

ORDINANCE 889

AN ORDINANCE AMENDING TITLE IX, CHAPTER 93, AMENDING SECTIONS 93.19; 93.37 AND 93.99 RELATED TO NUISANCES PROVIDING FOR PENALTIES; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GOTHENBURG, NEBRASKA AS FOLLOWS:

Section 1. Title IX, Chapter 93, is hereby amended by amending Section 93.19 of the Gothenburg Municipal Code to read as follows:

- (A) It shall be the duty of every owner or occupant of real estate in the city to keep the real estate free of public nuisances. Upon determination by the Board of Health that the owner or occupant has failed to keep the real estate free of public nuisances, a notice to abate and remove the nuisance and notice of the right to a hearing shall be delivered to the owner or occupant of such real estate. Such hearing shall be before the City Administrator who is hereby designated the hearing officer for such hearing. A request for hearing to appeal the decision of the Board of Health shall be in writing and delivered or mailed to the City Clerk, Such notice shall be given to the owner or occupant, or the owner's or occupant's duly authorized agent, by personal service or certified mail. The notice shall describe the condition as found by the Board of Health and state that the condition has been declared a public nuisance, and that the condition must be remedied at once. Within five days after the receipt of the notice, if the owner or occupant of real estate does not request a hearing or fails to comply with the order to abate and remove the nuisance, the city shall have the work done, and (a) may levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed, or (b) recover in a civil action the costs and expenses of the work upon the lot and the adjoin streets and alleys.

(B)

If the owner or occupant requests in writing a hearing with the City Clerk, the hearing officer shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail, and require the owner or occupant to appear before the hearing officer to show cause why the condition should not be found to be a public nuisance and remedied. The notice shall be given not less than seven nor more than 14 days before the time of the hearing. Upon the date fixed for the hearing, and pursuant to the notice, the hearing officer shall hear all objections made by the owner or occupant and shall hear evidence submitted by the Board of Health. If the appeal fails the hearing officer shall order and direct the owner or occupant to remedy the public nuisance at once. The hearing officer shall render a decision on the appeal within five business days after the

conclusion of the hearing. Should the owner or occupant refuse or neglect abate the nuisance the City shall proceed to cause the abatement of the described public nuisance. The Owner of the real estate shall be pay for all costs incurred by the City for such abatement. If unpaid for two months after such work is done the City (a) may levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed, or (b) recover in a civil action the costs and expenses of the work upon the lot and the adjoin streets and alleys.

Section 2. Title IX, Chapter 93, is hereby amended by amending Section 93.37 of the Gothenburg Municipal Code to read as follows:

§ 93.37 VIOLATION AND ABATEMENT.

(A) Any owner or occupant of a lot or piece of ground shall, upon conviction of violating this subchapter, be guilty of an offense.

(B) Upon determination by a police officer of the City that the owner or occupant is in violation of §93.36 (D) of this Code of Ordinances a notice to abate and remove the nuisance and notice of the right to a hearing shall be delivered to the owner or occupant of such real estate. Such hearing shall be before the ~~City Administrator~~ *City Administrator* who is hereby designated the hearing officer for such hearing. A request for hearing to appeal the decision of the police officer shall be in writing and delivered or mailed to the City Clerk, Such notice shall be given to the owner or occupant, or the owner's or occupant's duly authorized agent, by personal service or certified mail. The notice shall describe the condition as found by the police officer and state that the condition has been declared a public nuisance, and that the condition must be remedied at once. Within five days after the receipt of the notice, if the owner or occupant of real estate does not request a hearing or fails to comply with the order to abate and remove the nuisance, the city shall have the work done, and (a) may levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed, or (b) recover in a civil action the costs and expenses of the work upon the lot and the adjoin streets and alleys.

(C) If the owner or occupant requests in writing a hearing with the City Clerk, the hearing officer shall fix a time and place at which a hearing will be held. Notice of the hearing shall be given by personal service or certified mail, and require the owner or occupant to appear before the hearing officer to show cause why the condition should not be found to be a public nuisance and remedied. The notice shall be given not less than seven nor more than 14 days before the time of the hearing. Upon the date fixed for the hearing, and pursuant to the notice, the hearing officer shall hear all objections made by the owner or occupant and shall hear evidence submitted by the police officer. If the appeal fails the hearing officer shall order and direct the owner or occupant to remedy the public nuisance at once. The hearing officer shall render a decision on the appeal within five business days after the conclusion of the hearing. Should the

owner or occupant refuse or neglect abate the nuisance the City shall proceed to cause the abatement of the described public nuisance. The Owner of the real estate shall be pay for all costs incurred by the City for such abatement. If unpaid for two months after such work is done the City (a) may levy and assess the costs and expenses of the work upon the real estate so benefitted in the same manner as other special taxes for improvements are levied and assessed, or (b) recover in a civil action the costs and expenses of the work upon the lot and the adjoin streets and alleys.

Section 3. Title IX, Chapter 93, is hereby amended by amending Section 93.99 of the Gothenburg Municipal Code to read as follows:

§ 93.99 PENALTY.

(A) Any person who shall violate or refuse to comply with the enforcement of any of the provisions of §§ 93.01 through 93.03, and 93.15 through 93.20, shall be deemed guilty of an offense and, upon conviction thereof, shall be fined not more than \$100 for each offense. A new violation shall be deemed to have been committed every 24 hours of the failure to comply.

(Prior Code, § 4-501)

(B) Whenever a nuisance exists as defined in this code of ordinances, the city may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law. Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

(Prior Code, § 4-502)

(C) Any person who shall violate or refuse to comply with the enforcement of any of the provisions of §§ 93.35 through 93.37, set forth at full length herein or incorporated by reference, shall be deemed guilty of an offense and upon conviction thereof, shall be guilty of a Class V misdemeanor. A new violation shall be deemed to have been committed every 24 hours of the failure to comply.

(Prior Code, § 6-401)


(D) Whenever a nuisance exists as defined in this chapter, the city may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law. Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case.

Section 4. Copies of prior Sections 93.19, 93.37 and 93.99 are attached hereto as Exhibit A and incorporated herein by this reference.

Section 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

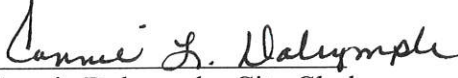
Section 6. This ordinance shall become effective after its posting and publication as provided by law. Passed and approved this 6th day of May, 2014.

City of Gothenburg,




Joyce Hudson, Mayor

ATTEST:



Connie Dalrymple, City Clerk

APPROVED AS TO FORM:



Michael L. Bacon, City Attorney

Exhibit A
Previous Code Sections