

LEGISLATIVE BILL 643

Approved by the Governor May 7, 2013

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

FOR AN ACT relating to cities and villages; to amend sections 16-230 and 17-563, Reissue Revised Statutes of Nebraska; to change certain provisions regarding nuisances as prescribed; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

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

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

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

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

(4) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, ~~by personal service or certified mail. If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. The city shall establish the method of notice by ordinance. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the city clerk. A hearing on the appeal shall be held within fourteen days after the filing of the appeal and shall be conducted by an elected or appointed officer as designated in the ordinance. 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 may have such work done. Within five days after receipt of such notice, or publication or posting, whichever is applicable, if the owner or occupant of the lot or piece of ground does not request a hearing with the city or fails to comply with the order to abate and remove the nuisance, the city may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the city may either (a) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited 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 or piece of ground and the adjoining streets and alleys.~~

(5) 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) offal and 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;

(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.*) (tourn), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*); and

(c) Weeds, grasses, and worthless vegetation does not include vegetation applied or grown on a lot or piece of ground outside the corporate limits of the city but inside the city's extraterritorial zoning jurisdiction expressly for the purpose of weed or erosion control.

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

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

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

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

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

(4) Notice to abate and remove such nuisance shall be given to each owner or owner's duly authorized agent and to the occupant, if any, ~~by personal service or certified mail.~~ If notice by personal service or certified mail is unsuccessful, notice shall be given by publication in a newspaper of general circulation in the city or by conspicuously posting the notice on the lot or ground upon which the nuisance is to be abated and removed. The city or village shall establish the method of notice by ordinance. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Within five days after receipt of such notice, the owner or occupant of the lot or piece of ground may request a hearing with the city or village to appeal the decision to abate or remove a nuisance by filing a written appeal with the office of the city or village clerk. A hearing on the appeal shall be held within fourteen days after the filing of the appeal and shall be conducted by an elected or appointed officer as designated in the ordinance. 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. Within five days after receipt of such notice, ~~or publication or posting, whichever is applicable,~~ if the owner or occupant of the lot or piece of ground does not request a hearing with the city or village or fails to comply with the order to abate and remove the nuisance, the city or village may have such work done. The costs and expenses of any such work shall be paid by the owner. If unpaid for two months after such work is done, the city or village may either (a) levy and assess the costs and expenses of the work upon the lot or piece of ground so benefited 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 or piece of ground and the adjoining streets and alleys.

(5) 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) offal and 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*).

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

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