

TREES

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An Ordinance of the Mayor and Council of the City of Gothenburg, Dawson County, Nebraska, to provide for the disposition of dead and dying trees; to declare dead and dying trees a nuisance; to provide for the removal and destruction of any diseased or dead trees; to provide for assessing the cost of such removal and destruction against private property thereon situated or abutting thereto if tree is located in street; to provide for inspection of trees on private property to determine the existence of dead or dying trees; to provide for the repeal of prior ordinances in conflict herewith; to provide for penalties for violation hereof; to declare an emergency to provide when said ordinance shall become operative.

Be it ordained by the Mayor and Council of the City of Gothenburg, Dawson County, Nebraska:

10-33-A-15: Definitions.

- (A). The Mayor and Council shall designate some city employee to serve as tree inspector under the terms and provisions hereof, who shall hereafter be referred to as "city employee."
- (B). The term "person," as used herein, includes any individual, firm, corporation, association or partnership.
- (C). Trees of all species and varieties in a dead or dying condition are hereby declared to be a public nuisance.

10-33-A-16: Rights and Duty of City Employee.

The city employee charged with enforcement of this ordinance may enter upon private property at all reasonable hours for purposes

of inspecting trees thereon, and may remove such specimens as are required for purposes of analysis to determine the condition thereof. It shall be unlawful for any person to prevent the city employee from entering on private property for the purpose of carrying out his duties hereunder, or to interfere with such employee in the lawful performance of his duties under the provisions of this ordinance.

10-33-A-17: Notice of Removal of Tree or Parts Thereof on Private Property.

If trees on private property are found to be a nuisance, the city employee shall give to the owner of the premises where the same is situated, written notice of the existence of such nuisance or of the dead or dying condition of such trees or parts thereof, and require the removal of the same. Such notice shall also notify the owner of said premises that if such tree is not removed after five days notice by publication or personal service, the City will proceed with the removal of the same, and assess the cost thereof against the property in accordance with the provisions of this ordinance and in accordance with the manner in which paving assessments are made.

10-33-A-18: Service of Notice.

(A). Where the owner of the said premises is a non-resident of the City of Gothenburg, service of notice shall be made by publication once in a newspaper of general circulation in the City. The city employee shall cause to be served by United States mail, within five days after the publication of such notice, a copy of such published notice upon the owner or owners of record of the said premises whose name and post office address are known to him. Proof by affidavit of mailing of such notice shall be made by the city employee and filed in the office of the City Clerk within ten days after mailing of such notice. Such affidavit of mailing of notice shall further state that the city employee, after diligent investigation and inquiry, was unable to ascertain and does not know the post office address of any other person appearing to have a direct legal interest in the said premises other than those to whom notice has been mailed in writing, those who have waived notice

in writing, and those who have been personally served, and the affidavit shall list such owner or owners by name and legal description of the said premises. Upon the filing of such affidavit, the published notice hereinbefore referred to shall be construed as constructive notice to such owner or owners set forth in the affidavit of the city employee. Mailing of notice may be waived in writing by any competent person.

(B). Where the owner of the said premises is a resident of the City of Gothenburg, service of notice shall be made by delivering the notice to such owner personally or by leaving it at his usual place of residence. In the event the city employee is unable to obtain personal service on such owner, he is hereby authorized to serve constructive notice by following the procedure outlined in subparagraph (A) above.

10-33-A-19: TREES ON PRIVATE LANDS.

After due notice has been served upon the owner of the said premises, it shall thereupon become his duty to cause such tree to be removed. In lieu thereof, the person charged with such removal and burning may enter into an agreement with the City that such work be accomplished by the City at his expense and the expense and any interest shall be and are hereby declared to be a lien upon such property whereon such tree was situate, from the time the same becomes due until paid. If the owner fails, neglects or refuses to remove such tree, the city employee may, five days after notice is served, enter upon such private property and proceed with the removal of the same, and the cost thereof shall be assessed against the real estate in the manner hereinafter provided. The city employee shall, not later than the fifteenth day of September, of each year, report such costs to the City Council, whereupon the City Council shall at a regular council meeting, by resolution, assess such cost together with any assessment expenses, against such real estate; provided, that notice of the time of such meeting of the City Council

shall be given in the manner provided by law. When such assessment has been made, it shall be certified by the City Clerk and delivered to the City Treasurer and shall be collected in the manner provided by law for the collection of general real estate taxes. Such assessment shall be a lien upon such real estate from the date of assessment and shall become delinquent December first after the date of assessment, and shall draw interest at the rate of seven (7) percent per annum from said date until paid. It shall be the duty of the City Treasurer to collect said tax in the same manner and at the same time as general taxes, and the items of said tax shall be receipted for on the same receipt blanks as general real estate taxes.

10-33-A-20: Trees on Parkways.

After discovery of a tree in a dead or dying condition on that portion of a street in Gothenburg, between the lot line and the curb line, the city employee shall notify the owner of the abutting property to remove said tree. The type of notice, manner of service, time of service, duty to remove and assessment of costs shall in all events be governed by this ordinance the same as provided elsewhere herein as to trees located on private property.

10-33-A-21: Severability.

If any section, sub-section, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

10-33-A-22: Repeal of Prior Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

10-33-A-23: When Operative.

Many trees have suddenly died in the City, and same are injurious to the well-being of its citizens, and are, in a hazardous condition

and it is hereby ordained that an emergency exists and this ordinance shall take effect and be in force from and after its passage and publication according to law.

Passed and approved this 22nd day of December, 1970.

ATTEST:

Jane Ballman
City Clerk.

Mayor.