



City of Grand Island

Tuesday, September 07, 2004

Study Session

Item -1

Discussion Concerning Nuisance Code Changes

Staff Contact: Doug Walker

Council Agenda Memo

From: Douglas R. Walker, City Attorney
Meeting: September 7, 2004
Subject: Nuisance Code Changes
Item #'s: 1
Presenter(s): Douglas R. Walker, City Attorney

Background

The city has received complaints regarding various properties around the City of Grand Island that present an unsightly appearance but which do not currently violate the provisions of the Grand Island nuisance ordinance Section 20-13. There have been numerous occasions where City Code Enforcement and city staff have felt that the properties on which complaints have been made do not qualify for prosecution under the current city ordinance, therefore, revisions to Ordinance 20-13 and a new ordinance, 20-13.1 have been drafted.

Discussion

The proposed changes to Section 20-13 of the city ordinances creates five additional types of violations which may constitute a nuisance in addition to the two items that are currently listed in 20-13. The new nuisance categories are as follows:

Subsection C offends decency;

Subsection D is offensive to senses;

Subsection E unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street or highway in the city;

Subsection F in any way renders other persons insecure in life or the use of their property; and,

Subsection G essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others.

Adding these additional categories of conduct which can be considered a nuisance will give city officials broader latitude in dealing with some of the problems that we encounter in the City of Grand Island.

The new City Code Section 20-13.1 goes into more specific definitions of property maintenance which can constitute a nuisance. There are twelve specific categories listed in this ordinance which will give city officials a number of options in charging someone with a nuisance violation. This should also enhance our ability to bring nuisance charges against substandard properties.

City staff is also proposing additional language to be added to City Code Section 20-11 for obstructing public right-of-way. The new provisions to Section 20-11 set forth a procedure for quickly removing items from the city street right-of-way once a 24 hour notice is given to the property owner or the tenant of the property. The additional language to Code Section 20-11 also sets forth a procedure for disposing of property removed from city street right-of-way if not claimed. The revisions to this code section are being made in response to problems that the city has had with some property owners or their tenants putting items of personal property on city street right-of-way for commercial purposes. The code section changes will apply to all situations where objects are placed in the city street right-of-way. City staff believes that these new provisions will speed up the process of removing items from city street right-of-way.

Alternatives

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

1. Approve the ordinances proposed by city administration and schedule them for passage at a regular session of the City Council.
2. Disapprove the proposed changes to the current Grand Island City Code.
3. Modify the proposed ordinance change to meet the wishes of the Council
4. Table the issue

Recommendation

City Administration recommends that the proposed changes be approved for consideration and adoption at the September 14, 2004, regular meeting of the Grand Island City Council.

ORDINANCE NO. ____

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 within twenty-four hours of receiving personal notice or notice by certified mail.

(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.

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.

(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.

ORDINANCE NO. _____ (Cont.)

- (C) Offends decency.
- (D) Is offensive to the senses.
- (E) Unlawfully interferes with, obstructs, tends to obstruct or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the City.
- (F) In any way renders other persons insecure in life or the use of property.
- (G) 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, hides, skins, 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) Animal manure in any quantity which is not securely protected from flies and the elements, 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 provided 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 is located, are maintained and kept in such a manner that foul and noxious odors are permitted to emanate

ORDINANCE NO. _____ (Cont.)

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 14, 2004.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk