



City of Grand Island

Monday, March 26, 2012

Council Session

Item F1

#9376 - Consideration of Amendment to Chapter 16 of the Grand Island City Code Relative to Burning Regulations

Staff Contact: Tim Hiemer

Council Agenda Memo

From: Robert J. Sivick, City Attorney
Meeting: March 13, 2012
Subject: Open Burning
Item #'s: F-1
Presenter(s): Tim Hiemer, Fire Operations Division Chief

Background

The City of Grand Island (City) ordinance regulating open burning has been the subject of numerous recent discussions by the Grand Island City Council (Council). Although proposed changes to the ordinance were rejected by the Council, it needs to be examined and amended to correct errors and insure certain activities common and accepted in the community are not deemed illegal. In addition, if the proposed amended ordinance is approved by the Council, the 2011/2012 City Fee Schedule must be amended.

Discussion

The proposed amended ordinance generally addresses the following issues:

1. Permits the cooking of food for human consumption on commercial premises. Presently a number of commercial establishments sell food cooked on outdoor grills during the Summer. This is also a common activity during the Nebraska State Fair.
2. Requires evidence of necessary permits by the Nebraska Department of Environmental Quality (DEQ) be provided to the Fire Chief before a City permit is issued.
3. Permits open fires for ceremonial, educational, or recreational purposes by non-profit or governmental entities.
4. Permits the use of outdoor fireplaces with safety restrictions as these devices have become quite common and accepted in the City in recent years.
5. Requires a fee of ten dollars for an open burning permit as permitted by State law prior to the issuance of that permit.

Alternatives

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

1. Move to approve the proposed amended Ordinance and/or the proposed Resolution amending the 2011/2012 City Fee Schedule.
2. Refer the issue to a Committee.
3. Postpone the issue to future date.
4. Take no action on the issue.

Recommendation

City Administration recommends the Council approve Ordinance No. 9376 amending Grand Island City Code §16-11 and Resolution 2012-84 amending the 2011/2012 City Fee Schedule.

Sample Motion

Move to approve Ordinance No. 9376 amending Grand Island City Code §16-11 and Resolution 2012-84 amending the 2011/2012 City Fee Schedule.

ORDINANCE NO. 9376

WHEREAS, the Grand Island City Council finds it necessary to amend Grand Island City Code §16-11, its laws regulating open fires, to reflect existing community standards,

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

I. That Grand Island City Code §16-11 be amended to read as follows:

§16-11. Open Fires; When Allowed; Permit; Fire Locations; Hours of Burning

(1) For purposes of this section, Open Fire shall mean burning under such conditions that the products of combustion are emitted directly into the ambient air ~~and are not conducted thereto through a stack, chimney, duct, or pipe.~~

(2) No person shall cause or permit any open fire within the limits of the City.

(3) Exceptions:

(a) Fires set solely for the outdoor cooking of food for human consumption ~~on other than commercial premises~~ where no nuisance or hazard is created;

(b) Fires set with the written permission of the Fire Chief of the City of Grand Island or his or her designated representative and upon receipt of any permit required by the Nebraska Department of Environmental Quality:

(i) for the purpose of training public or industrial fire fighting personnel.

(ii) for essential agricultural operation in the growing of crops where no nuisance or hazard is created.

(iii) for the purpose of destroying dangerous materials or diseased trees.

(iv) for the purpose of clearing land for roads or other construction activity.

(v) for ceremonial, educational, or recreational purposes by a legally established and recognized non-profit organization or governmental entity.

(vi) for the purpose of burning leaves and brush where no nuisance or hazard is created.

(c) Fires set in operation of smokeless flare stacks for the combustion of waste gases, provided they meet the requirements of the Nebraska Department of Environmental Control Quality.

(d) For ~~opening~~ burning of leaves and brush where no nuisance or hazard is created during the following periods: (1) A fourteen (14) day period beginning the third Sunday in April, and (2) A fourteen (14) day period beginning the second Sunday in October or as the Fire Chief may designate due to ~~inimate~~ inclement weather during the foregoing specified periods.

(e) For the private, residential use of outdoor fireplaces as defined below and with the following restrictions:

(i) portable fire pits which are designed and commercially sold to confine outdoor wood fires;

(ii) chimineas, constructed of clay or some other fire safe material which are designed and commercially sold to confine outdoor wood fires;

(iii) fire rings which are designed to enclose an outdoor fire with a metal tube, poured concrete, stones, or some other fire safe material partially buried in the ground;

(iv) all outdoor fireplaces must be at a minimum of fifteen (15) feet distance from any structure, including fences and sheds and placed on a stable, non-combustible surface such as a concrete pad;

(v) the fuel area for all outdoor fireplaces shall be no more than three (3) feet in diameter and completely enclosed by a non-combustible screening material;

(vi) the opening in the fuel area must be covered with a screening material constructed of fire safe wire mesh to prevent the passage of sparks and embers;

(vii) fuel for outdoor fireplaces shall be limited to untreated and/or seasoned wood.

(viii) fuel that consists of yard waste or wood that is milled, processed, treated, and/or painted is prohibited;

(ix) while in operation, all outdoor fireplaces shall be continuously monitored by at least one (1) person eighteen (18) years of age or older and an operable garden hose connected to a water supply shall be available for extinguishing flames; and

(x) outdoor fireplaces shall not be operated when local average wind speed is fifteen miles per hour (15 mph) or greater.

(4) Open fires shall be ~~constantly attended~~ continuously monitored by a ~~competent~~ at least one (1) person eighteen (18) years of age or older until the fire is extinguished. The person so attending shall have an operable garden hose connected to a water supply or other fire extinguishing equipment readily available for use, and no such fire shall be abandoned until it has been completely extinguished.

(5) Permits to burn leaves and brush shall only be issued to the owner or occupant of private residential property fire locations. Applications for Ppermits may be issued made only during each open burning period and the week prior thereto. A separate permit shall be required for each open burning period for the activities listed in paragraph (3)(b)(vi) above and shall be maintained in the possession of a person tending the fire at all times.

(6) A separate permit shall be required for any of the activities listed in paragraphs (3)(b)(i), (ii), (iii), (iv), and (v).

~~(6)~~

(7) Fire locations for leaf and brush piles greater than three (3-0) feet in diameter or two (2-0) feet in height must be at least fifty (50-0) feet away from any structure or other combustible material. Fire locations for leaf and brush piles less than three (3-0) feet in diameter and two (2-0) feet in height must be at least twenty-five (25-0) feet from any structure or other combustible material unless the fire is contained within an approved burning appliance or barrel with one-half (1/2") inch (1/2") wire mesh screen covering the entire opening and such container or barrel is located not less than fifteen (15-0) feet from any structure or other combustible material.

~~(7)~~

(8) Leaf and brush fires may only be burned occur between the hours of 8:00 a.m. and 8:00 p.m. during of the open burning periods as defined in paragraph (3)(d) above.

~~(8)~~

(9) The Fire Chief of the Grand Island Fire Department may prohibit any and all open burning when he or she determines atmospheric conditions or local circumstances make such fires hazardous.

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(10) A permit fee of ten dollars (\$10.00) for each open burning period for the activities listed in paragraph (3)(b)(vi) above must be paid by any person or organization seeking a permit prior to its issuance.

(11) A permit fee of ten dollars (\$10.00) for each daily occurrence for any of the activities listed in paragraphs (3)(b)(i), (ii), (iii), (iv), and (v) above must be paid by any person or organization seeking a permit prior to its issuance.

II. Any ordinances or parts of ordinances in conflict are hereby repealed.

III. This ordinance shall be in full force and will take effect from and after its passage and publication pursuant to law.

Enacted: March 26, 2012.

Jay Vavricek, Mayor

ATTEST:

RaNae Edwards, City Clerk