

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 643

Final Reading

Introduced by Davis, 43; Avery, 28; Johnson, 23; Scheer, 19.

Read first time January 23, 2013

Committee: Urban Affairs

A BILL

- 1 FOR AN ACT relating to cities and villages; to amend sections 16-230
- 2 and 17-563, Reissue Revised Statutes of Nebraska; to
- 3 change certain provisions regarding nuisances as
- 4 prescribed; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 16-230, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 16-230 (1) A city of the first class by ordinance may
4 require lots or pieces of ground within the city or within the city's
5 extraterritorial zoning jurisdiction to be drained or filled so as to
6 prevent stagnant water or any other nuisance accumulating thereon.
7 ~~Except as provided in subsection (6) of this section, the~~ The city
8 may require the owner or occupant of all lots and pieces of ground
9 within the city to keep the lots and pieces of ground and the
10 adjoining streets and alleys free of ~~any excessive~~ growth of ~~twelve~~
11 ~~inches or more in height~~ of weeds, grasses, or worthless vegetation,
12 and it may prohibit and control the throwing, depositing, or
13 accumulation of litter on any lot or piece of ground within the city.

14 (2) ~~Except as provided in subsection (6) of this section,~~
15 ~~any~~ Any city of the first class may by ordinance declare it to be a
16 nuisance to permit or maintain ~~any excessive~~ growth of ~~twelve inches~~
17 ~~or more in height~~ of weeds, grasses, or worthless vegetation or to
18 litter or cause litter to be deposited or remain thereon except in
19 proper receptacles. The city shall establish by ordinance the height
20 at which weeds, grasses, or worthless vegetation are a nuisance.

21 (3) Any owner or occupant of a lot or piece of ground
22 shall, upon conviction of violating any ordinance authorized under
23 this section, be guilty of a Class V misdemeanor.

24 (4) Notice to abate and remove such nuisance shall be
25 given to each owner or owner's duly authorized agent and to the

1 occupant, if any., ~~by personal service or certified mail. If notice~~
2 ~~by personal service or certified mail is unsuccessful, notice shall~~
3 ~~be given by publication in a newspaper of general circulation in the~~
4 ~~city or by conspicuously posting the notice on the lot or ground upon~~
5 ~~which the nuisance is to be abated and removed. The city shall~~
6 establish the method of notice by ordinance. If notice is given by
7 first-class mail, such mail shall be conspicuously marked as to its
8 importance. Within five days after receipt of such notice, the owner
9 or occupant of the lot or piece of ground may request a hearing with
10 the city to appeal the decision to abate or remove a nuisance by
11 filing a written appeal with the office of the city clerk. A hearing
12 on the appeal shall be held within fourteen days after the filing of
13 the appeal and shall be conducted by an elected or appointed officer
14 as designated in the ordinance. The hearing officer shall render a
15 decision on the appeal within five business days after the conclusion
16 of the hearing. If the appeal fails, the city may have such work
17 done. Within five days after receipt of such notice, ~~or publication~~
18 ~~or posting, whichever is applicable,~~ if the owner or occupant of the
19 lot or piece of ground does not request a hearing with the city or
20 fails to comply with the order to abate and remove the nuisance, the
21 city may have such work done. The costs and expenses of any such work
22 shall be paid by the owner. If unpaid for two months after such work
23 is done, the city may either (a) levy and assess the costs and
24 expenses of the work upon the lot or piece of ground so benefited in
25 the same manner as other special taxes for improvements are levied

1 and assessed or (b) recover in a civil action the costs and expenses
2 of the work upon the lot or piece of ground and the adjoining streets
3 and alleys.

4 (5) For purposes of this section:

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

15 (b) Weeds includes, but is not limited to, bindweed
16 (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy
17 spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial
18 peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*),
19 Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack
20 grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*),
21 horse nettle (*Solanum carolinense*), bull thistle (*Cirsium*
22 *lanceolatum*), buckthorn (*Rhamnus sp.*) (tourn), hemp plant (*Cannabis*
23 *sativa*), and ragweed (*Ambrosiaceae*); and

24 (c) Weeds, grasses, and worthless vegetation does not
25 include vegetation applied or grown on a lot or piece of ground

1 outside the corporate limits of the city but inside the city's
2 extraterritorial zoning jurisdiction expressly for the purpose of
3 weed or erosion control.

4 ~~(6) A city of the first class by ordinance may declare it~~
5 ~~to be a nuisance to permit or maintain any growth of eight inches or~~
6 ~~more in height of weeds, grasses, or worthless vegetation on any lot~~
7 ~~or piece of ground located within the corporate limits of the city~~
8 ~~during any calendar year if, within the same calendar year, the city~~
9 ~~has, pursuant to subsection (4) of this section, acted to remove~~
10 ~~weeds, grasses, or worthless vegetation exceeding twelve inches in~~
11 ~~height on the same lot or piece of ground and had to seek recovery of~~
12 ~~the costs and expenses of such work from the owner.~~

13 Sec. 2. Section 17-563, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 17-563 (1) ~~Except as provided in subsection (6) of this~~
16 ~~section, a~~ A city of the second class and village by ordinance (a)
17 may require lots or pieces of ground within the city or village to be
18 drained or filled so as to prevent stagnant water or any other
19 nuisance accumulating thereon, (b) may require the owner or occupant
20 of any lot or piece of ground within the city or village to keep the
21 lot or piece of ground and the adjoining streets and alleys free of
22 ~~any excessive growth of twelve inches or more in height of weeds,~~
23 ~~grasses, or worthless vegetation, and (c) may prohibit and control~~
24 ~~the throwing, depositing, or accumulation of litter on any lot or~~
25 ~~piece of ground within the city or village.~~

1 (2) ~~Except as provided in subsection (6) of this section,~~
2 ~~any~~ Any city of the second class and village may by ordinance declare
3 it to be a nuisance to permit or maintain ~~any~~ excessive growth of
4 ~~twelve inches or more in height of weeds, grasses, or worthless~~
5 ~~vegetation or to litter or cause litter to be deposited or remain~~
6 ~~thereon except in proper receptacles. The city or village shall~~
7 ~~establish by ordinance the height at which weeds, grasses, or~~
8 ~~worthless vegetation are a nuisance.~~

9 (3) Any owner or occupant of a lot or piece of ground
10 shall, upon conviction of violating any ordinance authorized under
11 this section, be guilty of a Class V misdemeanor.

12 (4) Notice to abate and remove such nuisance shall be
13 given to each owner or owner's duly authorized agent and to the
14 occupant, if any., ~~by personal service or certified mail. If notice~~
15 ~~by personal service or certified mail is unsuccessful, notice shall~~
16 ~~be given by publication in a newspaper of general circulation in the~~
17 ~~city or by conspicuously posting the notice on the lot or ground upon~~
18 ~~which the nuisance is to be abated and removed. The city or village~~
19 ~~shall establish the method of notice by ordinance. If notice is given~~
20 ~~by first-class mail, such mail shall be conspicuously marked as to~~
21 ~~its importance. Within five days after receipt of such notice, the~~
22 ~~owner or occupant of the lot or piece of ground may request a hearing~~
23 ~~with the city or village to appeal the decision to abate or remove a~~
24 ~~nuisance by filing a written appeal with the office of the city or~~
25 ~~village clerk. A hearing on the appeal shall be held within fourteen~~

1 days after the filing of the appeal and shall be conducted by an
2 elected or appointed officer as designated in the ordinance. The
3 hearing officer shall render a decision on the appeal within five
4 business days after the conclusion of the hearing. If the appeal
5 fails, the city or village may have such work done. Within five days
6 after receipt of such notice, ~~or publication or posting, whichever is~~
7 applicable, if the owner or occupant of the lot or piece of ground
8 does not request a hearing with the city or village or fails to
9 comply with the order to abate and remove the nuisance, the city or
10 village may have such work done. The costs and expenses of any such
11 work shall be paid by the owner. If unpaid for two months after such
12 work is done, the city or village may either (a) levy and assess the
13 costs and expenses of the work upon the lot or piece of ground so
14 benefited in the same manner as other special taxes for improvements
15 are levied and assessed or (b) recover in a civil action the costs
16 and expenses of the work upon the lot or piece of ground and the
17 adjoining streets and alleys.

18 (5) For purposes of this section:

19 (a) Litter includes, but is not limited to: (i) Trash,
20 rubbish, refuse, garbage, paper, rags, and ashes; (ii) wood, plaster,
21 cement, brick, or stone building rubble; (iii) grass, leaves, and
22 worthless vegetation; (iv) offal and dead animals; and (v) any
23 machine or machines, vehicle or vehicles, or parts of a machine or
24 vehicle which have lost their identity, character, utility, or
25 serviceability as such through deterioration, dismantling, or the

1 ravages of time, are inoperative or unable to perform their intended
2 functions, or are cast off, discarded, or thrown away or left as
3 waste, wreckage, or junk; and

4 (b) Weeds includes, but is not limited to, bindweed
5 (*Convolvulus arvensis*), puncture vine (*Tribulus terrestris*), leafy
6 spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial
7 peppergrass (*Lepidium draba*), Russian knapweed (*Centaurea picris*),
8 Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack
9 grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*),
10 horse nettle (*Solanum carolinense*), bull thistle (*Cirsium*
11 *lanceolatum*), buckthorn (*Rhamnus sp.*) (tourn), hemp plant (*Cannabis*
12 *sativa*), and ragweed (*Ambrosiaceae*).

13 ~~(6) A city of the second class or village by ordinance~~
14 ~~may declare it to be a nuisance to permit or maintain any growth of~~
15 ~~eight inches or more in height of weeds, grasses, or worthless~~
16 ~~vegetation on any lot or piece of ground located within the corporate~~
17 ~~limits of the city or village during any calendar year if, within the~~
18 ~~same calendar year, the city has, pursuant to subsection (4) of this~~
19 ~~section, acted to remove weeds, grasses, or worthless vegetation~~
20 ~~exceeding twelve inches in height on the same lot or piece of ground~~
21 ~~and had to seek recovery of the costs and expenses of such work from~~
22 ~~the owner.~~

23 Sec. 3. Original sections 16-230 and 17-563, Reissue
24 Revised Statutes of Nebraska, are repealed.