



CITY OF GRAND PRAIRIE ORDINANCE

MEETING DATE: 10/11/2022

REQUESTER: Fred Bates, Jr.

PRESENTER: Chad L. McGowan, Code Compliance Division Manager

TITLE: Ordinance Amending Chapter 29 “Code Compliance” Article V “General Nuisances” to amend the procedures related to nuisance determinations, abatements, and appeals (Reviewed by the Public Safety, Health, and Environment Committee on 09/12/2022)

RECOMMENDED ACTION: Approve

ANALYSIS:

Currently, after a property owner is given notice of a nuisance and time to correct the violations, Code Compliance staff must obtain an abatement order at the Building Advisory and Appeals Board’s monthly meeting to abate the nuisance.

This amendment will require nuisances to be abated within 10 days. Staff will retain the flexibility to work with citizens who are making an effort to abate the nuisance but need additional time. If the property owner does not abate the nuisance within the time provided, the Code Compliance Manager will have the authority to issue a nuisance declaration. If the property owner fails to abate the nuisance in accordance with the Code Compliance Manager’s declaration, the City will be authorized to abate the nuisance. The property owner will have the right to appeal the Manager’s declaration of public nuisance within 10 days of receiving the Manager’s determination. Appeals to the Manager’s determination will be heard by the Building Advisory and Appeals Board.

Staff believes this new process will be more efficient than the current process.

FINANCIAL CONSIDERATION:

None

AN ORDINANCE AMENDING CHAPTER 29 “CODE COMPLIANCE”, OF THE CODE OF ORDINANCES OF THE CITY OF GRAND PRAIRIE, TEXAS, BY AMENDING ARTICLE V “GENERAL NUISANCES” TO GRANT THE CODE COMPLIANCE MANAGER AUTHORITY TO MAKE NUISANCE DETERMINATIONS AND ISSUE ABATEMENT ORDERS; PROVIDING PROCEDURES FOR APPEAL OF THOSE DETERMINATIONS TO THE BUILDING ADVISORY AND APPEALS BOARD; PROVIDING A PENALTY CLAUSE; A

SAVINGS CLAUSE AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE UPON ITS PASSAGE AND PUBLICATION

WHEREAS, the City desires to grant authority to the Code Compliance Manager to declare property to be a public nuisance and issue abatement orders when an owner does not voluntarily abate the nuisance; and

WHEREAS, the City desires to provide an owner the opportunity to file an appeal of the Code Compliance Manager's declaration of a public nuisance with the Building Advisory and Appeals Board.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND PRAIRIE, TEXAS:

SECTION 1. That Sections 29-95 through 29-104 of Chapter 29 "Code Compliance" of the Code of Ordinances of the City of Grand Prairie, Texas, are hereby amended to read as follows:

"Sec. 29-95. - Order of abatement.

Whenever a nuisance, as defined in this chapter, exists on any lot, tract, parcel of land or portion thereof situated within the City, a code compliance officer or other authorized designee, shall give notice of the nuisance to the property owner and occupant, mortgagee or other person in control of the property, and direct that the nuisance be abated or removed within ten (10) days of the notice.

1. *Notice required.* Such notice shall be given to the owner in any one of the following ways:
 - a. In person to the owner in writing;
 - b. By certified mail or letter addressed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
 - c. If personal service cannot be obtained:
 1. By publication by newspaper of general circulation in the municipality;
 2. By posting the notice on or near the front door of each building on the property to which the violation relates; or
 3. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.
2. *Return of Notice.* If the notice to a property owner is returned by United States Postal Service as "refused" or "unclaimed", the validity of the notice is not affected, and the notice is considered received.
3. *Notice by Certified Mail.* If the notice is given by certified mail, the date of notice is the date of delivery. If the date of delivery is not known, then notice given by mail is deemed to be received three (3) days after the date mailed.

Sec. 29-96. - Extension of time.

Whenever notice has been given by a code compliance officer or an authorized designee to abate or remove any nuisance that may exist upon any lot or premises, under the provisions of section 29-95, the owner thereof shall have the right, within the period of time given in the order of abatement, to appear at the office of the Code Compliance Manager or authorized designee to show cause why such order should

not or cannot be complied with, and the Manager of Code Compliance, hereafter "Manager" or designee may, at his discretion, give such extension of time in writing for the abatement or removal of such nuisance as may be necessary, provided that there is no immediate danger to the public health.

Sec. 29-97. - Voluntary abatement.

The owner of any building, structure or property found to be a nuisance under the provisions of this chapter may abate the nuisance at any time within the abatement period by repair or removal. The Code Compliance Division shall be advised of the abatement and shall inspect the premises to ensure that the nuisance has been abated. Should any of the items which constitute a nuisance be placed on other public or private property without consent from the owner or person in control of such property, this will constitute a separate violation and appropriate enforcement action shall be taken by the Code Compliance division.

Sec. 29-98. – Manager’s Determination after Failure to Abate

If a nuisance is not properly abated within ten (10) days of notice or within the period established under the provisions of section 29-96, the Manager shall declare the property to be a public nuisance. The Manager or authorized designee shall provide the owner with notice, in accordance with section 29-95(1), of the Manager’s declaration of the property as a public nuisance. The Manager’s determination is final unless the owner files a written appeal to the Building Advisory and Appeals Board.

Sec. 29-99. – Appeals from Manager’s Determination

An appeal may be taken from the Manager’s declaration of a public nuisance by filing an application for a hearing before the Building Advisory and Appeals Board within 10 calendar days after the owner receives notice of the Manager’s determination. The Building Advisory and Appeals Board will schedule the hearing for the next available meeting of such Board. Such appeal must be heard by a quorum of the Board. For any appeal to be sustained, and for the order or decision of the Manager’s determination to be overturned, a motion to overturn the determination must receive at least five (5) affirmative votes from voting members of the Building Advisory and Appeals Board. The responsibility of the Building Advisory and Appeals Board to hear such cases and to determine the appeal is in addition to any other powers and duties of the Board provided in the Code of Ordinances.

Sec. 29-100. - Hearing by the building advisory and appeals board.

At the public hearing, the Building Advisory and Appeals Board shall hear and consider all relevant evidence, objections or protests and shall receive testimony from owners, witnesses, City personnel and interested persons relative to such alleged public nuisance and to proposed abatement measures. The Board may continue the hearing in accordance with applicable law.

Sec. 29-101. - Decision of the building advisory and appeals board.

Following the public hearing, the Building Advisory and Appeals Board shall consider all evidence and determine whether the property, or any part thereof, constitutes a public nuisance as alleged. If the Board finds that a public nuisance does exist and that there is sufficient cause to abate the nuisance, the Building Advisory and Appeals Board shall make a written order setting forth the findings and ordering the owner or other person having charge or control of the property to abate the nuisance by repair or removal in the manner and by the means specifically set forth in that order. The order shall set forth the times within which the abatement shall be completed, which shall not be less than seven (7) days.

Sec. 29-102. - Service of abatement order.

Following the decision of the building advisory and appeals board, the Code Compliance Manager shall provide a copy of the written order to the property owner. Service shall be by certified mail to the address provided to the appeal board or by hand delivery to the property owner). The failure of any person to receive such notice shall not affect the validity of the proceedings.

Sec. 29-103. - Abatement by property owner.

The property owner, or person having charge or control of the property, may, at his own expense, abate the nuisance as prescribed in the Manger's notice or by the order of the Building Advisory and Appeals Board prior to the expiration of the abatement period set forth in the order. If the nuisance has been abated in accordance with the order and abatement has been confirmed through an inspection by a representative of the Code Compliance Division, the proceedings shall be terminated.

Sec. 29-104. - Abatement by city.

If a nuisance is not completely abated within the time prescribed in the Manger's determination notice, the extension letter in respect to Sec. 29-96, or the time prescribed in the Building Advisory and Appeals Board order, the Code Compliance Manager or other designated City official is authorized and directed to cause the nuisance to be abated by City forces or private contract. In furtherance of this section, the Code Compliance Manager or his designated agent or private contractor is expressly authorized to enter upon the property to abate the nuisance."

SECTION 2. That Chapter 29 "Code Compliance" of the Code of Ordinances of the City of Grand Prairie, Texas, as amended, shall be and remain in full force and effect save and except as amended by this Ordinance.

SECTION 3. That the terms and provisions of this Ordinance are severable and are governed by Section 1-4 of the Code of Ordinances of the City of Grand Prairie, Texas.

SECTION 4. That a violation of any provision of this Ordinance shall be a misdemeanor punishable in accordance with Section 1-8 of the Code of Ordinances of the City of Grand Prairie, Texas.

SECTION 5. All ordinances or parts of ordinances not consistent or conflicting with the provisions of this Ordinance are hereby repealed. Provided that such repeal shall be only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered in this Ordinance.

SECTION 6. That this Ordinance shall be and become effective immediately upon and after its passage and publication.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF GRAND PRAIRIE, TEXAS, ON THIS THE 11th DAY OF OCTOBER 2022.