

LEGISLATIVE BILL 934

Approved by the Governor April 7, 1988

Introduced by Korshoj, 16; Hartnett, 45

AN ACT relating to municipalities; to amend sections 16-230, 16-231, 16-246, 16-901, and 18-1303, Reissue Revised Statutes of Nebraska, 1943; to authorize the collection and removal of garbage and refuse as prescribed; to extend the jurisdiction of cities of the first class as prescribed; to change a provision relating to membership on planning commissions; to harmonize provisions; and to repeal the original sections.

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

Section 1. (1) Any city or village may provide for the collection and removal of garbage or refuse found upon any lot or land within its corporate limits or zoning jurisdiction or upon the streets, roads, or alleys abutting such lot or land which constitutes a public nuisance. The city or village may require the owner, duly authorized agent, or tenant of such lot or land to remove the garbage or refuse from such lot or land and streets, roads, or alleys.

(2) Notice that removal of garbage or refuse is necessary shall be given to each owner or owner's duly authorized agent and to the tenant if any. Such notice shall be provided by personal service or by certified mail. After providing such notice, the city or village through its proper offices shall, in addition to other proper remedies, remove the garbage or refuse, or cause it to be removed, from such lot or land and streets, roads, or alleys.

(3) If the mayor or city manager of such city or chairperson of such village declares that the accumulation of such garbage or refuse upon any lot or land constitutes an immediate nuisance and hazard to public health and safety, the city or village shall remove the garbage or refuse, or cause it to be removed, from such lot or land within forty-eight hours after notice by personal service or following receipt of a certified letter in accordance with subsection (2) of this section if such garbage or refuse has not been removed.

(4) Whenever any city or village removes any

garbage or refuse, or causes it to be removed, from any lot or land pursuant to this section, it shall, after a hearing conducted by its governing board, assess the cost of the removal against such lot or land.

Sec. 2. That section 16-230, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-230. A city of the first class by ordinance may require any and all lots or pieces of ground within the city or within two miles of the corporate limits of the city to be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon. It may require the owner or occupant of all lots and pieces of ground within the city such areas to keep the said lots and pieces of ground, and the adjoining streets and alleys adjoining thereto, free of weeds or other rank growth of vegetation and it may prohibit and control the throwing, depositing, or accumulation of litter on any lot or piece of ground within the city such areas. Upon the failure of the owner or occupant of such real estate to comply with the orders of the council in regard to draining, littering, filling, or removing weeds or other vegetation from some such real estate or the street or alley adjoining such real estate, the city council may, after five days' notice by publication and by certified mail, have such work done and may levy and assess the costs and expenses thereof of such work upon the property so benefited in the same manner as other special taxes for improvements are levied and assessed.

Sec. 3. That section 16-231, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-231. A city of the first class may prevent any person from bringing, depositing, having, or leaving upon or near his or her premises or elsewhere in the city, or within two miles of the corporate limits of the city any carcass or putrid beef, pork, fish, hides, or skins of any kind, or any unwholesome substance, and may compel the removal of the same.

Sec. 4. That section 16-246, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-246. A city of the first class may make all such ordinances, bylaws, rules, regulations, and resolutions not inconsistent with the general laws of the state, as may be necessary or expedient, in addition to the special powers otherwise granted by law, for maintaining the peace, good government, and welfare of

the city and its trade, commerce, and manufactures, and for preserving order; and securing persons or property from violence, danger, and destruction, for protecting public and private property, and for promoting the public health, safety, convenience, comfort, and morals; and the general interests; and welfare of the inhabitants of the city. It ~~shall have power to~~ may impose fines, forfeitures, penalties, and imprisonment at hard labor for the violation of any ordinance; and ~~to~~ provide for the recovery, collection, and enforcement ~~thereof of such fines, forfeitures, or penalties;~~ and, in default of payment, ~~to~~ provide for confinement in the city or county prison, workhouse, or other place of confinement with or without hard labor as may be provided by ordinance. The jurisdiction of the city to enforce such ordinances, bylaws, rules, regulations, and resolutions shall extend over the city and over all places within two miles of the corporate limits of the city.

Sec. 5. That section 16-901, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-901. Any city of the first class may apply by ordinance any existing or future zoning regulations, property use regulations, building ordinances, electrical ordinances, and plumbing ordinances, and ordinances authorized by section 16-240 to the unincorporated area two miles beyond and adjacent to its corporate boundaries with the same force and effect as if such outlying area were within the corporate limits of such city, except that; ~~PROVIDED~~; no such ordinance shall be extended or applied so as to prohibit, prevent, or interfere with the conduct of existing farming, livestock operations, businesses, or industry. For; ~~AND PROVIDED FURTHER~~; ~~that for~~ purposes of sections 70-1001 to 70-1020, the zoning area of a city of the first class shall be one mile beyond and adjacent to the corporate area. The fact that such unincorporated area is located in a different county or counties than some or all portions of the municipality shall not be construed as affecting the powers of the city to apply such ordinances.

Sec. 6. That section 18-1303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-1303. (1) The commission shall consist of nine members who shall represent insofar as is possible different professions or occupations in the municipality and who shall be appointed by the mayor, by and with the

approval of a three-fourths vote of the council. Two of such members may be residents of the area over which the municipality is authorized to exercise extraterritorial zoning and subdivision ~~regulations~~ regulation. Commencing on and after September 1, 1988, when there are a sufficient number of residents in the area over which the municipality exercises extraterritorial zoning and subdivision regulation, one member of the commission shall be a resident from such area. If, on or after such date, or after it is determined by the city council or village board that a sufficient number of residents reside in the area subject to extraterritorial zoning or subdivision regulation, no such resident is a member of the commission, the first available vacancy on the commission shall be filled by the appointment of such an individual. A sufficient number of residents for a village shall mean two hundred residents, for a city of the second class shall mean five hundred residents, and for a city of the first class shall mean one thousand residents. All members of the commission shall serve as such without compensation and shall hold no other municipal office except when appointed to serve on the board of adjustment as provided in section 19-908. The term of each member shall be three years, except that three members of the first commission to be so appointed shall serve for the term of one year, three for the term of two years, and three for a term of three years. All members shall hold office until their successors are appointed. All members may, after a public hearing before the council, be removed by the mayor, by and with the consent of a three-fourths vote of the council for inefficiency, neglect of duty or malfeasance in office, or other good and sufficient cause. Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the mayor.

(2) Notwithstanding the provisions of subsection (1) of this section, the planning commission for any city of the second class or village may have either five, seven, or nine members as the city council or village board of trustees ~~shall establish~~ establishes by ordinance. If a city or village planning commission has either five or seven members, approximately one-third of the members of the first commission shall serve for a ~~term~~ terms of one year, one-third for a ~~term~~ terms of two years, and one-third for a ~~term~~ terms of three years.

Sec. 7. That original sections 16-230, 16-231, 16-246, 16-901, and 18-1303, Reissue Revised Statutes of Nebraska, 1943, are repealed.