pavement or sidewalk cut shall be made to the City Public Works Department and shall show the name of the party seeking the permit, the location of the duty or opening to be made, the purpose for which the same is to be made and any other pertinent information the City may require. No permit or fee is required for the lowering (milling) of a curb for ADA compliant handicap sidewalk ramps.

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### **§ 32-25 Permit; Fee**

The party applying for a permit to make a pavement or sidewalk cut shall pay to the City at the time such permit is issued a fee in accordance with the City of Grand Island Fee Schedule, which amount shall be credited to the general fund of the City. No fee shall be charged for those performing services under contract for the City, but a permit shall be required. A single (blanket) permit may be issued with no fee to a contractor working in multiple locations throughout the City as directed by the City. If work is commenced prior to application for the permit, an investigation fee in addition to the permit fee in the same amount as the permit fee shall be assessed. Each permit shall expire six months from date of issuance.

### **§32-26 Responsibility of Permittee**

(1) Public utility corporations operating in the City under a franchise, licensed plumbers, city-owned utility departments, parties lowering curbs for a driveway entrance, parties performing services under contract for the City, and other permittees, shall at their own expense make such cuts or openings in streets, alleys, sidewalks, and public grounds according to specifications hereinafter provided. If the surface of any such cut or opening made in any street, alley, sidewalk, or public grounds should thereafter become defective within two years by reason of settling, faulty workmanship, or materials, the same shall upon notice from the public works director be immediately repaired and restored to the satisfaction of said director at no expense to the City. If such party fails to repair or replace such faulty work within a reasonable time, the City shall proceed to make such necessary repairs and restore the surface of such cut or opening, and the expense incurred by the City shall immediately be paid by the one to whom the permit to make such cut or opening was issued.

(2) Public utility corporations operating in the City under a franchise, licensed plumbers, city-owned utility departments, parties lowering curbs for a driveway entrance, parties performing services under contract for the City and other permittees, shall after receiving a permit to have a cut or opening made in any street, alley, sidewalk, or other public ground, if such cut or opening is to be made by the City, give at least forty-eight (48) hours notice before such pavement or sidewalk cut shall be made by the City for them, provided, that when such notice is given to the City on Friday or the day before any legal holiday, the time period shall extend to at least 1 p.m. of the second regular City workday. When desiring to have the replacement of any cut or opening made, the same time limit shall apply as when making application for a permit.

The removal of the material from the area cut, the excavation thereunder and the backfill to subgrade, shall be the responsibility of the applicant and shall be performed according to the provisions of the Grand Island City Code, as amended.

(3) Parties performing services under contract for the City shall, after making application for a permit to make such cuts or openings in streets, alleys, sidewalk, and public grounds, proceed according to specifications as provided in their contracts.

(4) All integral curbs to be removed for driveway entrances (if not milled by the City) shall be sawed and removed as per standard plans on file in the office of the city engineer. When the curb to be removed is part of the curb and gutter, the entire curb and gutter shall be removed to the nearest contraction joints beyond the width of the opening required.

### **§32-27. Charges for Pavement Cuts**

The City will, after the person or corporation receives the permit, do pavement cuts at the charges set out in the City of Grand Island Fee Schedule, except in the case of public utility corporations or city-owned utility departments.

The money collected for the above charges shall be credited to the General Fund.

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In lieu of the City performing any of the above services, a permittee may perform such work on City right-of-way abutting permittee's property only, or may employ an independent contractor, as approved by the public works director. Such permittee shall not commence work until providing City proof of insurance coverage with limits not less than hereinafter set out, namely:

(A) Worker's Compensation Insurance in compliance with the laws of the State of Nebraska, and Employees Liability Insurance.

(B) Public Liability and Property Damage Insurance covering with limits as follows:

(i) Where work is to be performed in Light Business (B1) Zone, General Business (B2) Zone, Heavy Business (B3) Zone, Light Manufacturing (M1) Zone, Heavy Manufacturing (M2) Zone, Commercial Development (CD) Zone, or Industrial Development (ID) Zone, with limits of not less than \$25,000 for each person; \$50,000 for more than one person for each occurrence for bodily injury and death; and property damage limits of not less than \$10,000; and

(ii) Where work is to be performed in Transitional Agriculture (TA) Zone, Suburban Residential (R1) Zone, Low Density Residential (R2) Zone, Medium Density Residential (R3) Zone, High Density Residential (R4) Zone, Residential-Office (RO) Zone, or Residential Development (RD) Zone, with limits of not less than \$5,000 each person; \$10,000 for more than one person for each occurrence for bodily injury and death; and property damage limits of not less than \$5,000; and, in any instance, in such additional amounts as specified and required by the public works director when authorizing the work.

(C) Automobile liability insurance with limits of \$10,000 each person, and \$20,000 each accident for bodily injury or death; and \$5,000 each accident for property damage, or such additional amounts as specified by the public works director when authorizing the work.

### **§32-28. Call-Out Charge**

In addition to the charges for pavement cuts, each person or corporation receiving a permit as required by §32-22 and requiring City personnel for performance of the work required thereunder, shall pay a fee in accordance with the City of Grand Island Fee Schedule for concrete sawing and for concrete milling.

The aforesaid fee shall be credited to the General Fund.

### **§32-31. Barricades**

Any person making excavations in any street, alley or other public grounds in the City shall, at all times after such work is commenced and up to its completion and acceptance by the public works director, maintain proper barricades for the protection of the traveling public.

### **§32-52. Prerequisites Generally**

Any person who intends or desires to alter, break, construct, reconstruct, or remove any curb, gutter, public sidewalk, or hardsurfaced driveway, or any combination of them within the area of any street right-of-way lying within the limits of the City, or within its zoning jurisdiction, shall notify the public works director of such intent or desire and obtain a permit therefor. No construction or reconstruction work in connection therewith shall be started until the public works director has furnished specifications for such work. A permit fee in accordance with the City of Grand Island Fee Schedule shall be charged for each permit, and each permit shall expire six months from date of issuance. The City Council may, by resolution, waive the permit fee.

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**§32-53. Duties of Public Works Director**

The public works director shall furnish specifications for all approved projects described by §32-52, and shall cause the work to be inspected at proper times to see that such work is done in accordance with such specifications. No additional fee shall be collected for the inspection service, nor for the original engineering service.

**§32-54. Material; Location; Curb Length**

All curbs and gutters, public sidewalks and hard-surfaced driveways constructed or reconstructed within the area of any street right-of-way shall be of Portland cement concrete construction (driveways may also be constructed of hot-mix asphalt), unless the city council, upon proper showing that the public will be adequately protected, shall permit other material to be used in a particular location.

Curbs and gutters shall be located so as to provide the proper width for future street paving; shall be constructed to the grade established by ordinance; and shall not be constructed in length of less than the full distance between street intersections at any one time.

**§32-58. Sidewalks; Assessments; Bonds**

(1) Petition Method of Sidewalk Construction. Upon the petition of any freeholder who desires to build such a permanent sidewalk, the council may by ordinance order the same to be built, and that the cost of the same until paid shall be a perpetual lien upon the real estate along which the freeholder desires such sidewalk to be constructed, and the City may assess and levy the costs of same against such real estate in the manner provided by law. The total cost of the building of the permanent sidewalk shall be levied at one time upon the property along which such permanent sidewalk is to be built, and become delinquent as herein provided: One-seventh of the total cost shall become delinquent in ten days after such levy; one-seventh in one year; one-seventh in two years; one-seventh in three years; one-seventh in four years; one-seventh in five years; one-seventh in six years. Each of such installments, except the first, shall draw interest at the rate of not exceeding seven percent per annum from the time of the levy aforesaid until the same shall become delinquent; and after the same shall become delinquent interest at the rate of three-fourths of one percent per month shall be paid thereon as in the case of other special taxes. The council shall pay for the building of such permanent sidewalk out of the general fund.

(2) Sidewalks; Failure to Improve.

(A) Whenever it shall be determined by a three-fourths vote of the city council that public sidewalks are not in place contiguous to the street side boundary lines of any lot, tract, or parcel of land within the city, or that any sidewalks then in place are of insufficient width for usual and convenient use by the public, or that any sidewalks are not laid upon property grade and line, or are of defective construction, or are in a state of disrepair, or are obstructed so as to make such sidewalks unsafe, dangerous or hazardous for public use, then the Public Works Department shall send notice to the property owner giving 15 days to obtain a permit and an additional 15 days to construct or repair the sidewalk as required. Notice will be sent by regular United States mail to the owner's last known address.

(B) In case the owner or owners of any lot, lots or lands abutting on any street or avenue, or part thereof, shall fail to construct or repair any sidewalk in front of his, her or their lot, lots or lands within the time and in the manner as directed and required by the mayor and council, after having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk; and the mayor and council shall have power to cause such sidewalk to be constructed or repaired and assess the cost thereof against such property in the manner provide by law for the levying and collection of special assessments.

(C) In addition to the foregoing, the Council by a three-fourths vote of all members may, by ordinance, create a sidewalk district pursuant to §19-2417, R.R.S. Neb., and cause such sidewalk to be constructed, reconstructed, or repaired as the case may be and shall contract thereof. The council shall levy assessments on the lots and parcels of land abutting on or adjacent to the sidewalk improvements

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especially benefited thereby in such district in proportion to the benefits, to pay the cost of such improvement. All assessments shall be a lien on the property on which levied from the date of the levy until paid. The assessment of the special tax, for the sidewalk improvement, shall be levied at one time and shall become delinquent as follows: One-seventh of the total assessment shall become delinquent in ten days after such levy; one-seventh in one year; one-seventh in two years; one-seventh in three years; one-seventh in four years; one-seventh in five years; and one-seventh in six years. Each of such installments, except the first, shall draw interest at the rate of not exceeding seven percent per annum from the time of the levy until the same shall become delinquent; and after the same shall become delinquent, interest at the rate of fourteen percent per annum shall be paid thereon as in the case of other special taxes. All such assessments shall be made and collected in accordance with the procedure established for paving assessments. The power to establish a sidewalk district shall be cumulative to the general authority of the City to regulate sidewalks.

(3) Bonds, Warrants, Payments. For the purpose of paying the cost of sidewalk improvements in any sidewalk district, the council may, by ordinance, cause to be issued bonds of the City, to be called Sidewalk Bonds of District No. \_\_\_\_\_, payable in not exceeding six years from date, and to bear interest annually or semi-annually at not exceeding six percent per annum, with interest coupons attached. Such bonds shall be general obligations of the City with principal and interest payable from a fund made up of the special assessments collected and supplemented by transfers from the general fund to make up any deficiency in the collection of the special assessments. For the purpose of making partial payments as the work progresses, warrants may be issued by the council, upon certificate of the engineer in charge showing the amount of the work completed, in a sum not exceeding eighty percent of the cost thereof, which warrants shall be redeemed and paid upon the sale of the bonds issued and sold as aforesaid.

(4) Waiver of Sidewalk Requirements. This section shall be of no force or effect with respect to any property subject to a waiver of sidewalk requirements granted by the city council as provided by this Code.

**§32-72.7. Barricades**

(1) Retroreflectorized barricades shall be maintained at each end of every pile of material in every street or alley, and at each end of every excavation.

(2) Any roll off box using and obstructing a street, alley or sidewalk or part thereof must be equipped with reflective material not less than two (2) square feet in area on both the front and back ends.

**§32-74.1. Objects in the Right-of-Way**

The City will assume no responsibility for damage to underground lawn sprinkling systems or landscaping installed in the City owned right-of-way.

SECTION 2. Section 32-12, 32-24, 32-25, 32-26, 32-27, 32-28, 32-31, 32-52, 32-53, 32-54, 32-58, 32-72.7 and 32-74.1 as now existing, and any ordinances or parts of ordinances in conflict herewith be, and hereby are, repealed.

SECTION 3. 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.



ORDINANCE NO. 9205 (Cont.)

Enacted: February 10, 2009.

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Margaret Hornady, Mayor

Attest:

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RaNae Edwards, City Clerk