
City of Grand Island



Tuesday, September 07, 2004

Study Session Packet

City Council:

Carole Cornelius

Peg Gilbert

Joyce Haase

Margaret Hornady

Robert Meyer

Mitchell Nickerson

Don Pauly

Jackie Pielstick

Scott Walker

Fred Whitesides

Mayor:

Jay Vavricek

City Administrator:

Gary Greer

City Clerk:

RaNae Edwards

7:00:00 PM

Council Chambers - City Hall

100 East First Street

Call to Order

Pledge of Allegiance

Roll Call

A - SUBMITTAL OF REQUESTS FOR FUTURE ITEMS

Individuals who have appropriate items for City Council consideration should complete the Request for Future Agenda Items form located at the Information Booth. If the issue can be handled administratively without Council action, notification will be provided. If the item is scheduled for a meeting or study session, notification of the date will be given.

B - RESERVE TIME TO SPEAK ON AGENDA ITEMS

This is an opportunity for individuals wishing to provide input on any of tonight's agenda items to reserve time to speak. Please come forward, state your name and address, and the Agenda topic on which you will be speaking.

MAYOR COMMUNICATION

This is an opportunity for the Mayor to comment on current events, activities, and issues of interest to the community.



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



City of Grand Island

Tuesday, September 07, 2004

Study Session

Item -2

Discussion Concerning Revisions to Dog Ordinances

Staff Contact: Doug Walker

Council Agenda Memo

From: Douglas R. Walker, City Attorney
Meeting: September 7, 2004
Subject: Proposed Change to Dog Ordinance
Item #'s: 2
Presenter(s): Douglas R. Walker, City Attorney

Background

City staff is proposing three changes to the City Code dealing with dogs running at large and the process for declaring dogs vicious. There have been some unfortunate situations develop in the City of Grand Island this summer regarding some dog bite incidents and city staff believes that the proposed changes in the ordinance will improve and expedite the process of declaring dogs vicious to protect the public. City staff is also proposing some minor changes to the language in the dog running at large definition section and in Ordinance 5-34, which deals with dogs running at large.

Discussion

Grand Island City Code Section 5-37 as currently drafted does not specifically permit the Director of the Humane Society to declare an animal vicious if it has previously been declared dangerous or potentially dangerous and inflicts a subsequent bite on a human being or a domestic animal. The way Section 5-37 is currently worded, an animal can be declared vicious if it is not under control of the owner. A new subsection (d) to Section 5-37 specifically states that in the event an animal previously declared to be dangerous or potentially dangerous bites or inflicts a wound on a human being or domestic animal, then that animal may be declared vicious by the Director of the Humane Society who may then require the animal to be relinquished to the Humane Society for disposition as a vicious animal. City staff believes that by having this provision in Section 5-37, this will substantially strengthen the Humane Society's ability to declare animals as vicious and prevent them from being a threat to people or other animals.

In regard to the changes proposed for Sections 5-1 and 5-34, these changes are clearing up some ambiguity in the requirements for people to keep animals that are outside of their residence in a fenced in area or on a leash to prevent them from running at large. The old definition of running at large included the phrase "If an animal is unattended and

out of doors on the premises, the owner”. The words “unattended and” have been removed so that it is clear that if an animal is out of doors on the owner’s property that it must either be in a fenced in area or on a leash. When revisions were made to these ordinances in 2003 this was the intent of the Humane Society and the Animal Advisory Board to recommend changes that would require the animals outside on their owner’s premises be properly restrained as well as when the animals are off the property of the owner. The proposed changes will clarify this issue.

Alternatives

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

1. Approve the ordinances as drafted and refer them to a future regular session of the City Council for action.
2. The City Council may choose to reject the proposed changes.
3. Modify the proposed ordinance to meet the wishes of the Council
4. Table the issue

Recommendation

City Administration recommends that the changes to the dog ordinances be approved and referred to the September 14, 2004, regular session of the City Council for adoption to the City Code.

ORDINANCE NO. _____

An ordinance to amend Chapter 5 of the Grand Island City Code; to amend Section 5-1 pertaining to the definition of a vicious animal and the definition of running at large; to amend Section 5-34 pertaining to animals running at large; to amend Section 5-37 pertaining to restraint, impoundment, confiscation of dangerous animals; to repeal Sections 5-1, 5-34, and 5-37 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 5-1 of the Grand Island City Code is hereby amended to read as follows:

§5-1. Definitions

As used in this chapter, the following terms mean:

Animal. Any live, vertebrate creature other than human beings.

Animal Shelter. Any facility operated by the City or the contracting agency for the purpose of impounding or caring for animals held under the authority of this chapter.

Auctions. Any place or facility where animals are regularly bought, sold, or traded, except for those facilities otherwise defined in this ordinance. This section does not apply to individual sales of animals by owners.

Birds. Any feathered vertebrate, including pigeons, but excluding poultry.

Bite. Any seizure with the teeth by an animal

Circus. A commercial variety show featuring animal acts for public entertainment.

Commercial Animal Establishment. Any pet shop, grooming shop, auction, riding school or stable, zoological park, circus, performing animal exhibition, or kennel (this term shall not include a veterinary hospital or veterinary clinic).

Contracting Agency. The person, association, corporation, or partnership with which the City has contracted to enforce the provisions of this chapter.

Dangerous Animal. Any animal that (a) has killed or inflicted severe injury on a human being on public or private property; (b) has killed a domestic animal without provocation while the animal was off the owner's property; or (c) has been previously determined to be a potentially dangerous animal according to this chapter and such animal subsequently and aggressively bites, attacks, or endangers the safety of humans or domestic animals. Under (a) and (c) herein, the animal shall not be considered a dangerous animal if the conduct of the animal in question is directed at a person:

- (1) Who, at the time, was committing a willful trespass or any other tort upon the property of the owner of the animal;
- (2) Who, at the time, was tormenting, abusing, or assaulting the animal;
- (3) Who, in the past, has been observed or reported to have tormented, abused, or assaulted the animal; or
- (4) Who, at the time, was committing or attempting to commit a crime against the person, against public peace, or relating to the property.

Enclosure. Any tract of land intended to restrain or contain an animal by means of a building, fence, or any other means.

ORDINANCE NO. _____ (Cont.)

Fowl. Any poultry, other than pigeons.

Grooming Shop. A commercial establishment where animals are bathed, clipped, plucked, or otherwise groomed.

Health Department. An agency with which the City contracts to enforce the provisions of Chapter 5 - Animals of the Grand Island City Code.

Humane Society. An agency with which the City contracts to enforce the provisions of Chapter 5 - Animals of the Grand Island City Code.

Humane Society Officer. Any police officer, Health Department employee, or employee of the contracting agency who is performing the duty of enforcing the provisions of this chapter.

Kennel. Any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire, training for a fee, or selling dogs or cats.

Livestock. Any hoofed animal commonly associated with domestic agricultural purposes, including but not limited to: horses, mules, donkeys, cows, sheep, goats, llamas, hogs, and miniature pot belly pigs.

Owner. Any person, partnership, or corporation owning, keeping, harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for three consecutive days or more.

Performing Animal Exhibition. Any spectacle, display, act, or event other than circuses in which performing animals are used.

Pet. Any animal kept for pleasure rather than utility.

Pet Shop. Any person, partnership, or corporation, whether operated separately or in connection with another business except for a licensed kennel, that buys, sells, or boards any species of animal.

Potentially Dangerous Animal. (a) Any animal that (1) bites or inflicts a wound that is not severe on a human or injures a domestic animal either on public or private property, or (2) chases or approaches a person upon streets, sidewalks, or any public grounds in a menacing fashion or apparent attitude or attack; or (b) any dog with a known propensity, tendency, or disposition to attack when unprovoked, to cause injury, or to threaten the safety of humans or domestic animals.

Restraint. Any animal secured by a leash or lead, or under the control of a responsible person and obedient to that person's commands, or within the real property limits of its owner.

Residence. The structure used as a domicile by a person or a family.

Riding School or Stable. Any place which has available for hire, boarding and/or riding instruction, any horse, pony, donkey, mule, or burro.

Running at Large. Running at large shall mean any dog or other animal off the premises of the owner and not under the immediate control of a person physically capable of restraining the animal by holding a leash, cord, chain, wire, rope, cage or other suitable means of physical restraint or if the animal is ~~unattended and~~ out of doors on the premises of the owner, the animal shall be in an adequate fenced in area or securely fastened to a leash or chain to prevent the animal from leaving the owner's premises.

Scratch. Any scraping with the claws by an animal which causes an abrasion, puncture or wound of the skin.

Severe Injury. Any physical injury to a person that results in disfiguring lacerations requiring multiple sutures or cosmetic surgery, or one or more broken bones, or that creates a potential danger to the life or health of a victim.

Shelter. Any structure with a roof and walls designed and/or intended to house one or more animals.

Veterinary Hospital or Veterinary Clinic. Any establishment maintained and operated by a licensed veterinarian for surgery, diagnosis and treatment of diseased and injured animals.

Vicious Animal. Any animal that conforms to the definition of a dangerous animal and that could not be controlled or restrained by its owner at the time of any occurrence underlying the animal's declaration as a dangerous animal or which cannot be sufficiently controlled or restrained by the animal's owner to prevent any such occurrence in the future. An animal that has previously been declared dangerous or potentially dangerous that bites or inflicts a wound on a human or on a domestic animal will not be considered sufficiently controlled and may be declared a vicious animal by the Director of Humane Society.

Wild Animal. Any live animal normally found living in a state of nature and not normally subjected to domestication, including but not limited to: monkeys, raccoons, skunks, snakes, and lions, but excluding birds.

Zoological Park. Any facility, other than a pet shop or kennel, displaying or exhibiting one or more species of nondomesticated animals operated by a person, partnership, corporation, or government agency.

ORDINANCE NO. _____ (Cont.)

SECTION 2. Section 5-34 of the Grand Island City Code is hereby amended to read as follows:

§5-34. Running at Large; Restraint Required

It shall be unlawful for any owner to suffer or permit any dog or other animal to run at large within the corporate limits of the City of Grand Island. "Running at Large" shall mean any dog or other animal off the premises of the owner and not under the immediate control of a person physically capable of restraining the animal by holding a leash, cord, chain, wire, rope, cage or other suitable means of physical restraint or if the animal is ~~unattended and~~ out of doors on the premises of the owner, the animal shall be in an adequate fenced in area or securely fastened to a leash or chain to prevent the animal from leaving the owner's premises. It shall be the duty of the city animal control officer or other appropriate city law enforcement officer to impound any dog found running at large within the City of Grand Island. Every dog found running at large in violation of this or any other section of the Grand Island City Code is declared to be a public nuisance and may be impounded.

SECTION 3. Section 5-37 of the Grand Island City Code is hereby amended to read as follows:

§5-37. Dangerous Animals; Restraint; Impoundment; Confiscation

(A) No owner of a dangerous or potentially dangerous animal shall fail to keep such animal securely muzzled and restrained by a leash or chain whenever off the owner's property.

(B) Any dangerous animal or potentially dangerous animal in violation of §5-36 or §5-37 of the Grand Island City Code may be impounded by humane society officers pending the owner paying the costs of confinement, licensing and vaccination, if applicable, and demonstrating the ability of complying with said sections thereafter.

(C) In the event an animal previously declared dangerous or potentially dangerous has been cited for running at large on two separate occasions subsequent to service of written notice on the animal's owner pursuant to §5-47 of this code, such animal shall be declared a vicious animal and ownership of such animal shall be relinquished to the Humane Society in accordance with §5-47(C).

(D) In the event an animal previously declared dangerous or potentially dangerous bites or inflicts a wound on a human or domestic animal, subsequent to service of written notice on the animals' owner pursuant to §5-47 of this code, such animal may be declared a vicious animal and if the animal is declared to be vicious, ownership of such animal shall be relinquished to the Humane Society in accordance with §5-47(C).

(D) Disposition of any dangerous animal or potentially dangerous animal impounded for violation of §5-36 or §5-37 shall be governed by §5-44.

SECTION 4. Sections 5-1, 5-34, and 5-37 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.

ORDINANCE NO. _____ (Cont.)

Enacted: September 14, 2004.

Jay Vavricek, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

Tuesday, September 07, 2004

Study Session

Item .X1

SPEICAL MEETING - Executive Session to Discuss Property Negotiations

SPECIAL MEETING IMMEDIATELY FOLLOWING STUDY SESSION:

ADJOURN TO EXECUTIVE SESSION:

Discussion Concerning Property Negotiations.

RETURN TO REGULAR SESSION:

ADJOURN MEETING:

Staff Contact: Doug Walker