

ORDINANCE #1006

AN ORDINANCE OF THE CITY OF GOTHENBURG AMENDING THE PROVISIONS OF THE GOTHENBURG CODE OF ORDINANCES FOR ARTICLE 93 SECTIONS 93.01, 93.02, 93.15, 93.16, 93.19, 93.20, 93.99; REPEALING SECTIONS 93.17 AND 93.18 AND AMENDING ARTICLE 150, SECTION 150.097, TO REVISE THE DEFINITION OF NUISANCES AND UNSAFE BUILDINGS, PROVIDE FOR THE POSITION OF COMMUNITY SERVICE OFFICER, PROVIDE FOR ABATEMENT OF NUISANCES, PROVIDING FOR PENALTIES, REPEALING 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 93.01 of the Gothenburg Code of Ordinances to read as follows:

§ 93.01 REGULATIONS.

For the purpose of promoting the health and safety of the residents of the city, the Board of Health shall, from time to time, adopt rules and regulations relative thereto, and shall make inspections, prescribe penalties, and make reports as may be necessary toward that purpose. (Neb. RS 17-121) (Prior Code, § 4-101)

Section 2. Title IX, Chapter 93, is hereby amended by amending Section 93.02 of the Gothenburg Code of Ordinances to read as follows:

§ 93.02 ENFORCEMENT OFFICIAL.

The Mayor with consent of the City Council shall appoint a Community Service Officer (the "CSO"). The CSO shall operate under the direct supervision of the City Police Chief. It shall be the duty of the CSO to make inspections of properties within the zoning jurisdiction of the city; determine whether a violation of the provisions of Chapter 93 or Section 150.096 of this Code exists; provide notice of violations as set forth hereafter; provide notice of right to appeal of such determination; and report such violations to the City Police Chief and the City Council. It shall be unlawful for any person to refuse to allow the CSO entry into any property or building for purposes of making an inspection when the CSO has reasonable cause to believe that a violation of the provisions of Chapter 93 or Section 150.096 exist. If entry is refused by the owner or occupant, the CSO shall have the right to seek an order of the court to enter upon such private property to determine the existence of or absence of a nuisance.

The City Police Chief, as the Quarantine Officer, shall be the Chief Health Officer of the city. It shall be his or her duty to notify the City Council of health nuisances within the city and its zoning jurisdiction.

(Neb. RS 17-121) (Prior Code, § 4-102)

Section 3. Title IX, Chapter 93, is hereby amended by amending Section 93.15 of the Gothenburg Code of Ordinances to read as follows:

§ 93.15 DEFINED.

For the purpose of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

NUISANCE.

(1) 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:

- (a) Injures or endangers the comfort, repose, health, or safety of others;
- (b) Offends decency;
- (c) Is offensive to the senses;
- (d) Unlawfully interferes with, obstructs, tends to obstruct, or renders dangerous for passage any stream, public park, parkway, square, street, or highway in the city;
- (e) In any way renders other persons insecure in life or the use of property; or
- (f) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(Neb. RS 18-1720) (Prior Code, § 4-301)

(2) 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 designated by the Board of Health of the city, nor the dumping of non-putrefying waste in a place and manner approved by the Board of Health of the city;
- (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, 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 the 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 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 builders or by other persons, which 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 the places in which the animals are confined, or the premises on which the vegetable or animal matter is located, are maintained and kept in a manner that foul and noxious odors are permitted to emanate 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: or

(l) All other things specifically designated as nuisances elsewhere in this code of ordinances.

(m) The presence of a refrigerator, icebox, freezer, or any other dangerous appliance to be in the open and accessible to children whether on private or public property, unless he or she shall first remove all doors and make the same reasonably safe.

(n) Growth of weeds, grasses or worthless vegetation in excess of 12 inches in height on private property and the adjoining streets and alleys.

(o) Permitting, allowing, or maintaining any dead or diseased trees on private property or within the right-of-way of streets within the corporate limits of the city or within its one-mile zoning jurisdiction.

(p) Any structure which is unsafe, damaged by fire or deterioration, contains broken windows or is subject to infestation of vermin or significantly negatively impacts the value of neighboring property.

(3) For purposes of this section:

(a) Litter includes, but is not limited to: (i) Trash, rubbish, refuse, garbage, paper, rags, and ashes; (ii) wood, plaster, cement, brick, or stone building rubble; (iii) grass, leaves, and worthless vegetation; (iv) dead animals; and (v) any machine or machines, vehicle or vehicles, or parts of a machine or vehicle which have lost their identity, character, utility, or serviceability as such through deterioration, dismantling, or the ravages of time, are inoperative or unable to perform their intended functions, or are cast off, discarded, or thrown away or left as waste, wreckage, or junk; and

(b) Weeds includes, but is not limited to, bindweed (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle

(*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus sp.*) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

(Neb. RS 18-1720) (Prior Code, § 4-302)

Section 4. Title IX, Chapter 93, is hereby amended by amending Section 93.16 of the Gothenburg Code of Ordinances to read as follows:

§ 93.16 UNLAWFUL TO MAINTAIN NUISANCE.

It shall be unlawful for any person to erect, keep up, or continue and maintain any nuisance to the injury of any part of the citizens of the city.

Section 5. Title IX, Chapter 93, is hereby amended by repealing Section 93.17 of the Gothenburg Code of Ordinances.

Section 6. Title IX, Chapter 93, is hereby amended by repealing Section 93.18 of the Gothenburg Code of Ordinances.

Section 7. Title IX, Chapter 93, is hereby amended by amending Section 93.19 of the Gothenburg Code of Ordinances to read as follows:

§ 93.19 ABATEMENT.

(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 Community Service Officer or a police officer of the city that the owner or occupant has failed to keep the real estate free of public nuisances, a notice to repair, abate or remove the nuisance and notice of the right to a hearing shall be given to each owner or owner's duly authorized agent and to the occupant of such real estate. Such notice shall be posted on the on the door of the primary building, or if no building, then on any such lot nearest a public street and shall be mailed by first class mail to the owner at the address shown on the records of the Dawson County Treasurer for such real property, and to the occupant's address if known. Such mail shall be conspicuously marked as to its importance. 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 Community Service Officer shall be in writing and delivered or mailed to the City Clerk, The notice shall describe the condition as found by the Community Service Officer or 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

(1) 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

(2) Recover in a civil action the costs and expenses of the work upon the lot and the adjoining 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 first class 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 hearing shall be held within fourteen days of receipt of the request for 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 Community Service Officer or police officer. The hearing officer shall render a decision on the appeal within five business days after the conclusion of the hearing. If the appeal fails, the city or village may have such work done. 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:

(1) 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

(2) Recover in a civil action the costs and expenses of the work upon the lot and the adjoin streets and alleys.

(Neb. RS 18-1720) (Prior Code, § 4-303) (Am. Ord. 889, passed 5-6-2014)

Section 8. Title IX, Chapter 93, is hereby amended by amending Section 93.20 of the Gothenburg Code of Ordinances to read as follows:

§ 93.20 AUTHORITY TO ENFORCE.

The Mayor and Chief of Police of the city are directed to enforce this code of ordinances against all nuisances. The jurisdiction of the Mayor, Chief of Police, and court shall extend to, and the territorial application of this subchapter shall include, all territory adjacent to the limits of the city within one mile thereof and all territory within the corporate limits.

(Neb. RS 18-1720) (Prior Code, § 4-305)

Section 9. Title IX, Chapter 93, is hereby amended by repealing Section 93.35 of the Gothenburg Code of Ordinances.

Section 10. Title IX, Chapter 93, is hereby amended by amending Section 93.99 of the Gothenburg Code of Ordinances 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 \$75 for the first offense, \$150 for the second offense and \$200 for each subsequent offense involving the same facts upon which such determination of nuisance is predicated. A new violation shall be deemed to have been committed every 24 hours of the failure to comply.

(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.

Section 11. Title XV, Chapter 150, is hereby amended by amending Section 150.097 of the Gothenburg Code of Ordinances to read as follows:

§ 150.097 DETERMINATION AND NOTICE.

(A) Whenever the Building Inspector, the Community Service Officer or the Board of Health shall be of the opinion that any building or structure in the city is an unsafe building, he, she, or it shall file a written statement to this effect with the City Administrator. The City Administrator shall thereupon cause notice of the determination of the Building Inspector, Community Service Officer, or Board of Health to be placed on the agenda for the next City Council meeting. At such meeting, the City Council shall have the power to determine by resolution or other manner that the building or other structure is unsafe or unfit for human occupancy by reason of a violation of the building code adopted by the city, a copy of the resolution shall be posted on the property and the City Administrator shall file a copy of the resolution or determination in the office of the County Register of Deeds, and shall serve written notice upon the owner thereof, and upon the occupant thereof, if any, by certified mail or by personal service. The notice shall state that the building has been declared to be in an unsafe condition, and that the dangerous condition must be removed or remedied by repairing or altering the building or by demolishing it, and that the condition must be remedied within 30 days from the date of receipt. The notice may be in the following terms:

To _____ (owner/occupant of premises) of the premise known and described as _____.

You are hereby notified that _____ (describe building) on the premises above mentioned has been determined to be an unsafe building and a nuisance after inspection by _____. The causes for this decision are _____ (here insert the facts as to the dangerous condition).

You must remedy this condition or demolish the building within 30 days from the date of receipt of this notice, or the city will proceed to do so. Appeal of this determination may be made to the City Council, acting as the Board of Appeals, by filing with the City Clerk within ten days from the date of receipt of this notice a request for a hearing.

(B) If the person receiving the notice has not complied therewith, or taken an appeal from the determination of the officer or employee finding that a dangerous building exists, within 30 days from the time when this notice is served upon the person by personal service or certified mail, the Building Inspector may, upon orders of the City Council, proceed to remedy the condition or demolish the unsafe building.

(Neb. RS 18-1720, 18-1722, 18-1722.01) (Prior Code, § 9-503)

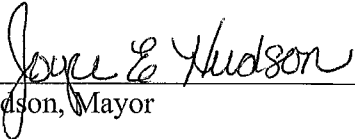
Section 12. Copies of each section of the Code of Ordinances amended or repealed hereby are attached hereto as Exhibit "A".

Section 13. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 14. This ordinance shall become effective upon its passage, approval and publication according to law.

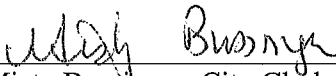
Adopted _____, 2021

CITY OF GOTHENBURG, DAWSON
COUNTY, NEBRASKA



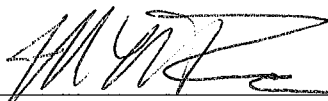
Joyce Hudson, Mayor

ATTEST:



Misty Bussinger, City Clerk

APPROVED AS TO FORM



Michael L. Bacon, City Attorney