

LEGISLATURE OF NEBRASKA

ONE HUNDRED THIRD LEGISLATURE

FIRST SESSION

## **LEGISLATIVE BILL 643**

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 filling 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  
lanceolatum*), buckthorn (*Rhamnus sp.*) (tourn), hemp plant (*Cannabis  
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.