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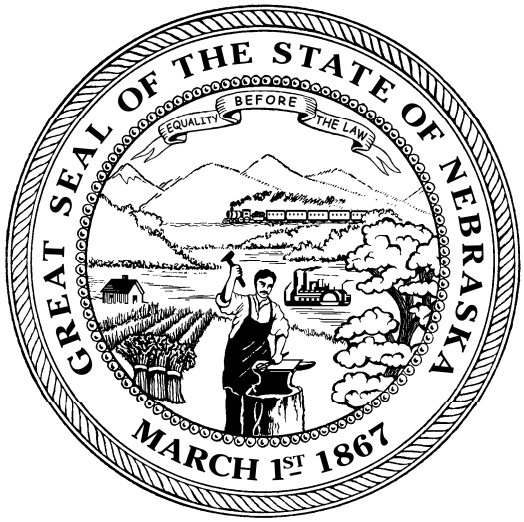
OF
NEBRASKA

REISSUE OF VOLUME 1A

2022

COMPRISING ALL THE STATUTORY LAWS OF A
GENERAL NATURE IN FORCE AT DATE OF
PUBLICATION ON THE SUBJECTS ASSIGNED
TO CHAPTERS 12 TO 18, INCLUSIVE



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CERTIFICATE OF AUTHENTICATION

I, Marcia M. McClurg, Revisor of Statutes, do hereby certify that the Reissue of Volume 1A of the Revised Statutes of Nebraska, 2022, contains all of the laws set forth in Chapters 12 to 18, appearing in Volume 1A, Revised Statutes of Nebraska, 2012, as amended and supplemented by the One Hundred Third Legislature, First Session, 2013, through the One Hundred Seventh Legislature, Second Session, 2022, of the Nebraska Legislature, in force at the time of publication hereof.

Marcia M. McClurg
Revisor of Statutes

Lincoln, Nebraska
October 1, 2022

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REISSUE REVISED STATUTES

OF NEBRASKA, 2022

(in full)

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(abbreviated)

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CHAPTER 12
CEMETERIES

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ARTICLE 1
WYUKA CEMETERY

Section
12-101. Wyuka Cemetery; declared a public charitable corporation; powers; trustees; appointment; terms; vacancies; reports; retirement plan reports; duties.
12-101.01. Trustee; potential conflict of interest; actions required.
12-102. Portion under joint control of trustees and Department of Health and Human Services.
12-103. Rules and regulations; revenue; investment; treasurer; bond.
12-104. Soldiers burial grounds; selection; acquisition; use.
12-105. Soldiers burial grounds; joint control.

12-101 Wyuka Cemetery; declared a public charitable corporation; powers; trustees; appointment; terms; vacancies; reports; retirement plan reports; duties.

(1) The cemetery in Lincoln, Nebraska, known as Wyuka Cemetery, is hereby declared to be a public charitable corporation. The general control and management of the affairs of such cemetery shall be vested in a board of three trustees until July 1, 2009, and thereafter shall be vested in a board of five trustees. The trustees shall serve without compensation and shall be a body corporate to be known as Wyuka Cemetery, with power to sue and be sued, to contract and to be contracted with, and to acquire, hold, and convey both real and personal property for all purposes consistent with the provisions of sections 12-101 to 12-105, and shall have the power of eminent domain to be exercised in the manner provided in section 12-201.

(2) The trustees of Wyuka Cemetery shall have the power, by resolution duly adopted by a majority vote, to authorize one of their number to sign a petition for paving, repaving, curbing, recurbing, grading, changing grading, guttering, resurfacing, relaying existing pavement, or otherwise improving any street, streets, alley, alleys, or public ways or grounds abutting cemetery property. When such improvements have been ordered, the trustees shall pay, from funds of the cemetery, such special taxes or assessments as may be properly determined.

(3) The trustees of Wyuka Cemetery shall be appointed by the Governor of the State of Nebraska at the expiration of each trustee's term of office. The two trustees appointed for their initial terms of office beginning July 1, 2009, shall be appointed by the Governor to serve a five-year term and a six-year term, respectively. Thereafter, each of the five trustees shall be appointed by the Governor for a term of six years. In the event of a vacancy occurring among the members of the board, the vacancy shall be filled by appointment by the Governor, and such appointment shall continue for the unexpired term.

(4) The board of trustees of Wyuka Cemetery shall file with the Auditor of Public Accounts, on or before the second Tuesday in June of each year, an itemized report of all the receipts and expenditures in connection with its management and control of the cemetery.

(5) The trustees of Wyuka Cemetery shall have the power to provide, in their discretion, retirement benefits for present and future employees of the cemetery, and to establish, participate in, and administer plans for the benefit of its employees or its employees and their dependents, which may provide disability, hospitalization, medical, surgical, accident, sickness and life insurance coverage, or any one or more coverages, and which shall be purchased from a corporation or corporations authorized and licensed by the Department of Insurance.

(6) Beginning December 31, 1998, through December 31, 2017:

(a) The trustees shall file with the Public Employees Retirement Board an annual report on each retirement plan established pursuant to this section and section 401(a) of the Internal Revenue Code and shall submit copies of such report to the Auditor of Public Accounts. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

(i) The number of persons participating in the retirement plan;

(ii) The contribution rates of participants in the plan;

(iii) Plan assets and liabilities;

(iv) The names and positions of persons administering the plan;

(v) The names and positions of persons investing plan assets;

(vi) The form and nature of investments;

(vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and

(viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the trustees may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits; and

(b) If such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, in addition to the reports required by section 13-2402, the trustees shall cause to be prepared an annual report and shall file the same with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee of the Legislature and submit to the Auditor of Public Accounts a copy of such report. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the trustees do not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, Wyuka Cemetery. All costs of the audit shall be paid by Wyuka Cemetery. The report shall consist of a full actuarial analysis of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan. The report to the Nebraska Retirement Systems Committee shall be submitted electronically.

Source: Laws 1927, c. 197, § 1, p. 560; C.S.1929, § 13-101; R.S.1943, § 12-101; Laws 1953, c. 15, § 1, p. 81; Laws 1959, c. 28, § 1, p. 179; Laws 1967, c. 38, § 1, p. 167; Laws 1998, LB 1191, § 3; Laws 1999, LB 795, § 2; Laws 2009, LB498, § 1; Laws 2011, LB252, § 1; Laws 2011, LB474, § 2; Laws 2014, LB759, § 3; Laws 2017, LB415, § 2.

This section authorizes Wyuka Cemetery to sell personal property so closely connected to its cemetery operation as grave markers and monuments. Speidell Monuments v. Wyuka Cemetery, 242 Neb. 134, 493 N.W.2d 336 (1992).

Wyuka Cemetery is a body politic and corporate, and legacy to it is subject to inheritance tax. In re Estate of Rudge, 114 Neb. 335, 207 N.W. 520 (1926).

12-101.01 Trustee; potential conflict of interest; actions required.

Any trustee of Wyuka Cemetery who would be required to take any action or make any decision in the discharge of his or her official duties that may cause financial benefit or detriment to him or her, a member of his or her immediate family, or a business with which he or she is associated, which is distinguishable from the effects of such action on the public generally or a broad segment

of the public, shall take the following actions as soon as he or she is aware of such potential conflict or should reasonably be aware of such potential conflict, whichever is sooner:

(1) Prepare a written statement describing the matter requiring action or decision and the nature of the potential conflict;

(2) Deliver a copy of the statement to the person in charge of keeping records for the board of trustees of Wyuka Cemetery who shall enter the statement onto the public records of the board of trustees; and

(3) Abstain from participating or voting on the matter in which the trustee has a conflict of interest.

Source: Laws 2009, LB498, § 2.

12-102 Portion under joint control of trustees and Department of Health and Human Services.

The trustees shall subdivide, set apart and dedicate that portion of said cemetery located at Lincoln which has heretofore been used for the burial of the dead from the various state institutions and which is legally described as follows, to wit: Beginning at a point 749 feet North and 392 feet East of the S.W. corner of the E 1/2 of the SE 1/4 of Section 19, T. 10, N.R. 7, E. 6th P.M. which is 46 1/2 feet North of the S.W. corner of lot 2911 in burial Section No. 9 in Wyuka Cemetery, thence North 75 feet to the N.W. corner of the Home for the Friendless Plot, according to the original plat of said cemetery, thence on a curve through an arc of 58 degrees 25' having a radius of 128 feet, the center of which is 183 feet North and 60 feet East of the place of beginning, to a point 77 feet North and 126 feet East of the place of beginning, and thence on a curve through an arc of 81 degrees 06' having a radius of 100 feet the center of which is 17 feet South and 163 feet East of the place of beginning, to a point at the East end of the Home for the Friendless Plot aforesaid, which is 37 1/2 feet North and 250 feet East of the place of beginning; thence on a curve through an arc of 81 degrees 06' having a radius of 100 feet the center of which is 88 feet North and 165 feet East of the place of beginning to a point 3 feet South and 125 feet East, of the place of beginning; thence on a curve through an arc of 58 degrees 25' having a radius of 128 feet the center of which is 107 feet South and 57 feet East of the place of beginning, to the place of beginning, containing 15,835 square feet, or 0.36 acres, situated in Lancaster County, Nebraska. The part so set aside and dedicated shall be under the joint control of the trustees of Wyuka Cemetery and the Department of Health and Human Services.

Source: Laws 1927, c. 197, § 2, p. 561; C.S.1929, § 13-102; R.S.1943, § 12-102; Laws 1996, LB 1044, § 46.

12-103 Rules and regulations; revenue; investment; treasurer; bond.

The trustees shall have power to prescribe all needful rules and regulations for the government of said cemetery. The trustees shall set aside a part of the purchase price of each burial lot sold, for the permanent maintenance of said cemetery, to be invested in any of the investments authorized by the provisions of section 30-3201. No part of the principal of this fund shall be used except for investment purposes as aforesaid. Each investment shall be approved by the unanimous vote of the board of trustees and entered upon the records of Wyuka Cemetery. The trustees shall appoint a treasurer to have custody of its funds

who shall give a surety company bond in a sum not less than the amount of cash in his hands, conditioned for the safekeeping of such funds.

Source: Laws 1927, c. 197, § 3, p. 561; C.S.1929, § 13-103; R.S.1943, § 12-103; Laws 1953, c. 16, § 1, p. 83.

12-104 Soldiers burial grounds; selection; acquisition; use.

A piece or parcel of land not exceeding in extent one acre not otherwise used or appropriated, in such place and in such form as shall be selected and agreed upon between the trustees of Wyuka Cemetery and a committee to be selected by the Grand Army of the Republic of Lincoln, Nebraska, is hereby appropriated and dedicated to the use and for the purpose of a soldiers burial ground. Such ground shall be selected in the manner described in this section, out of the South Half of the East Half of the Southeast Quarter of Section Nineteen, Township Ten, Range Seven East of the Sixth P.M., otherwise known as Wyuka Cemetery, and such plot of ground shall be used for the burial of all discharged or separated soldiers, sailors, marines, and army nurses, as they or their friends shall desire to bury therein, together with such members of their immediate families as the committee from the Grand Army of the Republic shall direct. The trustees of Wyuka Cemetery may appropriate and dedicate for the use and purpose of soldiers burial grounds such other pieces or parcels of ground in Wyuka Cemetery, acquired by the cemetery, as may in the opinion of such trustees be proper and sufficient. Such pieces or parcels of ground so appropriated and dedicated shall be used for the burial of all discharged or separated soldiers, sailors, marines, and army nurses who served in the army or navy of the United States in any war, together with such members of their immediate families as shall be selected by William Lewis Camp of Lincoln, Nebraska, of the United Spanish War Veterans, by Lincoln Post No. 3 of the Department of Nebraska of the American Legion, or by the Lincoln, Nebraska, camp, post, or other local body of any other national organization of war veterans, to be designated by the trustees of Wyuka Cemetery, which admits all discharged or separated soldiers, sailors, marines, and nurses who served in any war of the United States without limitation as to the branch, time, or place of service, or the sex, color, nativity, or religion of the member.

Source: Laws 1927, c. 197, § 4, p. 562; C.S.1929, § 13-104; R.S.1943, § 12-104; Laws 2005, LB 54, § 1.

Cross References

Veterans' cemetery system authorized, see section 12-1301.

12-105 Soldiers burial grounds; joint control.

Such soldiers burial grounds shall at all times be subject to all rules and regulations of Wyuka Cemetery; all such soldiers burial grounds selected and appropriated prior to January 1, 1927, shall be under the joint control of the trustees of Wyuka Cemetery and such committee as shall be designated by the Lincoln, Nebraska, post of the Grand Army of the Republic, so long as there shall be a post of the Grand Army of the Republic in Lincoln, Nebraska; and all such soldiers burial grounds selected and appropriated on or after January 1, 1927, shall be under the joint control of the trustees of Wyuka Cemetery and of such officers or committees as shall be from time to time appointed for that purpose by William Lewis Camp of United Spanish War Veterans, by Lincoln Post No. 3, American Legion, Department of Nebraska, and by such other war

veterans local body as shall hereafter be designated by the trustees as provided in section 12-104.

Source: Laws 1927, c. 197, § 5, p. 563; C.S.1929, § 13-105; R.S.1943, § 12-105.

ARTICLE 2
CONDEMNATION PROCEEDINGS

Section
12-201. Condemnation; conditions; procedure.
12-202. Repealed. Laws 1951, c. 101, § 127.
12-203. Repealed. Laws 1951, c. 101, § 127.
12-204. Repealed. Laws 1951, c. 101, § 127.
12-205. Repealed. Laws 1973, LB 276, § 2.

12-201 Condemnation; conditions; procedure.

Any incorporated city or village, any incorporated cemetery association, and any religious or church parish exercising ownership or control over any existing cemetery or burial ground may secure additional lands adjoining for cemetery and burial purposes in the manner hereinafter set forth. Whenever it shall become necessary to enlarge any such cemetery grounds by adding thereto lands adjoining the same and the owner or owners of such lands will not or cannot sell and convey the same to the city or village, cemetery association or parish, or where the owner or owners and the authorities controlling such cemetery cannot agree upon the price to be paid for such land so needed for cemetery extension, such land may be acquired by the exercise of the power of eminent domain. The procedure to condemn property shall be exercised as set forth in sections 76-704 to 76-724.

Source: Laws 1915, c. 172, § 1, p. 357; C.S.1922, § 414; C.S.1929, § 13-201; R.S.1943, § 12-201; Laws 1951, c. 101, § 31, p. 460.

Village was authorized to condemn land for cemetery purposes. Hueftle v. Eustis Cemetery Assn., 171 Neb. 293, 106 N.W.2d 400 (1960).

12-202 Repealed. Laws 1951, c. 101, § 127.

12-203 Repealed. Laws 1951, c. 101, § 127.

12-204 Repealed. Laws 1951, c. 101, § 127.

12-205 Repealed. Laws 1973, LB 276, § 2.

ARTICLE 3
ENDOWMENT OF CEMETERIES

Section
12-301. Endowments authorized.
12-302. Endowments; exemption from taxation and certain claims.

12-301 Endowments authorized.

Any person or corporation, private or municipal, or the state, any city, any county or subdivision thereof, owning or managing any cemetery, mausoleum or burial place in this state, is hereby authorized and empowered to receive by

gift, grant, deed of conveyance, bequest or devise, money, stocks, bonds, or other valuable income-producing personal property, or any real estate, from any person, firm or corporation, for the purpose of endowing such cemetery, mausoleum, or burial place with a permanent fund, for any lawful purpose, the income from which shall be used for the exclusive benefits and purposes, and in the manner designated by the endower.

Source: Laws 1915, c. 173, § 1, p. 357; C.S.1922, § 415; C.S.1929, § 13-301; R.S.1943, § 12-301.

12-302 Endowments; exemption from taxation and certain claims.

Such endowment funds or property shall be exempt from all taxation, attachment, execution and claims whatsoever except for labor and material furnished in the performance of the purposes of the endowment.

Source: Laws 1915, c. 173, § 1, p. 357; C.S.1922, § 415; C.S.1929, § 13-301; R.S.1943, § 12-302.

ARTICLE 4

CEMETERIES IN CITIES OF LESS THAN 25,000 POPULATION AND VILLAGES

Section
12-401. Cemetery board; members; appointment; terms; vacancies.
12-402. Cemetery fund; disbursement; tax levy; limit; collection; perpetual fund; use authorized.
12-403. Cemetery board; officers; employees.

12-401 Cemetery board; members; appointment; terms; vacancies.

The mayor of any city having fewer than twenty-five thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, by and with the consent of the council or a majority thereof, and the chairperson of the board of trustees of any village, by and with the consent of the village board or a majority thereof, may appoint a board of not fewer than three nor more than six members, to be known as the cemetery board, from among the citizens at large of such city, or from among the citizens at large from the county or counties in which the village is located for such village, who shall serve without pay and shall have entire control and management of any cemetery belonging to such city or village. Neither the mayor nor any member of the council nor the chairperson nor any member of the village board of trustees may be a member of the cemetery board. At the time of establishing such cemetery board, approximately one-third of the members shall be appointed for a term of one year, one-third for a term of two years, and one-third for a term of three years, and thereafter members shall be appointed for terms of three years. Vacancies in the membership of the board other than through the expiration of a term shall be filled for the unexpired portion of the term.

Source: Laws 1917, c. 207, § 1, p. 496; C.S.1922, § 4492; C.S.1929, § 13-401; R.S.1943, § 12-401; Laws 2008, LB995, § 1; Laws 2017, LB113, § 2; Laws 2017, LB463, § 1.

12-402 Cemetery fund; disbursement; tax levy; limit; collection; perpetual fund; use authorized.

(1) The mayor and council or the board of trustees, for the purpose of defraying the cost of the care, management, improvement, beautifying, and welfare of such cemeteries and the inhabitants thereof, may each year levy a tax not exceeding five and two-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such city or village subject to taxation for general purposes. The tax shall be collected and paid to the city or village as taxes for general purposes are collected and paid to the city or village. All taxes collected for this purpose shall constitute and be known as the cemetery fund and shall be used for the general care, management, improvement, beautifying, and welfare of such cemetery and the inhabitants thereof. Warrants upon this fund shall be drawn by the cemetery board and shall be paid by the city or village treasurer. The city council or the board of trustees may issue a warrant from the cemetery fund if a payment is due and the cemetery board is not scheduled to meet prior to such due date to authorize the warrant.

(2) The mayor and council or the board of trustees may set aside the proceeds of the sale of lots as a perpetual fund to be invested as provided by ordinance. The income from the fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery. The principal of the perpetual fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as long as no more than twenty percent of the principal is so used in any fiscal year and no more than forty percent of the principal is so used in any period of ten consecutive fiscal years. The principal of the perpetual fund may also be used for the purchase and development of additional land to be used for cemetery purposes as long as no more than twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.

(3) The mayor and council or the board of trustees may receive money by donation, bequest, or otherwise for credit to the perpetual fund to be invested as provided by ordinance or as conditioned by the donor. The income therefrom may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate. The principal therefrom may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate as long as no more than twenty percent of the principal is so used in any fiscal year and no more than forty percent of the principal is so used in any period of ten consecutive fiscal years. The principal therefrom may also be used for the purchase and development of additional land to be used for cemetery purposes as the donor may designate as long as no more than twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.

(4) This section does not limit the use of any money that comes to the city or village by donation, bequest, or otherwise that is not designated to be credited to the perpetual fund or that allows greater use for purchase or development of additional land to be used for cemetery purposes.

Source: Laws 1917, c. 207, § 2, p. 496; C.S.1922, § 4493; C.S.1929, § 13-402; R.S.1943, § 12-402; Laws 1953, c. 17, § 1, p. 84; Laws 1979, LB 187, § 26; Laws 1992, LB 719A, § 24; Laws 2005, LB 262, § 1; Laws 2008, LB995, § 2; Laws 2009, LB500, § 1.

12-403 Cemetery board; officers; employees.

The members of the cemetery board may select such officers from among their own number as they may deem necessary, and shall have the power to employ such labor and assistants as they may deem necessary from persons not belonging to said board.

Source: Laws 1917, c. 207, § 3, p. 497; C.S.1922, § 4494; C.S.1929, § 13-403; R.S.1943, § 12-403.

ARTICLE 5

CEMETERY ASSOCIATIONS

Section

12-501. Formation; trustees; election; notice; clerk; right to establish cemetery limited.
12-502. Formation; record of proceedings; certification; effect; certified transcript as evidence; duty of county clerk; fees.
12-503. Trustees; perpetual succession; general powers; service of process.
12-504. General powers.
12-505. Lots; resale or reclamation; conditions; notice; requirements.
12-506. Real estate; power to acquire; exemption from taxation and legal process; revenue; disbursement.
12-507. Debts; power to contract; limitations.
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12-512. Perpetual care funds; perpetual special care trusts; acquisition of property under; validity.
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12-512.02. Perpetual care trust fund; proceeds; investment.
12-512.03. Perpetual care trust fund; trustees; qualifications; appointment; bond.
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12-512.06. Perpetual care trust fund; withdrawal; when authorized; amount.
12-512.07. Perpetual care trust fund; violations; penalty.
12-512.08. Perpetual care trust fund; violations; separate offenses; what constitutes.
12-513. Repealed. Laws 1951, c. 101, § 127.
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12-515. Real estate; acquisition by condemnation; lands subject.
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12-518. Lots; plat; care, improvement, adornment; annual exhibit; powers and duties of association.
12-519. Repealed. Laws 1984, LB 1045, § 1.
12-520. Grounds; sale on execution; taxation; partition; exemption.
12-521. Grounds; abandonment; sale; disposition; procedure; petition; contents; requirements.
12-522. Grounds; abandonment; sale; notice of petition; contents; form.
12-523. Grounds; abandonment; sale; objections; reply.
12-524. Grounds; abandonment; sale; time for hearing.
12-525. Grounds; abandonment; sale; hearing; finding; decree.
12-526. Grounds; abandonment; sale; confirmation of sale.
12-527. Grounds; abandonment; sale; costs and expenses.
12-528. Grounds; abandonment; sale; appeal.
12-529. Grounds; abandonment; sale; scope and application of law.

Section
12-530. Transfer of cemetery to city or village; powers and duties; effect.
12-531. Abandoned or neglected pioneer cemetery; management and operation; cemetery association; duties; map; perpetual care trust fund; duties.
12-532. Mowing.

12-501 Formation; trustees; election; notice; clerk; right to establish cemetery limited.

(1) For purposes of sections 12-501 to 12-532, cemetery association means an association formed under such sections.

(2) Every cemetery, other than those owned, operated, and maintained by the state, by towns, villages, and cities, by churches, by public charitable corporations, by cemetery districts, and by fraternal and benevolent societies, shall be owned, conducted, and managed by cemetery associations organized and incorporated as provided in sections 12-501 to 12-532 except as specifically provided in sections 12-530 and 12-812.

(3) The establishment of a cemetery by any agency other than those enumerated in this section shall constitute a nuisance, and its operation may be enjoined at the suit of any taxpayer in the state.

(4) Any number of the following individuals, not less than five, may form and organize a cemetery association: (a) A resident of the county in which the cemetery association is to be formed, (b) an owner of a lot within the cemetery for which the cemetery association is formed, and (c) any family member, including, but not limited to, a parent, spouse, sibling, child, or grandchild, of an individual buried in such cemetery. Cemetery association members shall elect at least three members to serve as trustees and one member to serve as clerk, who shall continue to serve in office at the pleasure of the association. All such elections shall take place at a meeting of four or more members of such association by a majority vote of those present. A notice for such meeting shall be published in a local newspaper, or posted in three places within the precinct or township in which the cemetery is or will be located, at least fifteen days prior to the meeting.

Source: R.S.1866, c. 25, § 45, p. 205; Laws 1905, c. 38, § 1, p. 274; R.S.1913, § 679; C.S.1922, § 588; C.S.1929, § 13-501; Laws 1935, c. 27, § 1, p. 121; C.S.Supp.,1941, § 13-501; R.S.1943, § 12-501; Laws 2014, LB863, § 3; Laws 2021, LB312, § 1.

Under Nebraska's cemetery association laws, it is apparent that there is a public nature to certain of the statutory authority given cemetery associations with regard to cemetery property. Sjuts v. Granville Cemetery Assn., 272 Neb. 103, 719 N.W.2d 236 (2006).

This section contains the provisions under which cemetery association is established. Root v. Morning View Cemetery Assn., 174 Neb. 438, 118 N.W.2d 633 (1962).

Presumption of continued existence arises after proper organization. Tetschner v. Cram, 157 Neb. 734, 61 N.W.2d 378 (1953).

Amendment to bylaws of association organized under this article (sections 12-501 to 12-529), made without any notice whatever to members, is void, where bylaws required notice, but did not prescribe the manner thereof. State ex rel. Craig v. Offutt, 121 Neb. 76, 236 N.W. 174 (1931).

Property involved belonged to a private corporation organized under this section. Greenwood Cemetery v. City of Wayne, 110 Neb. 300, 193 N.W. 734 (1923).

Receiver denied for corporation organized under this article. Youngers v. Exeter Cemetery Assn., 85 Neb. 314, 123 N.W. 95 (1909).

Corporations organized under this article are private corporations. Pokrok Zapadu Publishing Co. v. Zizkovsky, 42 Neb. 64, 60 N.W. 358 (1894).

This article divests cities of control of cemeteries. State ex rel. Wyuka Cemetery Assn. v. Bartling, 23 Neb. 421, 36 N.W. 811 (1888).

12-502 Formation; record of proceedings; certification; effect; certified transcript as evidence; duty of county clerk; fees.

The clerk of the cemetery association shall make out a true record of the proceedings of the meeting provided for by section 12-501 and certify and

deliver the same to the clerk of the county in which the cemetery is located, together with the name by which such association shall be known. The county clerk, immediately upon the receipt of such certified statement, shall record the same in a book provided by the county clerk for that purpose at the expense of the county and shall be entitled to the same fees for the services as the county clerk is entitled to demand for other similar services. After the making of such record by the county clerk, the trustees and the associated members and successors shall be invested with the powers, privileges, and immunities incident to aggregate corporations. A certified transcript of the record made by the county clerk shall be deemed and taken in all courts and places whatsoever within this state as prima facie evidence of the existence of such cemetery association.

Source: R.S.1866, c. 25, § 46, p. 205; R.S.1913, § 680; C.S.1922, § 589; C.S.1929, § 13-502; R.S.1943, § 12-502; Laws 2014, LB863, § 4; Laws 2021, LB312, § 2.

This section contains directions as to the details of organization and recording of articles of association. Root v. Morning View Cemetery Assn., 174 Neb. 438, 118 N.W.2d 633 (1962).

As soon as the county clerk enters of record the true record of the meeting at which the association is organized and the first trustees are elected, the association is a corporation. State ex rel. Craig v. Offutt, 121 Neb. 76, 236 N.W. 174 (1931).

12-503 Trustees; perpetual succession; general powers; service of process.

The trustees who may be appointed under the provisions of section 12-501 shall have perpetual succession, and shall be capable in law of contracting, and prosecuting and defending suits at law and in equity. The cemetery association may be served in the manner provided for service of a summons on a corporation.

Source: R.S.1866, c. 25, § 47, p. 206; R.S.1913, § 681; C.S.1922, § 590; C.S.1929, § 13-503; R.S.1943, § 12-503; Laws 1983, LB 447, § 2.

Trustees of the association chosen from time to time have perpetual succession. State ex rel. Craig v. Offutt, 121 Neb. 76, 236 N.W. 174 (1931).

12-504 General powers.

Such association may have power to prescribe the terms on which members may be admitted, the number of its trustees and other officers (subject to the limitations set forth in section 12-501), and the time and manner of their election and appointment, and the time and place of meeting for the trustees and for the association, and to pass all such other bylaws as may be necessary for the good government of such association, not inconsistent with this or any other statutes of the state, nor in violation of the Constitution.

Source: R.S.1866, c. 25, § 48, p. 206; R.S.1913, § 682; Laws 1919, c. 27, § 1, p. 93; C.S.1922, § 591; C.S.1929, § 13-504; R.S.1943, § 12-504.

Association has power to prescribe terms of membership, number of trustees, time and manner of their election, time and place of meetings, and to pass bylaws. State ex rel. Craig v. Offutt, 121 Neb. 76, 236 N.W. 174 (1931).

12-505 Lots; resale or reclamation; conditions; notice; requirements.

(1) If the purchase price, or any portion thereof, of any lot or subdivision of a lot shall remain unpaid for three years or more, or if the general assessments, annual care assessments, or other levies or charges made by such association

shall remain unpaid on any lot or subdivision of a lot for three years or more, such association shall have authority to sell the unused portion of such lot or fractional part thereof as though the original title remained in such association, proceeding under the general bylaws of the association. Such association shall distinctly mark and set off the used portion of any such lot or subdivision and shall give notice of its intention to sell such lot or subdivision. Such notice shall be in writing and served personally upon the owner of such lot or subdivision, not less than sixty days before such lot or subdivision shall be held for sale, and proof thereof filed and recorded in the office of the register of deeds. If it is impossible to serve such notice personally, notice shall be given by publication in a legal newspaper published in the county where the cemetery is located, or if none is published in such county in a legal newspaper of general circulation in the county where the cemetery is located, for three successive weeks. The last publication shall be not less than sixty days before such lot or subdivision shall be offered for sale. Proof of publication shall be filed and recorded in the office of the register of deeds, together with the affidavit of the secretary of the association showing that diligent effort has been made to locate the owner and that personal notice cannot be given to such owner. The association may purchase any such lot or subdivision sold pursuant to this subsection.

(2) When there has been no burial in any such lot or subdivision and no payment of annual assessments for a period of twenty years, the association may reclaim the unused portion of such lot or subdivision after publishing notice of its intention to do so. Such notice shall be published once each week for four weeks in a legal newspaper of general circulation throughout the county in which the cemetery is located, shall describe the lot or subdivision proposed to be reclaimed, and shall be addressed to the person in whose name such portion stands of record or, if there is no owner of record, to all persons claiming any interest. If no person appears to claim such lot or subdivision and pay all delinquent assessments with interest within fifteen days after the last date of such publication, the association may by resolution reclaim such lot or subdivision. Such reclamation shall be complete upon a filing of a verified copy of such resolution, together with proof of publication, in the office of the register of deeds.

Source: R.S.1866, c. 25, § 49, p. 206; R.S.1913, § 682; Laws 1919, c. 27, § 1, p. 93; C.S.1922, § 591; C.S.1929, § 13-504; R.S.1943, § 12-505; Laws 1959, c. 29, § 1, p. 181; Laws 1963, c. 39, § 1, p. 210; Laws 1986, LB 960, § 5.

12-506 Real estate; power to acquire; exemption from taxation and legal process; revenue; disbursement.

Such association shall have the power to purchase or take by gift, devise, or by exercising the power of eminent domain, and to hold lands, not exceeding three hundred and sixty acres, and improvements thereon, exempt from taxation, execution, or from any appropriation of public purchasers, if the same are used exclusively for cemetery purposes and in nowise with a view to profit. After such land is paid for, all the future receipts and income of such association, whether from the sale of lots, from donations, or otherwise, shall be applied exclusively to laying out, protecting, preserving, and embellishing the cemetery and the avenues leading thereto, to the erection of such building or buildings, vault or vaults, chapel, crematory, mausoleum, and other structures as may be deemed necessary for the cemetery purposes, and to paying the

necessary expenses of the association. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: R.S.1866, c. 25, § 49, p. 206; Laws 1885, c. 22, § 1, p. 181; Laws 1905, c. 39, § 1, p. 275; Laws 1911, c. 27, § 1, p. 176; R.S.1913, § 683; Laws 1917, c. 12, § 1, p. 71; C.S.1922, § 592; Laws 1925, c. 138, § 1, p. 365; C.S.1929, § 13-505; Laws 1941, c. 18, § 1, p. 103; C.S.Supp.,1941, § 13-505; R.S.1943, § 12-506; Laws 1951, c. 101, § 33, p. 461.

This section does not prohibit a devise of land to cemetery association in excess of three hundred sixty acres. Root v. Morning View Cemetery Assn., 174 Neb. 438, 118 N.W.2d 633 (1962).

Receipts from sale of lots are subject to the payment of any debt contracted for the purchase price of the cemetery property, and extends to money borrowed to take up purchase money notes. Townsend v. Beatrice Cemetery Assn., 188 F. 1 (8th Cir. 1911).

12-507 Debts; power to contract; limitations.

No debts shall be contracted in the anticipation of future receipts except for purchasing, laying out, enclosing and embellishing the grounds and avenues, and erecting buildings, vaults, a chapel, a crematory, a mausoleum and other structures, for which a debt or debts may be contracted, not exceeding eighty-five thousand dollars in the aggregate, to be paid out of future receipts.

Source: R.S.1866, c. 25, § 49, p. 207; Laws 1885, c. 22, § 1, p. 182; Laws 1905, c. 39, § 1, p. 275; Laws 1911, c. 27, § 1, p. 177; R.S.1913, § 683; Laws 1917, c. 12, § 1, p. 71; C.S.1922, § 592; Laws 1925, c. 138, § 1, p. 365; C.S.1929, § 13-505; Laws 1941, c. 18, § 1, p. 104; C.S.Supp.,1941, § 13-505; R.S.1943, § 12-507.

Cemetery association is authorized to incur indebtedness not exceeding eighty-five thousand dollars. Root v. Morning View Cemetery Assn., 174 Neb. 438, 118 N.W.2d 633 (1962).

Funds may be appropriated to improvement of avenues leading thereto. Greenwood Cemetery v. City of Wayne, 110 Neb. 300, 193 N.W. 734 (1923).

12-508 Lots; receptacles; sale; power to regulate.

Such association shall have power to adopt such rules and regulations as it deems expedient for disposing of and conveying burial lots, crypts, niches and other places for the disposal of the dead.

Source: R.S.1866, c. 25, § 50, p. 207; Laws 1885, c. 22, § 1, p. 182; Laws 1905, c. 39, § 1, p. 276; Laws 1911, c. 27, § 1, p. 177; R.S.1913, § 683; Laws 1917, c. 12, § 1, p. 72; C.S.1922, § 592; Laws 1925, c. 138, § 1, p. 366; C.S.1929, § 13-505; Laws 1941, c. 18, § 1, p. 104; C.S.Supp.,1941, § 13-505; R.S.1943, § 12-508.

12-509 Perpetual care fund; power to establish; sources; investment; protection; disbursement of income; requirements.

Such association shall have the power to establish a fund to be known as the perpetual care fund, placing therein such money as it may from time to time determine, out of its general funds; and it shall have the authority to receive gifts or bequests of money and other personal property, and devises of real estate and interests therein, to be placed in the perpetual care fund. The principal of the perpetual care fund shall be forever held inviolate as a perpetual trust by said association, and shall be maintained separate and distinct from any other funds. The principal of the perpetual care fund shall be invested and from time to time reinvested and kept invested (1) in securities authorized by section 30-3209, for the investment of retirement and pension

funds other than funds held by corporate trustees or (2) as provided in the trust agreement or articles of incorporation of the association, and the income earned therefrom shall be used solely for the general care, maintenance, and embellishment of the cemetery, and shall be applied in such manner as the association may from time to time determine to be for the best interest of the cemetery.

Source: Laws 1941, c. 18, § 1, p. 104; C.S.Supp.,1941, § 13-505; R.S. 1943, § 12-509; Laws 1980, LB 909, § 1.

Cemetery association is authorized to establish a perpetual care fund. Root v. Morning View Cemetery Assn., 174 Neb. 438, 118 N.W.2d 633 (1962).

Mausoleum association may create a perpetual care fund. Omaha Nat. Bank v. West Lawn Mausoleum Assn., 158 Neb. 412, 63 N.W.2d 504 (1954).

Cemetery association had authority to create a perpetual care fund. Tetschner v. Cram, 157 Neb. 734, 61 N.W.2d 378 (1953).

12-510 Perpetual special care trusts; power to act as trustee; investment of funds; disbursement of income.

Such association shall be authorized to receive as trustee, money and other personal property, and real estate and interests therein, transferred or conveyed to it in trust for the purpose of providing for the care, embellishment or decoration of burial lots, graves, tombs, vaults, crypts, niches, tombstones, and other monuments and decorations. It shall have power to administer such trust and to invest and perpetuate such trust funds, under such terms and conditions as may be prescribed by the bylaws of such association, and shall have power to enter into contracts with the owners of such graves, vaults, burial lots, crypts, niches, or other places for the disposal of the dead, for the perpetual care thereof. Said trusts shall be known as perpetual special care trusts, and shall be invested and from time to time reinvested and kept invested in securities authorized by the laws of Nebraska for the investment of trust funds. The income earned thereon shall be used solely for the purposes of perpetual special care as set forth in the respective trust agreements made between the association and said donors. A separate individual account shall be kept by the association of each of the perpetual special care trusts so that the condition of each may be determined on the books of the association at any time; but said perpetual special care trust funds may be commingled for investment, in which event the income therefrom shall be divided between the various perpetual special care trusts in the proportion that each trust fund contributes to the principal sum so invested. All such funds shall be held in the name of the cemetery association as trustee, except as hereinafter provided.

Source: Laws 1905, c. 39, § 1, p. 276; Laws 1911, c. 27, § 1, p. 177; R.S.1913, § 683; Laws 1917, c. 12, § 1, p. 72; C.S.1922, § 592; Laws 1925, c. 138, § 1, p. 366; C.S.1929, § 13-505; Laws 1941, c. 18, § 1, p. 104; C.S.Supp.,1941, § 13-505; R.S.1943, § 12-510.

This section deals with the subject of specific gifts for special purposes. Root v. Morning View Cemetery Assn., 174 Neb. 438, 118 N.W.2d 633 (1962).

Cemetery association had authority to receive property as trustee. Tetschner v. Cram, 157 Neb. 734, 61 N.W.2d 378 (1953).

12-511 Perpetual care funds; perpetual special care trusts; use; exemption from taxation and certain claims; declaration of policy.

The perpetual care funds and perpetual special care trusts shall be used and administered solely for cemetery purposes, and shall be subject to the rules prescribed by the association. They shall be exempt from taxation, execution,

attachment or any other claim, lien or process whatever, if used for the purpose hereinbefore stated, and not for profit. The perpetual care funds and perpetual special care trusts authorized by section 12-510 are hereby expressly permitted and shall be deemed to be for charitable and benevolent uses. Such contributions are a provision for the discharge of a duty due from the persons contributing to the person or persons interred or to be interred in the cemetery, and likewise a provision for the benefit and protection of the public by aiding to preserve, beautify and keep cemeteries from becoming unkempt and places of reproach and desolation in the communities in which they are situated.

Source: Laws 1941, c. 18, § 1, p. 105; C.S.Supp.,1941, § 13-505; R.S. 1943, § 12-511.

This section deals with the subject of specific gifts for special purposes. Root v. Morning View Cemetery Assn., 174 Neb. 438, 118 N.W.2d 633 (1962).

The fact that Nebraska law defined bequest in favor of nonprofit cemetery as charitable did not necessarily mean that bequest was deductible for federal estate tax purposes. First Nat. Bank of Omaha v. United States, 532 F.Supp. 251 (D. Neb. 1981).

12-512 Perpetual care funds; perpetual special care trusts; acquisition of property under; validity.

No payment, gift, grant, bequest, or other contribution for such purpose shall be deemed to be invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries in the instruments creating such funds, nor shall any of such funds or any contribution thereto be invalidated as violating any rule against perpetuities or suspension of the power of alienation of title to property.

Source: Laws 1941, c. 18, § 1, p. 105; C.S.Supp.,1941, § 13-505; R.S. 1943, § 12-512.

Bequest for maintenance of cemetery was valid. Tetschner v. Cram, 157 Neb. 734, 61 N.W.2d 378 (1953).

12-512.01 Perpetual care trust fund; trustees; duties.

Every cemetery association shall provide for and select trustees, other than officers or members of the association, who shall be selected, as provided for in section 12-512.03, to invest, safeguard, and look after certain funds of the association, including the sums provided for by section 12-512.02 and any other money acquired for the purposes of such fund, in a perpetual care trust fund, the income therefrom to be used for the perpetual care of the cemetery by the association.

Source: Laws 1953, c. 20, § 1, p. 89; Laws 2014, LB863, § 5.

12-512.02 Perpetual care trust fund; proceeds; investment.

The cemetery association shall place at least one hundred dollars for each cemetery lot sold into the perpetual care trust fund. Such funds shall be paid by the cemetery association to the trustees of the perpetual care trust fund, who shall invest the funds under the same conditions and restrictions as trust funds are invested under section 30-3201. If any lots are sold on contract, thirty percent of all payments received on the contract shall be paid to the trustee or trustees of the perpetual care trust fund until the entire payments required by this section are made.

Source: Laws 1953, c. 20, § 2, p. 89; Laws 1955, c. 18, § 1, p. 91; Laws 2014, LB863, § 6.

12-512.03 Perpetual care trust fund; trustees; qualifications; appointment; bond.

The trustee or trustees of the perpetual care trust fund shall consist of (1) at least three disinterested persons, who have been residents of the county in which the cemetery is located for a period of at least one year prior to their appointment, or (2) a disinterested trust company organized to do business in and located in the State of Nebraska. The trustees or trustee, as the case may be, shall be selected by the officers of the cemetery association. If individual trustees are selected, they shall give a corporate surety bond in a sum not less than one thousand dollars.

Source: Laws 1953, c. 20, § 3, p. 90; Laws 1955, c. 18, § 2, p. 92; Laws 1980, LB 909, § 2.

12-512.04 Perpetual care trust fund; audit; exception; filing; expense.

On June 30 of each year, the individual trustees or corporate trustee, as the case may be, of a perpetual care trust fund shall have an audit of the perpetual care trust fund made by a certified public accountant except as otherwise provided in section 12-531. The report of such audit by the auditor shall be filed within thirty days after June 30 of such year with the county clerk of the county in which the cemetery is located. The expense of the audit and the filing fee of the report shall be paid by the cemetery association.

Source: Laws 1953, c. 20, § 4, p. 90; Laws 2014, LB863, § 7.

12-512.05 Perpetual care and maintenance guarantee fund; establish; amount required.

Every cemetery association shall, before selling or disposing of any interment space or lots, establish a minimum perpetual care and maintenance guarantee fund of not less than two thousand five hundred dollars in cash to be administered by the trustee or trustees of the perpetual care trust fund selected as provided in section 12-512.03.

Source: Laws 1955, c. 18, § 3, p. 92; Laws 1967, c. 39, § 1, p. 169; Laws 2014, LB863, § 8.

12-512.06 Perpetual care trust fund; withdrawal; when authorized; amount.

The initial perpetual care fund established for any cemetery shall remain an irrevocable trust fund until such time as this fund, together with accumulations and additions thereto from funds derived as provided in section 12-512.02, shall have reached twenty-five thousand dollars when it may be withdrawn at the rate of one thousand dollars from the original five thousand dollars for each additional two thousand dollars added to the fund, until all of the five thousand dollars has been withdrawn.

Source: Laws 1955, c. 18, § 4, p. 92.

12-512.07 Perpetual care trust fund; violations; penalty.

Any person, firm or corporation violating any of the provisions of sections 12-512.01 to 12-512.08 shall be guilty of a Class IV misdemeanor.

Source: Laws 1955, c. 18, § 5, p. 93; Laws 1977, LB 40, § 72.

12-512.08 Perpetual care trust fund; violations; separate offenses; what constitutes.

Each day any person, firm, or corporation violates any provisions of sections 12-512.01 to 12-512.08 shall be deemed to be a separate and distinct offense.

Source: Laws 1955, c. 18, § 6, p. 93.

12-513 Repealed. Laws 1951, c. 101, § 127.

12-514 Repealed. Laws 1951, c. 101, § 127.

12-515 Real estate; acquisition by condemnation; lands subject.

No land shall be thus taken by eminent domain either for the location of or addition to any cemetery which shall be within one mile of the limits of any city. Whenever a cemetery association organized in the state has been in existence twenty years or more and has within its burial ground one hundred or more bodies interred, and lands adjoining the cemetery ground are within corporate limits of a city or village but are used for agricultural and pasturage purposes, condemnation proceedings may be maintained against such lands as provided in section 12-506.

Source: Laws 1911, c. 27, § 1, p. 178; R.S.1913, § 683; Laws 1917, c. 12, § 1, p. 73; C.S.1922, § 592; Laws 1925, c. 138, § 1, p. 367; C.S.1929, § 13-505; Laws 1941, c. 18, § 1, p. 106; C.S.Supp.,1941, § 13-505; R.S.1943, § 12-515; Laws 1951, c. 101, § 34, p. 461.

Prohibition against acquisition of land within one mile of the limits of any city did not apply to a village. Hueftle v. Eustis Cemetery Assn., 171 Neb. 293, 106 N.W.2d 400 (1960).

12-516 Trustees; bond; terms; approval; filing; fee; cost paid by association.

If the trustees of any cemetery association receive the gift of any property, real or personal, in their own name, in trust, for the perpetual care of the cemetery, or anything connected therewith, the trustees shall, upon the enactment of bylaws to that effect by the association, give a bond to the association of at least one thousand dollars, conditioned for the faithful administration of the trust and care of the funds and property. The bond shall be filed with and approved by the county clerk of the county in which the association is located, and the clerk shall be paid the same fee for approving and filing the bond as fixed by law for approving and filing official bonds. The cost of the bond shall be paid by the cemetery association.

Source: Laws 1925, c. 138, § 1, p. 367; C.S.1929, § 13-505; Laws 1941, c. 18, § 1, p. 106; C.S.Supp.,1941, § 13-505; R.S.1943, § 12-516; Laws 1980, LB 909, § 3; Laws 2014, LB863, § 9.

12-517 Lots; use; exemption from taxation and other claims.

Burial lots sold by such association shall be for the sole purpose of interments, shall be subject to the rules prescribed by the association, and shall be exempt from taxation, execution, attachment, or any other claim, lien or process whatever, if used exclusively for burial purposes and in nowise with a view to profit.

Source: R.S.1866, c. 25, § 50, p. 207; R.S.1913, § 684; C.S.1922, § 593; C.S.1929, § 13-506; R.S.1943, § 12-517.

Unsold burial lots are not exempt from special improvement assessment. Greenwood Cemetery v. City of Wayne, 110 Neb. 300, 193 N.W. 734 (1923).

12-518 Lots; plat; care, improvement, adornment; annual exhibit; powers and duties of association.

A cemetery association shall cause a plat of the cemetery grounds, and of the lots laid out in the cemetery, to be made and recorded, such lots to be numbered by regular consecutive numbers. It shall have power to enclose, improve, and adorn the grounds and avenues and erect buildings for the use of the association, to prescribe rules for the enclosing and adorning of lots and for erecting monuments in the cemetery, and to prohibit any use, division, improvement, or adornment of a lot which it may deem improper. An annual exhibit shall be made of the affairs of the association.

Source: R.S.1866, c. 25, § 51, p. 207; R.S.1913, § 685; C.S.1922, § 594; C.S.1929, § 13-507; R.S.1943, § 12-518; Laws 2014, LB863, § 10.

This section makes definite the purposes for which expenditure of funds may be made. Root v. Morning View Cemetery Assn., 174 Neb. 438, 118 N.W.2d 633 (1962).

12-519 Repealed. Laws 1984, LB 1045, § 1.

12-520 Grounds; sale on execution; taxation; partition; exemption.

Lands appropriated and set apart as burial grounds, either for public or private use, and so recorded in the county clerk's office of the county where such lands are situated, shall not be subject to sale on execution on any judgment to be hereafter recovered, to taxation, nor to compulsory partition.

Source: R.S.1866, c. 25, § 53, p. 208; R.S.1913, § 687; C.S.1922, § 596; C.S.1929, § 13-509; R.S.1943, § 12-520.

Exemption from sale on execution and from taxation does not include special assessments for a public improvement. Greenwood Cemetery v. City of Wayne, 110 Neb. 300, 193 N.W. 734 (1923).

Real estate dedicated as cemetery is exempt from execution though owner receives revenue from sale of lots. First Nat. Bank of Pawnee City v. Hazels, 63 Neb. 844, 89 N.W. 378 (1902).

This section does not exempt proceeds of sale of cemetery lots from being subjected to payment of debt for money borrowed and used to take up purchase money notes. Townsend v. Beatrice Cemetery Assn., 188 F. 1 (8th Cir. 1911).

12-521 Grounds; abandonment; sale; disposition; procedure; petition; contents; requirements.

When any cemetery association in this state owning or having title to any real estate therein which has been used or set apart as a cemetery or a place of burial for the dead, or intended for such use, shall for any reason deem it prudent and for the best interests of the association and the public that the same shall not be used for such purposes, but that the use of the same as a burial place for the dead should be prohibited and the said real estate, or such portion thereof as shall not be actually occupied by graves of persons buried therein by permission or authority of said association, be sold or otherwise disposed of and the proceeds of any sale turned over to and transferred to some other like association having a place of burial for the dead in actual use in the vicinity of the one so desired to be prohibited from future use, or the proceeds set apart to be used for the establishment of a new cemetery in the vicinity of the one so desired to be prohibited from future use, such cemetery association, or the majority of its members or a majority of its board of trustees, may, by

resolution for that purpose, direct its president or some other chief officer of said association, to file a petition in the district court of the county in which said real estate is situated, in the name of said association, setting forth (1) the reasons why said real estate, or any part thereof, should be discontinued from use as a cemetery or prohibited from future use as a cemetery or as a place of burial for the dead, (2) the desire of such association to sell or otherwise dispose of such portion of its said real estate as shall not be actually occupied by graves of persons buried therein by permission or authority of such association, (3) its desire as to what disposition shall be made of the proceeds of any such sale, and what disposition of or provisions for the future care and management of such portion of any such real estate as shall be actually occupied by graves of persons buried therein by permission or authority of such association, if any, it desires made, and (4) a prayer for an order or decree of said court that the said cemetery association be allowed to discontinue or prohibit the use of said real estate as a place of burial for the dead, for license to sell or otherwise dispose of any portion of such real estate not actually occupied by graves of persons buried therein by permission or authority of such association, to dispose of the proceeds of any such sale, and of any other funds and property of such association, in the manner desired by such association, to wind up the affairs and business of such association, and to dissolve the same if desired, and such other and further relief in the premises as to the court shall seem just and proper. If the trustees deem it prudent and for the best interests of the association that all or a portion of its real estate be given to another nonprofit entity organized solely for educational, charitable, historic, conservation, or religious purposes or to the State of Nebraska rather than being sold, the district court may authorize such conveyance after such compliance with the provisions of sections 12-522 to 12-529 as the court shall deem applicable.

Source: Laws 1907, c. 27, § 1, p. 146; R.S.1913, § 688; C.S.1922, § 597; C.S.1929, § 13-510; R.S.1943, § 12-521; Laws 1974, LB 645, § 1.

12-522 Grounds; abandonment; sale; notice of petition; contents; form.

Upon the filing of such petition, due notice of the same shall be given all the members of such association, and all other persons interested therein, and in the real estate or other property of such association, by causing a notice of the application to be published in some weekly newspaper printed and published and of general circulation in the county where the action is brought for three successive weeks, which notice shall be substantially in the following form:

LEGAL NOTICE

The members of the ..... Cemetery Association of ....., Nebraska, and all other persons interested in the association and in the real estate or other property of the association, are hereby notified that on the ..... day of ..... 20...., the association, filed its petition in the district court of ..... County, Nebraska, the object and prayer of which is (here set forth in at least a general way the object sought and relief prayed for in the petition).

Any person desiring to oppose the granting of the relief sought by or the prayer of the petition is required to file an objection in writing with the clerk of the district court as required by law on or before Monday, the .... day of ..... 20..... Dated ....., 20..... .

. . . . . Cemetery Association of
. . . . . , NE.
Petitioner.

Source: Laws 1907, c. 27, § 2, p. 147; R.S.1913, § 689; C.S.1922, § 598; C.S.1929, § 13-511; R.S.1943, § 12-522; Laws 2004, LB 813, § 2.

12-523 Grounds; abandonment; sale; objections; reply.

Any person desiring to oppose the said application may, within the time specified in such notice, which shall not be sooner than the third Monday nor longer than the fifth Monday next after the last publication thereof, file a statement of his objections duly verified, and the said applicant may on or before the second Monday after the time specified for filing such objection, reply thereto, which reply shall be verified.

Source: Laws 1907, c. 27, § 3, p. 148; R.S.1913, § 690; C.S.1922, § 599; C.S.1929, § 13-512; R.S.1943, § 12-523.

12-524 Grounds; abandonment; sale; time for hearing.

Said application and proceeding shall stand for hearing before the district court at any time after issue joined therein; or if no objection has been filed, then any time after the time for filing objections shall have expired, satisfactory proof having been made to the court of the publication of the notice required by section 12-522.

Source: Laws 1907, c. 27, § 4, p. 148; R.S.1913, § 691; C.S.1922, § 600; C.S.1929, § 13-513; R.S.1943, § 12-524.

12-525 Grounds; abandonment; sale; hearing; finding; decree.

If, upon the hearing of said petition before the court, the court shall be of the opinion that it is for the best interest of said association and the public that the said real estate, or any part thereof, should be prohibited from use as a cemetery and prohibited from future use for cemetery purposes, and that the same or any part thereof should be sold, it shall so find and decree. It may in that event also order and direct the manner in which and by whom the sale of the said real estate shall be conducted and upon what terms, and require the person making such sale to report and return the proceeds of said sale to the district court; and in the event of a decree for the sale of any such real estate, the court shall also determine and direct what disposition shall be made of the proceeds of such sale. The court shall have full authority in such proceedings to make all such orders and decrees as it may deem necessary or proper to fully wind up the affairs and business of such association, to dispose of its assets and property, and to dissolve said corporation; *Provided, however,* the court shall order that sufficient of the money received from the proceeds of such sale shall be preserved and held in trust for the maintenance, in suitable condition, of that part of the cemetery actually occupied by graves.

Source: Laws 1907, c. 27, § 5, p. 148; R.S.1913, § 692; C.S.1922, § 601; C.S.1929, § 13-514; R.S.1943, § 12-525.

12-526 Grounds; abandonment; sale; confirmation of sale.

When any sale shall have been made as hereinbefore provided, and reported to the court, the court shall examine the record of the proceedings of such sale,

and if the court shall find that the sale has been regularly and fairly made, it shall confirm the same, and direct that a deed in the name of such association be duly executed, acknowledged and delivered by the president thereof, or some other officer of such association designated by the court, to the purchaser of said real estate, and that the proceeds of such sale be by said association disposed of and transferred in conformity to the order of the court made in the premises. If for any reason such sale should be set aside, said real estate shall be again offered for sale and such further proceedings had as may be necessary to carry out the orders and decrees of the court made in said proceeding.

Source: Laws 1907, c. 27, § 6, p. 149; R.S.1913, § 693; C.S.1922, § 602; C.S.1929, § 13-515; R.S.1943, § 12-526.

12-527 Grounds; abandonment; sale; costs and expenses.

The court shall make such order in regard to the taxation and payment of costs in the premises as to the court shall seem just and proper, and the court shall have authority in such case to provide for the payment of the costs and expenses of said proceeding out of the funds belonging to the said cemetery association or the proceeds of the sale of any such real estate.

Source: Laws 1907, c. 27, § 7, p. 149; R.S.1913, § 694; C.S.1922, § 603; C.S.1929, § 13-516; R.S.1943, § 12-527.

12-528 Grounds; abandonment; sale; appeal.

Any person aggrieved by the order or decree of the district court in any such case shall have the right of appeal to the Court of Appeals, which appeal shall be taken within the time and proceeded with in the manner provided by law for appeals in other civil actions.

Source: Laws 1907, c. 27, § 8, p. 150; R.S.1913, § 695; C.S.1922, § 604; C.S.1929, § 13-517; R.S.1943, § 12-528; Laws 1991, LB 732, § 17.

12-529 Grounds; abandonment; sale; scope and application of law.

The provisions of sections 12-521 to 12-529 shall apply only to such cemetery associations, and to the real estate and property thereof, as the court shall find should be prohibited from further using any of its real estate as a place to bury the dead, and where the court shall find that a portion of its real estate may be sold without detriment to or impairing the usefulness of that portion of its grounds actually occupied by graves of persons theretofore buried therein by permission or authority of such association, and where the court shall also find that it is for the best interest of the persons interested in said association and cemetery and the public, that such portion should be sold and the proceeds of such sale turned over and transferred in trust to some other like association, having a place of burial for the dead in actual use in the same vicinity, or used for the establishment of a new cemetery in the same vicinity.

Source: Laws 1907, c. 27, § 9, p. 150; R.S.1913, § 696; C.S.1922, § 605; C.S.1929, § 13-518; R.S.1943, § 12-529.

12-530 Transfer of cemetery to city or village; powers and duties; effect.

(1) The mayor and council of a city or the board of trustees of a village may accept ownership of a cemetery from a cemetery association formed under the

provisions of sections 12-501 to 12-529 or 17-944 to 17-947 and may manage and operate the cemetery as a municipal cemetery.

(2) Upon the transfer of the cemetery from the cemetery association to the city or village, the following shall occur:

(a) All property and money under the control of the cemetery association shall vest in the city or village, and all money in the control of the cemetery association shall be turned over to the city or village;

(b) The deeds to all burial lots and other property of the cemetery association shall be transferred to the city or village. If any real estate of the cemetery association was acquired by gift or devise, the city or village shall take title subject to the conditions imposed by the donor. Upon acceptance by the city or village, the conditions shall be binding on such city or village;

(c) Any funds or any money credited to the cemetery association's perpetual care fund created under section 12-509 shall be transferred by the cemetery association to the city or village and placed in a new or existing fund dedicated to the general care, management, maintenance, improvement, beautification, and welfare of the cemetery; and

(d) All endowments received by the cemetery association under section 12-301 shall vest absolutely in the city or village to whom the control and management of such cemetery has been transferred. The city or village shall use any such endowment for the exclusive benefits and purposes designated by the endower.

(3) After the transfer of the cemetery from the cemetery association to the city or village is complete, the cemetery association shall be deemed to be disbanded.

Source: Laws 2005, LB 355, § 1.

12-531 Abandoned or neglected pioneer cemetery; management and operation; cemetery association; duties; map; perpetual care trust fund; duties.

(1) A cemetery association which takes over the management and operation of a cemetery pursuant to section 12-812 shall, within one year after taking over, prepare a map of the cemetery and make a good faith effort to identify the remains buried in the cemetery according to the headstones and the owner of all lots. The cemetery association shall file the map and identifying information and a record of all business conducted by the cemetery association in the prior calendar year with the county clerk at the time it files the audit, compilation, or statement of accounts under subsection (2) of this section.

(2)(a) On June 30 of each year, the individual trustees or corporate trustee, as the case may be, of a perpetual care trust fund for a cemetery association described in subsection (1) of this section which has a balance of one hundred thousand dollars or more on such date shall have an audit of the perpetual care trust fund made by a certified public accountant. The report of such audit by the auditor shall be filed within thirty days after June 30 of such year with the county clerk of the county in which the cemetery is located. The expense of the audit and the filing fee of the report shall be paid by the cemetery association.

(b) On June 30 of each year, the individual trustees or corporate trustee, as the case may be, of a perpetual care trust fund for a cemetery association described in subsection (1) of this section which has a balance of more than ten thousand dollars and less than one hundred thousand dollars on such date shall

have a compilation of the perpetual care trust fund made by a certified public accountant. The report of such compilation by the certified public accountant shall be filed within thirty days after June 30 of such year with the county clerk of the county in which the cemetery is located. The expense of the compilation and the filing fee of the report shall be paid by the cemetery association.

(c) On June 30 of each year, the individual trustees or corporate trustee, as the case may be, of a perpetual care trust fund for a cemetery association described in subsection (1) of this section which has a balance of ten thousand dollars or less on such date shall file a statement of accounts of the perpetual care trust fund within thirty days after June 30 of such year with the county clerk of the county in which the cemetery is located. There shall be no filing fee for filing the statement of accounts.

Source: Laws 2014, LB863, § 1.

12-532 Mowing.

Any cemetery association shall provide for at least one mowing annually of the cemetery it manages, and one of such mowings shall occur within two weeks prior to Memorial Day. Additional mowings shall be at the discretion of the cemetery association.

Source: Laws 2014, LB863, § 2.

ARTICLE 6

MAUSOLEUMS

(a) MAUSOLEUM ASSOCIATIONS

Section
12-601. Formation; trustees; election; notice; terms; officers.
12-602. Formation; certificate; contents; filing; effect; certified copy as evidence; amendments to bylaws; certification; filing.
12-603. Powers; rights; laws governing.
12-604. Bonds and other evidences of indebtedness; acquisition of property; contracts with members; powers; limitations.
12-605. Lots, receptacles; sale; limitation; exempt from taxation and other claims.

(b) PUBLIC MAUSOLEUMS AND OTHER BURIAL STRUCTURES

12-606. Construction; location.
12-607. Repealed. Laws 1996, LB 1155, § 121.
12-608. Repealed. Laws 1996, LB 1155, § 121.
12-609. Repealed. Laws 1996, LB 1155, § 121.
12-610. Repealed. Laws 1996, LB 1155, § 121.
12-611. Repealed. Laws 1996, LB 1155, § 121.
12-612. Repealed. Laws 1996, LB 1155, § 121.
12-612.01. Repealed. Laws 1996, LB 1155, § 121.
12-613. Trust fund for perpetual care.
12-614. Sale of crypts or niches; amount set aside for maintenance.
12-615. Trustees of perpetual care trust fund; appointment; bond.
12-616. Trustees of perpetual care trust fund; authority to receive gifts; investment of funds.
12-617. Violations; penalty.
12-618. Violations; cumulative offenses.

(a) MAUSOLEUM ASSOCIATIONS

12-601 Formation; trustees; election; notice; terms; officers.

It shall be lawful for any number of persons not less than five, who are residents of the State of Nebraska, to form themselves into a mausoleum

association, and to elect not less than three nor more than five trustees, who shall conduct the business of the association, except as may be directed by a majority of all the members of the association, at a meeting called by personal notice through the mail, where addresses of members are known, and by publication, or both, when addresses are in part unknown, at least fifteen days prior to said meeting. Said trustees shall be elected at a meeting of the members called as above provided, for a term to be fixed by the bylaws, and shall require a plurality vote of all members present. The trustees shall immediately thereafter organize by the election of the necessary officers from their own membership.

Source: Laws 1913, c. 168, § 1, p. 511; R.S.1913, § 709; C.S.1922, § 618; C.S.1929, § 13-601; R.S.1943, § 12-601.

Powers of a mausoleum association are such only as the statutes confer. Omaha Nat. Bank v. West Lawn Mausoleum Assn., 158 Neb. 412, 63 N.W.2d 504 (1954).

Association involved in case was tax-free, nonprofit association organized under this article. Bigelow v. Bigelow, 131 Neb. 201, 267 N.W. 409 (1936).

12-602 Formation; certificate; contents; filing; effect; certified copy as evidence; amendments to bylaws; certification; filing.

Upon organization, and before commencing business, the trustees shall cause to be filed in the office of the county clerk of the county in which the association shall have its principal place of business, a certificate showing the names of the incorporators and officers authorized to conduct its business, with their addresses, the name of the association, its principal place of business, and a copy of its bylaws. A copy of the certificate shall be filed in the office of the Secretary of State. Upon the filing of this certificate, the trustees and their associated members and successors, shall be invested with full corporate powers, and a certified copy of said certificate shall be deemed and taken in all courts as prima facie proof of the existence of such association. Amendments of the bylaws must likewise be filed and recorded in the office of the county clerk, when properly certified as having been legally adopted, before becoming operative.

Source: Laws 1913, c. 168, § 2, p. 512; R.S.1913, § 710; C.S.1922, § 619; C.S.1929, § 13-602; R.S.1943, § 12-602.

Filing of certificate is required. Omaha Nat. Bank v. West Lawn Mausoleum Assn., 158 Neb. 412, 63 N.W.2d 504 (1954).

12-603 Powers; rights; laws governing.

The association shall have all the powers and rights, now conferred by law upon cemetery associations organized with no view to profit, and shall be governed by the provisions of law applicable to such associations, except that, as to the provisions for a perpetual care fund, such association shall comply with the provisions of this section and sections 12-606 to 12-618, and shall not be subject to the provisions of sections 12-501 to 12-512.08, except as modified by the provisions of sections 12-601 to 12-605, or laws amendatory thereto.

Source: Laws 1913, c. 168, § 3, p. 512; R.S.1913, § 711; C.S.1922, § 620; C.S.1929, § 13-603; R.S.1943, § 12-603; Laws 1957, c. 18, § 14, p. 149.

Unsold crypts, rights, and lots are subject to payment of indebtedness. Omaha Nat. Bank v. West Lawn Mausoleum Assn., 158 Neb. 412, 63 N.W.2d 504 (1954).

12-604 Bonds and other evidences of indebtedness; acquisition of property; contracts with members; powers; limitations.

The association is empowered to issue bonds and other evidences of indebtedness, to an amount, including all indebtedness of whatever nature, not exceeding ninety percent of the taxable value of the real property of the association and improvements thereon or to be placed thereon from the proceeds thereof, not including the parts sold to individual owners, and to pledge the unsold crypts, rights, or lots and the future receipts of the association, such obligations to be paid out of the future receipts of the association. Real property, money, and other personalty received by the association as trustees may also be received for the purpose of providing crypts, lots, and monuments as may thereafter be selected and as provided in the bylaws. The association shall have the power to enter into contracts with its members or other persons for providing burial lots, monuments, crypts, tombs, vaults, niches, and other places for the disposal of the dead or for the embellishment or perpetual care thereof and for the payment of burial expenses.

Source: Laws 1913, c. 168, § 4, p. 512; R.S.1913, § 712; C.S.1922, § 621; C.S.1929, § 13-604; R.S.1943, § 12-604; Laws 1992, LB 719A, § 25.

Future receipts from sales of crypts, rights, or lots may be used to satisfy mortgage. Omaha Nat. Bank v. West Lawn Mausoleum Assn., 158 Neb. 412, 63 N.W.2d 504 (1954).

12-605 Lots, receptacles; sale; limitation; exempt from taxation and other claims.

Crypts, lots, tombs, niches or vaults sold by such associations or contracted therefor, shall be for the sole purpose of interment and expenses incident thereto, and shall be subject to the rules prescribed by the association. They shall be exempt from taxation, execution, attachment or any other lien or process whatever, if used or held for burial purposes only and in nowise with a view to profit.

Source: Laws 1913, c. 168, § 5, p. 513; R.S.1913, § 713; C.S.1922, § 622; C.S.1929, § 13-605; R.S.1943, § 12-605.

Mausoleum property is not subject to sale by mortgage foreclosure. Omaha Nat. Bank v. West Lawn Mausoleum Assn., 158 Neb. 412, 63 N.W.2d 504 (1954).

(b) PUBLIC MAUSOLEUMS AND OTHER BURIAL STRUCTURES

12-606 Construction; location.

No person, firm, partnership, limited liability company, corporation, or association shall construct any vault, crypt, columbarium, or mausoleum for public use, wholly or partially above the surface of the ground, to be used to contain the body of any dead person unless the same is located within the confines of an established cemetery, which cemetery has been in existence and operation for a period of at least five years immediately preceding the time of erection thereof.

Source: Laws 1957, c. 18, § 1, p. 145; Laws 1969, c. 55, § 1, p. 355; Laws 1993, LB 121, § 121.

12-607 Repealed. Laws 1996, LB 1155, § 121.

12-608 Repealed. Laws 1996, LB 1155, § 121.

12-609 Repealed. Laws 1996, LB 1155, § 121.

12-610 Repealed. Laws 1996, LB 1155, § 121.

12-611 Repealed. Laws 1996, LB 1155, § 121.

12-612 Repealed. Laws 1996, LB 1155, § 121.

12-612.01 Repealed. Laws 1996, LB 1155, § 121.

12-613 Trust fund for perpetual care.

It shall be unlawful for any person, firm, partnership, limited liability company, corporation, or association to sell, transfer, or assign any niche or crypt in a columbarium or mausoleum without establishing a trust fund for the perpetual care and maintenance of such columbarium or mausoleum as provided by sections 12-603 and 12-606 to 12-618.

Source: Laws 1957, c. 18, § 8, p. 148; Laws 1993, LB 121, § 124.

A trust established under this section for the care of a mausoleum is a trust for a specific noncharitable purpose which endeavors to facilitate perpetual care as opposed to care for a period of years. In re Maint. Fund Trust of Sunset Mem. Park Chapel, 302 Neb. 954, 925 N.W.2d 695 (2019).

12-614 Sale of crypts or niches; amount set aside for maintenance.

Any person, partnership, limited liability company, firm, corporation, or association which sells, assigns, or transfers any crypt or niche in a mausoleum or columbarium shall set aside a sum of not less than fifty dollars for each crypt and not less than twenty-five dollars for each niche or ten percent of the sale price of each crypt or niche whichever sum is the greater. In the event that sales of crypts, rooms, or niches shall be made upon a partial payment plan there shall be set apart and applied to the maintenance fund from each such payment such proportion thereof as the number of partial payments bears to the total amount of the sum required to be set aside for such fund.

Source: Laws 1957, c. 18, § 9, p. 148; Laws 1969, c. 55, § 4, p. 357; Laws 1993, LB 121, § 125.

12-615 Trustees of perpetual care trust fund; appointment; bond.

The trustee or trustees of the perpetual care trust fund shall consist of:

(1) At least three disinterested persons, who have been residents of the county in which the mausoleum or columbarium is located for a period of at least one year prior to their appointment; or

(2) A disinterested trust company organized to do business in and located in the State of Nebraska. The trustee or trustees, as the case may be, shall be selected by the officers of the cemetery association. If individual trustees are selected, they shall give a corporate surety bond, in the sum of not less than the total amount of the perpetual care trust fund, conditioned for the safekeeping of such funds.

Source: Laws 1957, c. 18, § 10, p. 148.

12-616 Trustees of perpetual care trust fund; authority to receive gifts; investment of funds.

The trustee or trustees shall have the authority to receive gifts or bequests of money and other personal property and devises of real estate and any interest therein, to be placed in the perpetual care fund. The principal of the perpetual care fund shall be forever held inviolate as a perpetual trust, by said trustee or trustees, and shall be maintained separate and distinct from any other funds. The principal of the perpetual care fund shall be invested and, from time to time, reinvested and kept invested in securities, authorized by the State of Nebraska, for the investment of trust funds, and the income earned therefrom shall be used solely for the general care, maintenance, and embellishment of the mausoleum or columbarium, and shall be applied in such manner as the person or persons owning or operating the mausoleum or columbarium may, from time to time, determine to be for the best interests of such mausoleum or columbarium.

Source: Laws 1957, c. 18, § 11, p. 149.

Where relevant, this section controls a court's analysis of a perpetual care trust for a mausoleum under the Nebraska Uniform Trust Code. In re Maint. Fund Trust of Sunset Mem. Park Chapel, 302 Neb. 954, 925 N.W.2d 695 (2019).

12-617 Violations; penalty.

Any person, firm, corporation, or association violating any of the provisions of sections 12-603 and 12-606 to 12-618 shall be guilty of a Class IV misdemeanor.

Source: Laws 1957, c. 18, § 12, p. 149; Laws 1977, LB 40, § 74.

12-618 Violations; cumulative offenses.

Each day any person, firm, corporation, or association violates any of the provisions of sections 12-603 and 12-606 to 12-618, shall be deemed to be a separate and distinct offense.

Source: Laws 1957, c. 18, § 13, p. 149.

ARTICLE 7

CEMETERY LOTS, ABANDONMENT AND REVERSION

Section
12-701. Abandonment; failure to maintain; presumption; reversion; notice; service.
12-702. Abandonment; presumption; rebuttal by notice; sale authorized; proceeds; disposition.

12-701 Abandonment; failure to maintain; presumption; reversion; notice; service.

(1) The ownership of or right in or to an unoccupied cemetery lot or part of a lot in any cemetery in the state shall, upon abandonment, revert to the city, village, township, or cemetery association having the ownership and charge of the cemetery containing such lot or part of a lot. The continued failure to maintain or care for a cemetery lot or part of a lot for a period of ten years shall create and establish a presumption that the same has been abandoned. Abandonment shall not be deemed complete unless, after such period of ten years, there shall be given by the reversionary owner to the owner of record or, if he or she be deceased or his or her whereabouts unknown, to the heirs of such deceased person, as far as they are known or can be ascertained with the exercise of reasonable diligence, or to one or more of the near relatives of such owner of record, whose whereabouts are unknown, notice declaring the lot or

part of a lot to be abandoned. This notice shall be served as provided by subsection (2) of this section.

(2) The notice, referred to in subsection (1) of this section, may be served personally upon the owner or his or her heirs or near relatives or may be served by the mailing of the notice by either registered or certified mail to the owner or to his or her heirs or near relatives, as the case may be, to his, her, or their last-known addresses. In the event that the addresses of the owner and his or her heirs and near relatives are unknown or cannot be found with reasonable diligence, the notice of such abandonment shall be given by publishing the same one time in a legal newspaper published in and of general circulation in the county or, if none is published in the county, in a legal newspaper of general circulation in the county in which the cemetery is located.

Source: Laws 1935, c. 26, § 1, p. 120; C.S.Supp.,1941, § 13-701; R.S. 1943, § 12-701; Laws 1953, c. 18, § 1, p. 85; Laws 1955, c. 19, § 1, p. 94; Laws 1957, c. 242, § 5, p. 819; Laws 1963, c. 39, § 2, p. 211; Laws 1986, LB 960, § 6.

12-702 Abandonment; presumption; rebuttal by notice; sale authorized; proceeds; disposition.

If within one year from the time of serving or publishing the notice referred to in section 12-701, the record owner or his heirs or near relatives shall give the reversionary owner, referred to in subsection (1) of such section, notice in writing that in fact there has been no such abandonment and shall pay the cost of service or publication of the notice of abandonment, then a presumption of abandonment shall no longer exist. In case abandonment has been complete as hereinbefore provided, the reversionary owner of the abandoned lot, part of lot, lots, or parts of lots may sell the same and convey title thereto. Any funds realized from the sale of such lot, part of lot, lots, or parts of lots shall constitute a fund to be used solely for the care and upkeep of the used portion of such lot, part of lot, lots, or parts of lots and for the general maintenance of such cemetery.

Source: Laws 1935, c. 26, § 2, p. 121; C.S.Supp.,1941, § 13-702; R.S. 1943, § 12-702; Laws 1953, c. 18, § 2, p. 86; Laws 1963, c. 39, § 3, p. 212.

ARTICLE 8

MAINTENANCE AND IMPROVEMENT OF CEMETERIES

Section
12-801. Trustees; change or improve conditions of lot; repair and remove property; powers; procedure.
12-802. Notice; contents; how served.
12-803. Terms, defined.
12-804. Sections, how construed.
12-805. Abandoned or neglected cemeteries; care and maintenance.
12-806. Abandoned or neglected cemeteries; care; item in county budget.
12-806.01. Repealed. Laws 2008, LB 995, § 12.
12-807. Abandoned or neglected pioneer cemeteries; preservation.
12-808. Abandoned or neglected pioneer cemetery, defined.
12-808.01. Abandoned and neglected pioneer cemeteries; access; when.
12-809. Abandoned and neglected pioneer cemeteries; maintenance.
12-810. Abandoned or neglected pioneer cemeteries; mowing; historical and directional markers.

Section
12-811. Repealed. Laws 1996, LB 932, § 6.
12-812. Abandoned or neglected pioneer cemetery; county transfer management; conditions.

12-801 Trustees; change or improve conditions of lot; repair and remove property; powers; procedure.

The trustees of any cemetery, as hereinafter defined, may change or improve the condition of any burial lot in a cemetery, under the management or control of such trustees, if such burial lot is overgrown with weeds or is otherwise so unsightly as to seriously disfigure the burial ground. The trustees of any cemetery may also remove or repair any monument, curbing, marker or other property placed or located on any burial lot in a cemetery, except metal markers provided for war veterans as provided in section 80-107, which has become so unsightly, dilapidated or decayed as to disfigure the rest of the cemetery, if the owner or owners of record, or their next of kin, shall fail to do so within thirty days after notice is given as is set forth in section 12-802. Metal markers provided for veterans graves may be moved on the grave for the purpose of permanent placement.

Source: Laws 1945, c. 15, § 1, p. 115; R.S.1943, § 12-801; Laws 1969, c. 56, § 1, p. 358.

12-802 Notice; contents; how served.

The notice shall state the legal description of such burial lot, the property located on such lot which is claimed to be so unsightly, dilapidated, or decayed, and that if the property is not repaired or removed within thirty days after such notice is given, the trustees will proceed to either repair or remove the same. The notice shall be given to, served upon, or sent by certified or registered mail to the owner of record. If the owner of record is deceased or his or her whereabouts are unknown, such notice shall be given to, served upon, or sent by certified or registered mail to any one of the next of kin of the owner of record of such lot. In the event that neither an owner of record nor any one of the next of kin of an owner of record of such lot can be found, the notice may be given by publishing the same one time in a legal newspaper published in and of general circulation in the county in which the cemetery is located or, if none is published in such county, in a legal newspaper of general circulation in the county in which the cemetery is located. Such notice shall be addressed to the record owner and to all persons having or claiming any interest in or to the burial lot, which shall be set forth in such notice by its legal description. The notice shall date from the date of the delivery or service of such notice, the date of mailing such notice by certified or registered mail, or the date of the publication in the newspaper.

Source: Laws 1945, c. 15, § 2, p. 116; Laws 1986, LB 960, § 7; Laws 1987, LB 93, § 2.

12-803 Terms, defined.

The terms trustees of any cemetery or the trustees, as used in sections 12-801 to 12-804, shall include trustees of a cemetery association, cemetery boards, or other persons, public or private corporations, municipalities, townships, boards or governing bodies having the management or control of a cemetery or cemeteries in this state. The term lot, as used in sections 12-801 to 12-804, shall

include part or all of one or more lots owned of record by the same person or persons.

Source: Laws 1945, c. 15, § 3, p. 116.

12-804 Sections, how construed.

The provisions of sections 12-801 to 12-804 shall be deemed cumulative with and supplemental to any laws of the State of Nebraska relating to the establishment or operation of cemeteries and the powers of the trustees or other governing bodies thereof.

Source: Laws 1945, c. 15, § 4, p. 116.

12-805 Abandoned or neglected cemeteries; care and maintenance.

The county board shall expend money from the general fund of the county for the care and maintenance of each abandoned or neglected cemetery. Such amount shall not exceed one thousand dollars per cemetery in a calendar year. Such care and maintenance may include the repair or building of fences and annual spraying for the control of weeds and brush.

Source: Laws 1931, c. 40, § 1, p. 135; Laws 1933, c. 36, § 1, p. 237; Laws 1939, c. 28, § 5, p. 146; Laws 1941, c. 48, § 2, p. 236; C.S.Supp.,1941, § 26-105; Laws 1943, c. 57, § 1(9), p. 226; R.S.1943, § 23-113; Laws 1949, c. 35, § 1, p. 128; Laws 1973, LB 277, § 1; Laws 1974, LB 608, § 1; C.S.Supp.,1974, § 23-113; Laws 2001, LB 280, § 1; Laws 2008, LB995, § 3.

12-806 Abandoned or neglected cemeteries; care; item in county budget.

The county board may include in the budget for the next fiscal year an item for care of abandoned or neglected cemeteries as provided in section 12-805.

Source: Laws 1949, c. 35, § 2, p. 128; R.S.1943, (1974), § 23-113.01; Laws 2008, LB995, § 4.

12-806.01 Repealed. Laws 2008, LB 995, § 12.

12-807 Abandoned or neglected pioneer cemeteries; preservation.

The county board shall expend money from the general fund of the county for the continuous preservation and maintenance, including mowing, of an abandoned or neglected pioneer cemetery when petitioned to do so by thirty-five adult residents of the county. The county board shall publish notice of such petition in one issue of the official newspaper published and of general circulation in the county at least ten days prior to the day when the matter will be heard by the county board.

Source: Laws 1975, LB 129, § 1; Laws 2008, LB995, § 5.

12-808 Abandoned or neglected pioneer cemetery, defined.

For purposes of sections 12-807 to 12-810 and 12-812, an abandoned or neglected pioneer cemetery shall be defined according to the following criteria:

(1) Such cemetery was founded or the land upon which such cemetery is situated was given, granted, donated, sold, or deeded to the founders of the cemetery prior to January 1, 1900;

(2) Such cemetery contains the grave or graves of a person or persons who were homesteaders, immigrants from a foreign nation, prairie farmers, pioneers, sodbusters, first generation Nebraskans, or Civil War veterans; and

(3) Such cemetery has been generally abandoned or neglected for a period of at least five consecutive years.

Source: Laws 1975, LB 129, § 2; Laws 1996, LB 932, § 1; Laws 2008, LB995, § 6; Laws 2014, LB863, § 11.

12-808.01 Abandoned and neglected pioneer cemeteries; access; when.

An owner of property upon which is located a pioneer cemetery affected by sections 12-807 to 12-810 shall not deny pedestrian access to such cemetery as prescribed by this section. Pedestrian access to a pioneer cemetery affected by sections 12-807 to 12-810 shall be granted on Memorial Day and from November 1 through March 1. When possible, visitors to such a pioneer cemetery shall notify the property owner of their presence prior to accessing the cemetery. The property owner may specify a pathway to the cemetery if such pathway is reasonable in direction and accessibility.

Source: Laws 1996, LB 932, § 2.

12-809 Abandoned and neglected pioneer cemeteries; maintenance.

Care given to such cemetery by a county under sections 12-807 to 12-810 may include the removal of shrubbery, trees, or brush, the erection of adequate fences, the planting of grass, flowers, trees, and shrubbery, repair and uprighting of tombstones and gravemarkers, and any other care normally accorded to cemeteries.

Source: Laws 1975, LB 129, § 3; Laws 1996, LB 932, § 3.

12-810 Abandoned or neglected pioneer cemeteries; mowing; historical and directional markers.

Any county affected by sections 12-807 to 12-810 shall provide for at least one mowing annually of such cemetery each year, and one of such mowings shall occur within a period of two weeks prior to Memorial Day. Additional mowings shall be at the discretion of the county board, and each additional mowing may be subject to a public hearing at which the need for the additional mowing shall be presented to the county board. Within five years after maintenance and preservation of such cemetery is commenced by such county, a historical marker giving the date of the establishment of the cemetery and a short history of the cemetery may be placed at the site of such cemetery. One directional marker showing the way to such cemetery may be placed on the nearest state highway to such cemetery.

Source: Laws 1975, LB 129, § 4; Laws 1996, LB 932, § 4; Laws 2008, LB995, § 7.

12-811 Repealed. Laws 1996, LB 932, § 6.

12-812 Abandoned or neglected pioneer cemetery; county transfer management; conditions.

A county which is maintaining an abandoned or neglected pioneer cemetery may transfer the management of the cemetery to a cemetery association formed

under sections 12-501 to 12-532 or to a cemetery district organized under sections 12-909 to 12-923 if:

(1) The county has been maintaining the cemetery pursuant to sections 12-807 to 12-810 for at least five years;

(2) The planning commission appointed pursuant to section 23-114.01, if any, reviews the proposed transfer; and

(3) The county board approves the transfer of the cemetery by resolution after a public hearing for which notice is provided to the public.

Source: Laws 2014, LB863, § 12.

ARTICLE 9
CEMETERY DISTRICTS

Section
12-901. Repealed. Laws 1961, c. 27, § 14.
12-902. Repealed. Laws 1961, c. 27, § 14.
12-903. Repealed. Laws 1961, c. 27, § 14.
12-904. Repealed. Laws 1961, c. 27, § 14.
12-905. Repealed. Laws 1961, c. 27, § 14.
12-906. Repealed. Laws 1961, c. 27, § 14.
12-907. Repealed. Laws 1961, c. 27, § 14.
12-908. Repealed. Laws 1961, c. 27, § 14.
12-909. Organization; territory.
12-910. Petition; filing; contents.
12-911. County board; examine petition; hearing; notice.
12-912. Completion of organization; meeting; notice.
12-913. Board of trustees; officers; election; terms; compensation.
12-914. Budget; adoption; certification of tax; levy; collection; use.
12-915. Bylaws; adoption.
12-916. Warrants; amount authorized; rate of interest.
12-917. Area; addition; withdrawal; procedure.
12-918. Area withdrawn; outstanding obligations; assessment.
12-919. Area withdrawn; obligations incurred after withdrawal; not subject to assessment.
12-920. Powers; duties; liabilities.
12-921. Organization under unconstitutional law; reorganization; procedure.
12-922. Dissolution; procedure.
12-923. Property; acquisition; tax; excess funds.

12-901 Repealed. Laws 1961, c. 27, § 14.

12-902 Repealed. Laws 1961, c. 27, § 14.

12-903 Repealed. Laws 1961, c. 27, § 14.

12-904 Repealed. Laws 1961, c. 27, § 14.

12-905 Repealed. Laws 1961, c. 27, § 14.

12-906 Repealed. Laws 1961, c. 27, § 14.

12-907 Repealed. Laws 1961, c. 27, § 14.

12-908 Repealed. Laws 1961, c. 27, § 14.

12-909 Organization; territory.

A majority of the resident taxpayers in any compact and contiguous district, territory, neighborhood, or community in the State of Nebraska, which is equivalent in area to one township or more, is hereby authorized to form, organize, and establish a cemetery district which shall be empowered to equip and maintain a cemetery or cemeteries when the organization thereof is completed.

Source: Laws 1961, c. 27, § 1, p. 138; Laws 1961, c. 28, § 1, p. 143.

12-910 Petition; filing; contents.

Whenever a majority of the resident taxpayers of any such district, territory, neighborhood, or community intends or desires to form, organize, and establish a cemetery district which will be empowered to equip and maintain a cemetery or cemeteries when the organization thereof is completed, they shall signify such intention or desire by presenting to the county board of the county in which the greater portion of the land proposed to be included in such district is situated a petition setting forth the desires and intentions of such petitioners. Such petition may be in the form of two or more separate petitions which read substantially the same except for the different signatures and addresses thereon. Such petition shall contain the full names and post office addresses of such petitioners, the area in square miles, and the complete description of the boundaries of the real properties to be embraced in the proposed cemetery district. When such proposed district includes any municipality, the petitions must be signed by a majority of the resident taxpayers within such municipality and by a majority of the resident taxpayers outside such municipality and within the boundaries of the proposed district.

Source: Laws 1961, c. 27, § 2, p. 138.

12-911 County board; examine petition; hearing; notice.

Upon receipt of such petition, the county board shall examine it to determine whether it complies with the requirements of section 12-910. Upon finding that such petition complies with such requirements, the county board shall set a hearing thereon and cause notice thereof to be published at least three successive weeks in a newspaper of general circulation throughout the area to be included in such proposed district. Such notice shall contain a statement of the information contained in such petition and of the date, time, and place at which such hearing shall be held and that at such hearing proposals may be submitted for the exclusion of land from, or the inclusion of additional land in such proposed district. If the proposed district lies in two or more counties, such hearing shall be held before the combined boards of all counties interested and the time and place thereof shall be as mutually agreed by such boards.

Source: Laws 1961, c. 27, § 3, p. 139.

12-912 Completion of organization; meeting; notice.

After completion of the hearing required by section 12-911, the county board, if it determines that formation of the proposed district would promote public health, convenience, or welfare, shall order such changes in the boundaries of such proposed district or of the areas into which such proposed district is to be divided as it shall deem proper. The county board shall thereupon designate a time and place for all taxpayers to meet at a place within such district to complete the organization thereof. Notice of such meeting shall be published

once each week for two successive weeks in a newspaper of general circulation in the district.

Source: Laws 1961, c. 27, § 4, p. 139.

12-913 Board of trustees; officers; election; terms; compensation.

At the public meeting held under section 12-912, permanent organization shall be effected by the election of a board of trustees consisting of three or five residents of the district if the district includes territory in five townships or less. If the district shall embrace or include territory in more than five townships, each township may be represented on the board of trustees by one trustee who shall be a resident of the township. All trustees shall be elected for two years and hold office until their successors have been elected, except at the first election at least two trustees shall be elected for one-year terms. The board of trustees shall organize by electing a president, vice president, and secretary-treasurer from the members of the board for a term of one year. All officers shall serve without pay.

Source: Laws 1961, c. 27, § 5, p. 140; Laws 1963, c. 40, § 1, p. 213; Laws 1997, LB 71, § 1.

12-914 Budget; adoption; certification of tax; levy; collection; use.

The board of trustees shall annually fix the amount of money for the proposed budget statement as may be deemed sufficient and necessary for carrying out the proposed policy with regard to the contemplated cemetery or cemeteries for the ensuing fiscal year. After the adoption of the district's budget statement, the president and secretary shall certify the amount to be received from taxation, according to the adopted budget statement, to the proper county clerk or county clerks and the proper county board or boards which may levy a tax subject to section 77-3443, not to exceed the amount so certified nor to exceed one and seven-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such district, for the maintenance of the cemetery or cemeteries in the district for the fiscal year as provided by law. Such tax shall be collected as other taxes are collected in the county by the county treasurer, shall be placed to the credit of the cemetery district so authorizing the same, and shall be paid to the treasurer of the cemetery district upon warrants drawn upon the fund by the board of trustees of the district. Such warrants shall bear the signature of the president and the counter-signature of the secretary of the cemetery district. The amount of the tax levy shall not exceed the amount of funds required to defray the expenses of the district for a period of one year, as embraced in the adopted budget statement which forms the basis of the assessment and levy. For purposes of section 77-3443, the county board of each county in which the district is situated shall approve the budget.

Source: Laws 1961, c. 27, § 6, p. 140; Laws 1969, c. 145, § 15, p. 680; Laws 1979, LB 187, § 27; Laws 1992, LB 719A, § 26; Laws 1996, LB 1114, § 23.

12-915 Bylaws; adoption.

The board of trustees of the cemetery district may adopt such bylaws as may be deemed necessary for the government of said district.

Source: Laws 1961, c. 27, § 7, p. 141.

12-916 Warrants; amount authorized; rate of interest.

All warrants for the payment of any indebtedness of such a cemetery district, which are unpaid for want of funds, shall bear interest, but not to exceed six percent per annum, from the date of the registering of such unpaid warrants with the cemetery district treasurer. The amount of such warrants shall not exceed the revenue provided for the year in which the indebtedness was incurred.

Source: Laws 1961, c. 27, § 8, p. 141.

12-917 Area; addition; withdrawal; procedure.

Lands may be added to or withdrawn from such district in the manner provided for its formation, but no withdrawal may be allowed if the result thereof would be to reduce the remaining territory included in the district below the minimum area provided in section 12-909.

Source: Laws 1961, c. 27, § 9, p. 141.

12-918 Area withdrawn; outstanding obligations; assessment.

Any area withdrawn from a district shall be subject to assessment and be otherwise chargeable for the payment and discharge of all of the obligations outstanding at the time of the filing of the petition for the withdrawal of the area as fully as though the area had not been withdrawn. All provisions which could be used to compel the payment by a withdrawn area of its portion of the outstanding obligations had the withdrawal not occurred may be used to compel the payment on the part of the area of the portion of the outstanding obligations of the district for which it is liable.

Source: Laws 1961, c. 27, § 10, p. 141.

12-919 Area withdrawn; obligations incurred after withdrawal; not subject to assessment.

An area withdrawn from a district shall not be subject to assessment or otherwise chargeable for any obligation of any nature or kind incurred after the withdrawal of the area from the district.

Source: Laws 1961, c. 27, § 11, p. 141.

12-920 Powers; duties; liabilities.

When a district has been organized under the provisions of sections 12-909 to 12-921, it shall have all the powers and duties and be subject to all the liabilities and restrictions incident to cemetery associations organized under Chapter 12, article 5, and amendments thereto, except as changed, enlarged or restricted by the provisions of sections 12-909 to 12-921.

Source: Laws 1961, c. 27, § 12, p. 142.

12-921 Organization under unconstitutional law; reorganization; procedure.

The board of trustees of any cemetery district organized under the provisions of any law which has been held unconstitutional may petition the county board of the county containing the greater portion of the land included in such district for approval of its organization. After notice and hearing as provided in section 12-911, the county board, if it determines that such district complies with the

requirements of section 12-909 and that the approval of its organization would promote public health, convenience, or welfare, shall approve its organization and it shall thereupon become subject to all the provisions of sections 12-909 to 12-921. If necessary to insure compliance with the requirements of section 12-909, the county board, as a part of its order of approval, may order the addition to or withdrawal from such district of such land as it may deem necessary to promote public health, convenience, or welfare. When any such district shall be reorganized under the provisions of this section, the county treasurer shall transfer to the reorganized district all funds standing to the credit of the old district. The funds standing to the credit of any district not reorganized under the provisions of this section within one year after October 19, 1963, shall be transferred to the general fund of the county.

Source: Laws 1961, c. 27, § 13, p. 142; Laws 1963, c. 41, § 1, p. 214.

12-922 Dissolution; procedure.

Any cemetery district subject to the provisions of Chapter 12, article 9, which has no outstanding indebtedness may be dissolved in the manner provided for formation of such districts. When such dissolution is ordered, any remaining funds of the district shall be transferred to the counties in which the district is situated in the same proportion as the area of the district in each county bears to the total area of the district, and such funds shall be deposited in the general fund of the respective counties.

Source: Laws 1967, c. 37, § 1, p. 166.

12-923 Property; acquisition; tax; excess funds.

The board of trustees of each cemetery district organized under sections 12-909 to 12-923 shall annually include in its proposed budget statement the amount of money deemed necessary in order for such district to acquire adequate cemetery land. After the adoption of the district's budget statement, the president and secretary shall certify the amount to be received from taxation for such purpose, according to the adopted budget statement, to the proper county clerk or county clerks and the proper county board or boards which may levy the required tax subject to section 77-3443. The tax so levied for the acquisition of cemetery land in the district shall not exceed the amount so certified in the adopted budget statement nor exceed one and seven-tenths cents on each one hundred dollars upon the taxable value of all taxable property in such district. The tax levied pursuant to this section shall be in addition to the tax levy authorized by section 12-914. Such tax shall be collected as other taxes are collected in the county by the county treasurer. The proceeds of the tax so levied and collected shall constitute a special fund for the acquisition of cemetery land in the district, shall be placed to the credit of the cemetery district so authorizing such levy, and shall be paid to the treasurer of the cemetery district upon warrants drawn upon the fund by the board of trustees of the district. The county treasurer shall keep such fund separate and apart from other county funds. In case the amount of money produced by such tax levies exceeds the amount expended or the amount necessary to insure availability of cemetery land, such excess shall be placed into the county general fund. For purposes of section 77-3443, the county board of each county in which the district is situated shall approve the budget.

Source: Laws 1974, LB 715, § 1; Laws 1979, LB 187, § 28; Laws 1992, LB 719A, § 27; Laws 1996, LB 1114, § 24.

ARTICLE 10
MUNICIPAL CEMETERIES

Section
12-1001. Power to borrow money; issuance of bonds.
12-1002. Bonds; term; interest rate; notice of election.
12-1003. Bond election; petition; percentage of voters required.
12-1004. Extension of water supply to cemetery.

12-1001 Power to borrow money; issuance of bonds.

Any municipality maintaining and operating a cemetery either within or without its corporate limits shall have the power to borrow money and pledge the property and credit of the municipality upon its municipal bonds or otherwise for the purpose of enlarging or improving such cemetery in an amount not to exceed five percent of the taxable valuation of the property in such municipality. No such bonds shall be issued until they have been authorized by a majority vote of the electors of the municipality voting on the proposition of their issuance at a general municipal election or at a special municipal election called for the submission of such proposition.

Source: Laws 1957, c. 19, § 1(1), p. 150; Laws 1971, LB 534, § 8; Laws 1992, LB 719A, § 28.

12-1002 Bonds; term; interest rate; notice of election.

The bonds, mentioned in section 12-1001, shall be payable in not to exceed twenty years from date. They shall bear interest not exceeding the rate of six percent per annum payable annually. Notice of the time and place of said election shall be given by publication three consecutive weeks prior thereto in some legal newspaper printed in and of general circulation in such municipality or, if no newspaper be printed in such municipality, in a newspaper of general circulation therein, and if there be no newspaper of general circulation in such municipality then by posting written notice in three conspicuous public places in said municipality with such posting to be done at the beginning of the third week prior to such election.

Source: Laws 1957, c. 19, § 1(2), p. 151.

12-1003 Bond election; petition; percentage of voters required.

No election, provided for in sections 12-1001 and 12-1002, shall be held until a petition therefor, signed by at least ten percent of the legal voters of such municipality, has been presented to the city council or board of trustees. The number of voters of the municipality voting for the office of Governor at the last general election prior to the presenting of such petition shall be deemed the number of voters in said municipality for the purpose of determining the sufficiency of such petition.

Source: Laws 1957, c. 19, § 1(3), p. 151.

12-1004 Extension of water supply to cemetery.

Any municipality, maintaining and operating a cemetery beyond its corporate limits, may extend its water supply or water distribution system to such cemetery.

Source: Laws 1957, c. 19, § 2, p. 151.

ARTICLE 11
BURIAL PRE-NEED SALES

Section
12-1101. Act, how cited.
12-1102. Terms, defined.
12-1103. Pre-need sale; proceeds; trust requirements.
12-1104. Proceeds of sale; trust requirements; exclusions.
12-1105. Pre-need seller; records required.
12-1106. Pre-need purchaser; designate irrevocable funds.
12-1107. Trustees; acceptance of funds; conditions; powers.
12-1108. Pre-need seller; license required; application; requirements; fee; renewal; records.
12-1109. Rules and regulations.
12-1110. Pre-need seller; report; requirements; fee.
12-1111. Contracts; requirements; provisions.
12-1112. Act; when applicable.
12-1113. Trust funds; distributions; conditions; accumulation.
12-1114. Pre-need seller; trust funds; retain cost-of-living amount.
12-1115. Pre-need sales agent; license required; fee; failure to surrender license; penalty.
12-1116. Licenses; disciplinary actions; grounds; notice; administrative fine.
12-1117. Licenses; surrender; effect; reinstatement.
12-1118. Violations; penalty.
12-1119. Violations; action to enjoin.
12-1120. Pre-need seller; failure to perform obligations; director; powers.
12-1121. Trust; validity.

12-1101 Act, how cited.

Sections 12-1101 to 12-1121 shall be known and may be cited as the Burial Pre-Need Sale Act.

Source: Laws 1986, LB 643, § 1.

12-1102 Terms, defined.

For purposes of the Burial Pre-Need Sale Act, unless the context otherwise requires:

(1) Agent shall mean any person who acts for or on behalf of a pre-need seller in making pre-need sales;

(2) Burial or funeral merchandise or services shall mean all items of real or personal property or a combination of both or services, sold or offered for sale to the general public by any pre-need seller, which may be used in any manner in connection with a funeral or the interment, entombment, inurnment, or other alternate disposition of human remains. Such term shall not include a lot or grave space or a crypt or niche located in a mausoleum, columbarium, or lawn crypt upon which construction has been substantially completed;

(3) Columbarium shall mean an aboveground structure or building which is used or intended to be used for the inurnment of human remains in a niche. A columbarium may be combined with a mausoleum;

(4) Crypt or niche shall mean a chamber in a lawn crypt, columbarium, or mausoleum of sufficient size to inter or entomb cremated or noncremated human remains;

(5) Delivery shall mean the act of performing the service required by or the act of placing the item purchased in the physical possession of the pre-need

purchaser, including, but not limited to, the installing or depositing of the item sold on or in real property owned by or designated by the person entitled to receive such item, except that (a) the pre-need burial of a vault shall constitute delivery only if the burial is with the consent of the pre-need purchaser and the pre-need seller has made other pre-need vault burials prior to January 1, 1986, and (b) delivery of a crypt or niche in a mausoleum, lawn crypt, or columbarium or a marker or monument may be accomplished by delivery of a document of title;

(6) Department shall mean the Department of Insurance;

(7) Director shall mean the Director of Insurance;

(8) Document of title shall mean a deed, bill of sale, warehouse receipt, or any other document which meets the following requirements:

(a) The effect of the document is to immediately vest the ownership of the item described in the person purchasing the item;

(b) The document states the exact location of such item; and

(c) The document gives assurances that the item described exists in substantially completed form and is subject to delivery upon request;

(9) Human remains shall mean the body of a deceased person;

(10) Lawn crypt shall mean an inground burial receptacle of single or multiple depth, installed in multiples of ten or more in a large mass excavation, usually constructed of concrete and installed on gravel or other drainage underlayment and which acts as an outer container for the interment of human remains;

(11) Letter of credit shall mean an irrevocable undertaking issued by any financial institution which qualifies as a trustee under the Burial Pre-Need Sale Act, given to a pre-need seller and naming the director as the beneficiary, in which the issuer agrees to honor drafts or other demands for payment by the beneficiary up to a specified amount;

(12) Lot or grave space shall mean a space in a cemetery intended to be used for the inground interment of human remains;

(13) Marker, monument, or lettering shall mean an object or method used to memorialize, locate, and identify human remains;

(14) Master trust agreement shall mean an agreement between a pre-need seller and a trustee, a copy of which has been filed with the department, under which proceeds from pre-need sales may be deposited by the pre-need seller;

(15) Mausoleum shall mean an aboveground structure or building which is used or intended to be used for the entombment of human remains in a crypt. A mausoleum may be combined with a columbarium;

(16) Pre-need purchaser shall mean a member of the general public purchasing burial or funeral merchandise or services or a marker, monument, or lettering from a pre-need seller for personal use;

(17) Pre-need sale shall mean any sale by any pre-need seller to a pre-need purchaser of:

(a) Any items of burial or funeral merchandise or services which are not purchased for the immediate use in a funeral or burial of human remains;

(b) Any unspecified items of burial or funeral merchandise or services which items will be specified either at death or at a later date; or

(c) A marker, monument, or lettering which will not be delivered within six months of the date of the sale;

(18) Pre-need seller shall mean any person, partnership, limited liability company, corporation, or association on whose behalf pre-need sales are made to the general public;

(19) Substantially completed shall mean that time when the mausoleum, columbarium, or lawn crypt being constructed is then ready for the interment, entombment, or inurnment of human remains;

(20) Surety bond shall mean an undertaking given by an incorporated surety company naming the director as the beneficiary and conditioned upon the faithful performance of a contract for the construction of a mausoleum, columbarium, or lawn crypt by a pre-need seller;

(21) Trust account shall mean either a separate trust account established pursuant to the Burial Pre-Need Sale Act for a specific pre-need purchaser by a pre-need seller or multiple accounts held under a master trust agreement when it is required by the act that all or some portion of the proceeds of such pre-need sale be placed in trust by the pre-need seller;

(22) Trustee shall mean a bank, trust company, building and loan association, or credit union within the state whose deposits or accounts are insured or guaranteed by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund;

(23) Trust principal shall mean all deposits, including amounts retained as required by section 12-1114, made to a trust account by a pre-need seller less all withdrawals occasioned by delivery or cancellation; and

(24) Vault shall mean an item of burial or funeral merchandise or services which is an inground burial receptacle installed individually, as opposed to lawn crypts, which is constructed of concrete, steel, or any other material, and which acts as an outer container for the interment of human remains.

Source: Laws 1986, LB 643, § 2; Laws 1992, LB 757, § 13; Laws 1993, LB 121, § 126; Laws 1999, LB 107, § 1; Laws 2003, LB 131, § 19; Laws 2009, LB259, § 2.

12-1103 Pre-need sale; proceeds; trust requirements.

Except as otherwise provided in the Burial Pre-Need Sale Act, proceeds received by any pre-need seller as partial or complete payment on a pre-need sale shall be deposited with a trustee within sixty days after receipt. The proceeds of the pre-need sale required to be deposited with a trustee shall be deposited either with a trustee under the terms of a master trust agreement or with a trustee in a separate trust account in the name of the pre-need purchaser. In either event, the money so deposited shall be held in trust by the trustee pursuant to the terms of the Burial Pre-Need Sale Act.

Source: Laws 1986, LB 643, § 3.

12-1104 Proceeds of sale; trust requirements; exclusions.

There shall be excluded from the trust requirements of section 12-1103 and the pre-need seller shall be entitled to retain free of trust the following:

(1) All proceeds from the sale of a lot or grave space or a crypt or niche located in a mausoleum, columbarium, or lawn crypt upon which construction has been substantially completed;

(2) All interest that may be charged by the pre-need seller directly to the pre-need purchaser for extending to the pre-need purchaser the right to make payments on an installment basis on a pre-need sale;

(3) Proceeds from the sale of a crypt or niche located in a mausoleum, columbarium, or lawn crypt upon which construction has not been substantially completed as follows: (a) All proceeds, if the pre-need seller has submitted to and received the written approval of the director of a letter of credit or surety bond securing the substantial completion of the mausoleum, columbarium, or lawn crypt; or (b) the first thirty-five percent of the retail sales price of such sale. In either event, the pre-need seller shall agree, in writing, as a part of the pre-need sale that in the event of the death of the person for whose benefit the pre-need sale of a crypt or niche is made prior to the completion of construction of the mausoleum, columbarium, or lawn crypt, that:

(i) Alternate burial will be provided until the completion of the construction; and

(ii) Within a reasonable time after the completion of construction, the body of the decedent will be moved in a dignified manner from the alternate burial place to the crypt or niche so purchased at the sole expense of the pre-need seller;

(4) The first fifteen percent of the retail sales price of all other pre-need sales, including the pre-need sale of markers, monuments, or lettering and the pre-need sale of burial or funeral merchandise or services; and

(5) All amounts required for perpetual care, endowed care, or continual care or the like of the item so purchased if such funds or earnings from the funds will be used for the care and maintenance of the item or items sold in the pre-need sale.

Source: Laws 1986, LB 643, § 4.

12-1105 Pre-need seller; records required.

Upon the making of a pre-need sale by a pre-need seller when some or all of the proceeds from that sale are required to be placed in trust or a letter of credit or surety bond has been approved in lieu thereof, the pre-need seller in addition to retaining a copy of any written agreement entered into shall prepare and maintain a separate record of each such pre-need sale and the record shall contain the following information:

(1) The name and address of the pre-need purchaser;

(2) The retail sales price of each item purchased in such pre-need sale, exclusive of any interest that may be charged the pre-need purchaser by the pre-need seller;

(3) The date and amount of each payment made by the pre-need purchaser to the pre-need seller, designating such payment as principal or interest and the disposition made by the pre-need seller of each such payment as to whether it was retained in whole or in part by the pre-need seller or deposited in trust and, if deposited in trust, the date of such deposit and the name of the trustee with whom the deposit was made; and

(4) The date of withdrawal and all amounts withdrawn by the pre-need seller pursuant to subsection (2) of section 12-1113 and a designation of the event which permitted such withdrawal.

The record shall be maintained for inspection purposes by the director for at least one year after the pre-need seller has received all proceeds to which the seller is entitled by reason of the pre-need sale.

Source: Laws 1986, LB 643, § 5.

12-1106 Pre-need purchaser; designate irrevocable funds.

At the written request of the pre-need purchaser, the first four thousand dollars, increased annually as provided in this section, paid by the pre-need purchaser which is placed in trust by the pre-need seller may be designated as irrevocable in accordance with the rules and regulations of the Department of Health and Human Services. The Department of Health and Human Services shall increase such amount annually on September 1 beginning with the year 2006 by the percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics at the close of the twelve-month period ending on August 31 of such year. Upon default or cancellation any trust funds designated as irrevocable shall be governed by section 12-1113.

Source: Laws 1986, LB 643, § 6; Laws 1996, LB 1044, § 52; Laws 2006, LB 85, § 1.

12-1107 Trustees; acceptance of funds; conditions; powers.

(1) Banks which do not have a separate trust department and building and loan associations and credit unions acting as trustees under the Burial Pre-Need Sale Act shall accept trust funds only to the extent that the full amount of all of such funds is insured or guaranteed by the Federal Deposit Insurance Corporation or the National Credit Union Share Insurance Fund.

(2) Banks with a separate trust department and trust companies acting as trustees under the Burial Pre-Need Sale Act when investing or reinvesting trust funds shall have the power to deal with such funds as a prudent trustee would deal with the funds and shall have all of the powers granted to a trustee by the Nebraska Uniform Trust Code, but the Uniform Principal and Income Act shall not be applicable and all income, whether from interest, dividends, capital gains, or any other source, shall be considered as income.

Source: Laws 1986, LB 643, § 7; Laws 1992, LB 757, § 14; Laws 1999, LB 107, § 2; Laws 2001, LB 56, § 35; Laws 2003, LB 130, § 112; Laws 2003, LB 131, § 20; Laws 2009, LB259, § 3.

Cross References

Nebraska Uniform Trust Code, see section 30-3801.
Uniform Principal and Income Act, see section 30-3116.

12-1108 Pre-need seller; license required; application; requirements; fee; renewal; records.

(1) No pre-need seller shall make or offer to make a pre-need sale without first obtaining a license from the director. An application for such a license or a renewal of an existing license shall be made in writing, signed by the proposed pre-need seller, duly verified on forms prepared and furnished by the director,

and accompanied by an application fee of one hundred dollars. Each application shall contain the following information:

(a) The applicant's full name and his, her, or its home and business address, and if the applicant is a partnership, limited liability company, corporation, or association, the application shall list the names and addresses of all of the officers, directors, members, or trustees thereof;

(b) The names and addresses of all agents, including employees and independent contractors, authorized to make pre-need sales in the name of the applicant;

(c) If the applicant is an individual, the applicant's social security number;

(d) Whether such agents are presently licensed as agents pursuant to section 12-1115 and if not the date upon which application will be made;

(e) Whether the pre-need seller's license has previously been suspended, revoked, or voluntarily surrendered and the reason therefor; and

(f) Whether the applicant or any officers, directors, members, or association trustees have been convicted of fraud or a crime involving misappropriation or misuse of funds within the past ten years.

(2) Upon receipt of the application, the director shall issue a license to the pre-need seller unless the director determines that the applicant (a) is unable to demonstrate its financial ability to meet the requirements of the Burial Pre-Need Sale Act, (b) has made false statements or misrepresentations in the application, (c) is not duly authorized to transact business in the state, (d) has been convicted of fraud or a crime involving misappropriation or misuse of funds within the last ten years, or (e) has failed to comply with any of the terms or conditions of the Burial Pre-Need Sale Act and such is deemed by the director to substantially impede the applicant's ability to abide by such act. If the director determines that an unrestricted license will not be issued or that no license will be issued on the basis of the application, the director may:

(i) Request additional information from the applicant;

(ii) Issue a temporary license with restrictions and reporting requirements as the director deems necessary so as to monitor the actions of the applicant for a period not to exceed six months; or

(iii) Refuse to issue the license.

The director shall notify the applicant of the action taken, and the notification and any protest shall be made in the same manner as provided in subsection (2) of section 12-1116.

(3) A license shall expire five years from the date of the issuance and may be renewed for additional five-year periods upon filing with the director a new application for such license.

(4) The licensee shall maintain accurate accounts, books, and records of all transactions required including copies of all contracts involving pre-need sales and shall make a report as prescribed in section 12-1110.

(5)(a) The licensee shall make all books and records pertaining to trust funds available to the director for examination. The director, or a qualified person designated by the director, may during ordinary business hours examine the books, records, and accounts of the licensee with respect to the funds received by such licensee and may require the attendance at an examination under oath of all persons whose testimony he or she may deem necessary.

(b) The reasonable expenses for the examination of the books, records, and accounts of the licensee shall be fixed and determined by the director. The licensee shall be responsible for the payment of the determined expenses to the director within a reasonable time after the receipt of a statement for such expenses. The expenses shall be limited to a reasonable allocation for the salary of each examiner plus actual expenses.

Source: Laws 1986, LB 643, § 8; Laws 1993, LB 121, § 127; Laws 1997, LB 752, § 71; Laws 2005, LB 119, § 1.

12-1109 Rules and regulations.

The director may adopt and promulgate rules and regulations necessary to carry out and enforce the Burial Pre-Need Sale Act.

Source: Laws 1986, LB 643, § 9; Laws 2014, LB700, § 13.

12-1110 Pre-need seller; report; requirements; fee.

Each pre-need seller shall file a report with the director on or before June 1 of each year in such form as the director may require. The report shall contain the name and address of each trustee with which the pre-need seller has trust funds on deposit and the amount on deposit with each such trustee as of December 31 of that year or such other reporting period as the director may establish. The report shall include a list of all amounts retained as required by section 12-1114. Any pre-need seller who has discontinued making pre-need sales but who continues to have trust funds on deposit with a trustee or trustees shall not be required to obtain a renewal of his, her, or its license but shall continue as long as trust funds are being held to make reports to the director. Each such report, when filed with the director, shall be accompanied by a fee of fifty dollars.

Source: Laws 1986, LB 643, § 10; Laws 2005, LB 119, § 2.

12-1111 Contracts; requirements; provisions.

(1) At the time that a pre-need sale is entered into, the pre-need seller shall furnish each pre-need purchaser with a duplicate original of any written contract which the pre-need purchaser is required to sign.

(2) The pre-need seller shall file with the director a copy of each form of contract that is utilized by the pre-need seller in making pre-need sales.

(3) Except in the case of a default or cancellation by the pre-need purchaser, a contract shall contain no provisions limiting the liability of the pre-need seller to less than furnishing the merchandise or services expressed in the contract, except that the contract may provide that a like or better quality item of merchandise shall be substituted for the original in the event merchandise itemized is no longer available and through reasonable efforts cannot be obtained. In the case of default or cancellation of a pre-need sale, a contract shall contain no provisions allowing the pre-need seller to retain, as liquidated damages or otherwise, any amounts not permitted by section 12-1113. Any contractual provisions to the contrary shall be of no force or effect.

Source: Laws 1986, LB 643, § 11.

12-1112 Act; when applicable.

The terms and conditions of the Burial Pre-Need Sale Act shall govern only those pre-need sales made and contracts entered into by any pre-need seller or his, her, or its agents after January 1, 1987. The Burial Pre-Need Sale Act shall not be construed so as to impair or affect the obligation of any lawful contract in existence on or prior to January 1, 1987.

Source: Laws 1986, LB 643, § 12.

12-1113 Trust funds; distributions; conditions; accumulation.

(1) After making the calculations required by section 12-1114, any amounts exceeding trust principal, except income earned in the current calendar year, may be distributed to the pre-need seller by the trustee at the pre-need seller's request.

(2) All remaining funds held in trust, including cost-of-living amounts retained as required by section 12-1114, shall be governed by the following:

(a) When the funds held in trust are for the purchase of a crypt or niche in a mausoleum, columbarium, or lawn crypt which is to be constructed or is being constructed, the trustee shall distribute the funds held in trust for such purpose to the pre-need seller as follows:

(i) Twenty-five percent of the funds held in trust shall be paid over to the pre-need seller upon written notification from the pre-need seller, verified in writing by the pre-need seller's contractor or person in charge of the construction, that twenty-five percent of the construction of the mausoleum, columbarium, or lawn crypt has been substantially completed;

(ii) Thirty-three and one-third percent of the funds remaining in trust shall be paid over to the pre-need seller upon written notification from the pre-need seller, verified in writing by the pre-need seller's contractor or person in charge of construction, that fifty percent of the construction of the mausoleum, columbarium, or lawn crypt has been substantially completed;

(iii) Fifty percent of the funds remaining in trust shall be paid over to the pre-need seller upon written notification from the pre-need seller, verified in writing by the pre-need seller's contractor or person in charge of construction, that seventy-five percent of the construction of the mausoleum, columbarium, or lawn crypt has been substantially completed; and

(iv) All funds remaining in trust shall be paid over to the pre-need seller upon written notification from the pre-need seller, verified in writing by the pre-need seller's contractor or person in charge of construction, that the construction of the mausoleum, columbarium, or lawn crypt has been substantially completed;

(b) When the funds are held in trust by reason of a pre-need sale which is not included in subdivision (2)(a) of this section, the trustee shall pay over to the pre-need seller the funds held in trust upon receiving written notification from the pre-need seller that delivery of the merchandise has been completed or services have been performed for which the funds were placed in trust;

(c) Upon cancellation of a pre-need sale, unless the pre-need purchaser has designated the trust as irrevocable pursuant to section 12-1106, the pre-need seller shall give written notification to the trustee and the trustee shall, within ninety days, pay over to the pre-need purchaser an amount equal to the amount required to be held in trust by the pre-need seller for that pre-need purchaser after deducting any reasonable charges made by the trustee caused by the

cancellation and then any balance remaining in the pre-need purchaser's trust account shall immediately be paid over to the pre-need seller;

(d) Upon cancellation of a pre-need sale in which the funds were designated by the pre-need purchaser as irrevocable pursuant to section 12-1106, the trustee shall immediately pay over to the pre-need seller any amounts otherwise excludable from trust under section 12-1104 if such amounts have not previously been retained by the pre-need seller. Thereafter, the amount required to be held in trust shall be computed by the trustee and the amount so computed shall be held by the trustee separate from the trust in an individual account in the name of the pre-need purchaser and such account shall:

(i) Be held until the death of the person for whom the pre-need sale was entered into, at which time all funds in the individual account, less any reasonable charges made by the trustee which were caused by such cancellation, shall, within ninety days, be paid to the pre-need purchaser or his or her estate; or

(ii) Be held until the trustee receives written notification from the pre-need purchaser to transfer all of the funds held in the individual account, less any reasonable charges made by the trustee which were caused by such cancellation, to another irrevocable trust established by another licensed pre-need seller as a result of a pre-need sale made by the second pre-need seller to the canceling pre-need purchaser. Such transfer shall take place within ninety days after such written notification is received by the original pre-need seller.

The balance remaining in such pre-need purchaser's trust account after transfer of the computed amount to the individual account shall be paid over to the pre-need seller;

(e) Upon default, the pre-need seller shall be entitled to retain in trust the funds held in trust attributable to the defaulted pre-need sale until notice of cancellation by the pre-need purchaser is received by the pre-need seller or until the death of the person for whom the pre-need sale was entered into, whichever occurs first. In the event of default, the death of the person for whom the pre-need sale was entered into, absent prior notification of cancellation, shall be construed as a cancellation of that pre-need sale;

(f) Receipt of the written notification by the trustee and distribution of the funds after receipt of such written notification shall relieve the trustee of any liability for failure to properly administer the funds held in trust. Failure of the trustee to obtain such written notification may subject the trustee to liability for actual damages limited to the amount of the funds which the trustee erroneously distributed; and

(g) In the administration of the individual trust accounts or the trust accounts held under a master trust agreement, the trustee shall be permitted to pay all of the reasonable costs incurred in the administration of the trusts, including any state or federal income taxes payable by the trusts. The payment of all costs and expenses, including taxes, shall be paid from the trust income and shall be deducted prior to the distribution of such income as provided in subsection (1) of this section. In the event that the income is not sufficient to pay all of such costs, expenses, and taxes, the pre-need seller shall be responsible for such payment out of its own separate funds.

Source: Laws 1986, LB 643, § 13; Laws 2017, LB239, § 1.

12-1114 Pre-need seller; trust funds; retain cost-of-living amount.

(1) To offset increases in the cost of living as the same may affect the trust accounts, the pre-need seller shall compute each year the total amount of the trust principal of each trust account determined as of December 31 of the immediately preceding year, and then multiply such amount by the percentage increase in the National Consumer Price Index for such year. The amount so determined shall be the amount of the current year's income that is required to be retained in trust by the trustee. Such amount is then considered to be trust principal and shall be retained before any income may be distributed as provided in subsection (1) of section 12-1113.

(2) If there is insufficient income in any given year to fully fund the amount required to be retained pursuant to subsection (1) of this section:

(a) As much of the required amount as possible shall be retained;

(b) The shortage shall be recouped from the income in subsequent years before such income may be distributed as provided in subsection (1) of section 12-1113; and

(c) The calculation required under subsection (1) of this section for subsequent years shall be computed as though the full amount required to be retained for each year had been retained.

(3) If publication of the National Consumer Price Index is discontinued, the director shall select a comparable index for the purposes of determining such percentage increase in the cost of living and notify all licensed pre-need sellers of the index selected.

Source: Laws 1986, LB 643, § 14; Laws 2017, LB239, § 2.

12-1115 Pre-need sales agent; license required; fee; failure to surrender license; penalty.

(1) No agent shall make any pre-need sales on behalf of a pre-need seller in this state without first obtaining a license from the director. The director shall not issue such a license without requiring the proposed agent to fill out an application form stating his or her name, address, and telephone number and the pre-need seller for whom he or she will be making pre-need sales. The pre-need seller for whom the agent will be making pre-need sales shall also sign the agent's application and agree to be responsible for supervising the agent in conjunction with any pre-need sales. The fee for an agent's license shall be twenty dollars which shall accompany the application.

(2) The agent's license, when issued, shall allow the agent to make pre-need sales only for the pre-need seller whose name appears on the license. If the agency relationship between the pre-need seller and the agent terminates for any reason, the pre-need seller shall immediately notify the department of such termination. Once such notification has been received, the acts of the agent shall no longer be imputed to the pre-need seller and the agent's license shall be considered as void. The agent, upon written request by the department, shall surrender to the department the license within a period of ten days after the receipt of such written notice. Failure on the part of the agent to surrender the license after written notification shall be a Class IV misdemeanor.

(3) It shall be the responsibility of the licensed agent to notify the director of any change of the agent's address.

Source: Laws 1986, LB 643, § 15; Laws 2005, LB 119, § 3.

12-1116 Licenses; disciplinary actions; grounds; notice; administrative fine.

(1) The director may deny, revoke, or suspend any license of any pre-need seller or agent or may levy an administrative fine in accordance with subsection (3) of this section if the director finds that:

(a) The licensee has failed to pay the license fee prescribed for such license;

(b) The licensee, either knowingly or without the exercise of due care to prevent the same, has violated any of the provisions of the Burial Pre-Need Sale Act or any rule or regulation adopted and promulgated by the director pursuant to such act;

(c) An act or condition exists which, if it had existed at the time of the original application of such licensee, would have resulted in the director refusing to issue such license; or

(d) The licensee, upon receipt of a written inquiry from the department, has failed to respond to such inquiry or has failed to request an additional reasonable amount of time to respond to such inquiry within fifteen business days after such receipt.

(2) Written notification shall be provided to the licensee upon the director's making such determination, and the notice shall be mailed by the director to the last address on file for the licensee by certified or registered mail, return receipt requested. The notice shall state the specific action contemplated by the director and the specific grounds for such action. The notice shall allow the licensee receiving such notice twenty days from the date of actual receipt to:

(a) Voluntarily surrender his or her license; or

(b) File a written notice of protest of the proposed action of the director. If a written notice of protest is filed by the licensee, the Administrative Procedure Act shall govern the hearing process and procedure, including all appeals. Failure to file a notice of protest within the twenty-day period shall be equivalent to a voluntary surrender of the licensee's license, and the licensee shall surrender the license to the director.

(3) In addition to or in lieu of any applicable denial, suspension, or revocation of a license, any person violating the Burial Pre-Need Sale Act may, after notice and hearing, be subject to an administrative fine of not more than one thousand dollars per violation. Such fine may be enforced in the same manner as civil judgments. Any person charged with a violation of the act may waive his or her right to a hearing and consent to such discipline as the director determines is appropriate. The Administrative Procedure Act shall govern all hearings held pursuant to the Burial Pre-Need Sale Act.

Source: Laws 1986, LB 643, § 16; Laws 1987, LB 93, § 3; Laws 2005, LB 119, § 4; Laws 2009, LB192, § 1.

Cross References

Administrative Procedure Act, see section 84-920.

12-1117 Licenses; surrender; effect; reinstatement.

(1) Any licensee may surrender any license issued by the director by delivering the license to the director with written notice of its surrender. Surrender shall not change the licensee's civil or criminal liability for acts committed prior or subsequent to the surrender of such license. Voluntary surrender shall

not constitute an admission against interest or an admission of liability nor shall the same be used in any evidentiary proceeding as such an admission.

(2) The director may reinstate a license or issue a new license to a person whose license has expired, has been revoked, or was voluntarily surrendered if no fact or condition exists which would cause a revocation or would have caused the director to originally refuse to issue such license.

Source: Laws 1986, LB 643, § 17.

12-1118 Violations; penalty.

Any person who violates any provision of the Burial Pre-Need Sale Act or who makes a report required under such act which is false or fraudulent shall be guilty of a Class II misdemeanor and his or her license shall be revoked.

Source: Laws 1986, LB 643, § 18.

12-1119 Violations; action to enjoin.

Whenever the director has reasonable cause to believe that any person, whether licensed or not, is violating any provision of the Burial Pre-Need Sale Act or any rule or regulation adopted and promulgated pursuant to such act, he or she may, in addition to all other actions allowed, bring an action in the district court of Lancaster County to enjoin such person from engaging in or continuing such violation or from doing any act in furtherance of such violation. In any such action, the district court may enter any order, judgment, or decree concerning temporary or permanent relief as it deems proper based upon the facts and circumstances presented to it by the director.

Source: Laws 1986, LB 643, § 19.

12-1120 Pre-need seller; failure to perform obligations; director; powers.

The director may collect the proceeds of any letter of credit, surety bond, or trust funds held pursuant to subdivision (2)(a) of section 12-1113 upon the failure of the pre-need seller to perform the obligations secured thereby. Thereafter, in the director's discretion, he or she may use such proceeds to secure completion of the mausoleum, columbarium, or lawn crypt or take any actions necessary to reimburse all pre-need purchasers of a crypt or niche therein to the extent of money paid or consideration given by the pre-need purchasers.

Source: Laws 1986, LB 643, § 20.

12-1121 Trust; validity.

No trust created or any interest in such trust shall be invalidated by any existing law or rule against perpetuities, accumulations, or suspension of the power of alienation, and such trust and any interest may continue for such time as may be necessary to accomplish the purposes for which it was created.

Source: Laws 1986, LB 643, § 21.

ARTICLE 12

UNMARKED HUMAN BURIAL SITES

Section
12-1201. Act, how cited.

Section
12-1202. Legislative findings and declarations.
12-1203. Purposes of act.
12-1204. Terms, defined.
12-1205. Person discovering remains or goods; duties; violation; penalty.
12-1206. Discovery of remains or goods; law enforcement officer; notice.
12-1207. Discovery of remains or goods; county attorney; duties.
12-1208. Discovery of remains or goods; society; duties.
12-1209. Entity possessing or controlling remains or goods on August 25, 1989; duties.
12-1210. Entity possessing or controlling remains or goods; request for return; duties.
12-1211. Dispute; resolution; procedure.
12-1212. Civil action; statute of limitation; recovery; attorney's fees.

12-1201 Act, how cited.

Sections 12-1201 to 12-1212 shall be known and may be cited as the Unmarked Human Burial Sites and Skeletal Remains Protection Act.

Source: Laws 1989, LB 340, § 1.

12-1202 Legislative findings and declarations.

The Legislature hereby finds and declares that:

(1) Human burial sites which do not presently resemble well-tended and well-marked cemeteries are subject to a higher degree of vandalism and inadvertent destruction than well-tended and well-marked cemeteries;

(2) Although existing law prohibits removal, concealment, or abandonment of any dead human body and provides for the care and maintenance of abandoned or neglected cemeteries and pioneer cemeteries, additional statutory guidelines and protections are in the public interest;

(3) Existing law on cemeteries reflects the value placed on preserving human burial sites but does not clearly provide equal and adequate protection or incentives to assure preservation of all human burial sites in this state;

(4) An unknown number of unmarked human burial sites containing the remains of pioneers, settlers, and Indians are scattered throughout the state;

(5) No adequate procedure regarding the treatment and disposition of human skeletal remains from unmarked graves exists to protect the interests of relatives or other interested persons; and

(6) There are scientific, educational, religious, and cultural interests in the remains of our ancestors and those interests, whenever possible, should be served.

Source: Laws 1989, LB 340, § 2; Laws 2008, LB995, § 8.

12-1203 Purposes of act.

The purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act shall be to:

(1) Assure that all human burials are accorded equal treatment and respect for human dignity without reference to ethnic origins, cultural backgrounds, or religious affiliations by providing adequate protection for unmarked human burial sites and human skeletal remains located on all private and public lands within this state;

(2) Prohibit disturbance of unmarked human burial sites except as expressly permitted by the act;

(3) Establish procedures for the proper care and protection of unmarked human burial sites, human skeletal remains, and burial goods found in this state;

(4) Ensure that all unmarked human burial sites discovered in this state are to be left undisturbed to the maximum extent possible unless such sites are in reasonable danger of destruction, such sites need to be moved for a highway, road, or street construction project, or there is evidence of criminal wrongdoing and, when any unmarked human burial site must be disturbed for any of the reasons listed in this subdivision, ensure that the disposition of the contents of such site is carried out in accordance with the act; and

(5) Permit the scientific study and reinterment of human skeletal remains and burial goods.

Source: Laws 1989, LB 340, § 3.

12-1204 Terms, defined.

For purposes of the Unmarked Human Burial Sites and Skeletal Remains Protection Act:

(1) Burial goods shall mean any item or items reasonably believed to have been intentionally placed with the human skeletal remains of an individual at the time of burial and which can be traced with a reasonable degree of certainty to the specific human skeletal remains with which it or they were buried;

(2) Human burial site shall mean the specific place where any human skeletal remains are buried and the immediately surrounding area;

(3) Human skeletal remains shall mean the body or any part of the body of a deceased human in any stage of decomposition;

(4) Indian tribe shall mean any federally recognized or state-recognized Indian tribe, band, or community;

(5) Professional archaeologist shall mean a person having a postgraduate degree in archaeology, anthropology, history, or a related field with a specialization in archaeology and with demonstrated ability to design and execute an archaeological study and to present the written results and interpretations of such a study in a thorough, scientific, and timely manner;

(6) Reasonably identified and reasonably identifiable shall mean identifiable, by a preponderance of the evidence, as to familial or tribal origin based on any available archaeological, historical, ethnological, or other direct or circumstantial evidence or expert opinion;

(7) Society shall mean the Nebraska State Historical Society; and

(8) Unmarked human burial shall mean any interment by whatever means of human skeletal remains for which there exists no grave marker, including burials located in abandoned or neglected cemeteries.

Source: Laws 1989, LB 340, § 4; Laws 2008, LB995, § 9.

12-1205 Person discovering remains or goods; duties; violation; penalty.

(1) Any person who encounters or discovers human skeletal remains or burial goods associated with an unmarked human burial in or on the ground shall immediately cease any activity which may cause further disturbance of the unmarked human burial and shall within forty-eight hours report the presence

and location of such remains or goods to a local law enforcement officer in the county in which the remains or goods are found. Any person who knowingly fails to make such a report shall be guilty of a Class III misdemeanor.

(2) If human skeletal remains or burial goods associated with an unmarked human burial in or on the ground are discovered by any employee, contractor, or agent of the Department of Transportation in conjunction with highway construction, any construction in the area immediately adjacent to such remains or goods shall cease. The department or any of its employees, contractors, or agents shall within forty-eight hours of the discovery of the remains or goods report the presence and location of the remains or goods to a local law enforcement officer in the county in which the remains or goods are found. Any remains or goods may then be removed from the site following an examination by the appropriate agency in accordance with section 39-1363 and any applicable federal requirements. Following removal, the remains or goods shall be disposed of in accordance with the Unmarked Human Burial Sites and Skeletal Remains Protection Act. The construction project may continue once the remains or goods have been removed.

Source: Laws 1989, LB 340, § 5; Laws 2017, LB339, § 72.

12-1206 Discovery of remains or goods; law enforcement officer; notice.

A law enforcement officer who receives notification pursuant to section 12-1205 shall promptly notify the landowner on whose property the human skeletal remains or burial goods were discovered, the county attorney, and the society.

Source: Laws 1989, LB 340, § 6.

12-1207 Discovery of remains or goods; county attorney; duties.

Upon notification pursuant to section 12-1206, the county attorney shall determine whether the human skeletal remains are associated with or suspected of association with any crime and, if a determination of prosecutable criminal activity is made, shall retain custody of the remains in accordance with routine procedures until such time as the remains may be reburied in accordance with the Unmarked Human Burial Sites and Skeletal Remains Protection Act.

Source: Laws 1989, LB 340, § 7.

12-1208 Discovery of remains or goods; society; duties.

(1) Upon notification pursuant to section 12-1206, the society shall promptly assist in examining the discovered material to attempt to determine its origin and identity.

(2) If the society finds that the discovered human skeletal remains or burial goods are of non-American-Indian origin with a known or unknown identity, it shall notify the county attorney of the finding. Upon receipt of the finding, the county attorney shall cause the remains and associated burial goods to be interred in consultation with the county coroner. Reburial shall be in accordance with the wishes and at the expense of any known persons in the order listed by section 30-2223 or, if no relatives are known, in an appropriate cemetery at the expense of the county in which the remains were discovered after a one-year scientific study period if such study period is considered

necessary or desirable by the society. In no case shall any human skeletal remains that are reasonably identifiable as to familial or tribal origin be displayed by any entity which receives funding or official recognition from the state or any of its political subdivisions. In situations in which human skeletal remains or burial goods that are unidentifiable as to familial or tribal origin are clearly found to be of extremely important, irreplaceable, and intrinsic scientific value, the remains or goods may be curated by the society until the remains or goods may be reinterred as provided in this subsection without impairing their scientific value.

(3) If the society finds that the discovered human skeletal remains or burial goods are of American Indian origin, it shall promptly notify in writing the Commission on Indian Affairs and any known persons in the order listed in section 30-2223 or, if no relatives are known, any Indian tribes reasonably identified as tribally linked to such remains or goods in order to ascertain and follow the wishes of the relative or Indian tribe, if any, as to reburial or other disposition. Reburial by any such relative or Indian tribe shall be by and at the expense of such relative or Indian tribe. In cases in which reasonably identifiable American Indian human skeletal remains or burial goods are unclaimed by the appropriate relative or Indian tribe, the society shall notify all other Indian tribes which can reasonably be determined to have lived in Nebraska in order to ascertain and follow the wishes of the tribe as to reburial or other disposition. Reburial by any such tribe shall be by and at the expense of the tribe. If such remains or goods are unclaimed by the appropriate tribe, the remains or goods shall be reburied, as determined by the commission, by one of the four federally recognized Indian tribes in Nebraska.

Source: Laws 1989, LB 340, § 8; Laws 2001, LB 97, § 1; Laws 2007, LB463, § 1113; Laws 2014, LB998, § 1.

12-1209 Entity possessing or controlling remains or goods on August 25, 1989; duties.

Notwithstanding any other provision of Nebraska law, any institution, agency, organization, or other entity in this state which receives funding or official recognition from the state or any of its political subdivisions and which has in its possession or control on August 25, 1989, any disinterred human skeletal remains or burial goods of American Indian origin which are reasonably identifiable as to familial or tribal origin, regardless of their present location, shall return any such remains and goods to the relative or Indian tribe for reburial, upon request of such relative or Indian tribe, or otherwise cause such remains and goods to be reinterred pursuant to subsections (2) and (3) of section 12-1208 within one year of receiving such request, except that any such entity which has, prior to January 1, 1989, received a written request from any relative or Indian tribe for the return of such reasonably identifiable remains and goods shall return to such relative or Indian tribe for reburial all such remains and goods by September 10, 1990.

Source: Laws 1989, LB 340, § 9.

12-1210 Entity possessing or controlling remains or goods; request for return; duties.

Any institution, agency, organization, or other entity in this state which receives a request for the return of human skeletal remains or burial goods

under the Unmarked Human Burial Sites and Skeletal Remains Protection Act shall, at least ninety days prior to the date for return established by statute or otherwise agreed upon pursuant to the act, provide the requesting relative or Indian tribe with an itemized inventory of any human skeletal remains and burial goods that are subject to return to the requesting relative or Indian tribe. At the time the entity transfers possession of such remains or goods to the requesting relative or Indian tribe, the transferor and the transferee shall each sign a transfer document which identifies by inventory number and description each human skeletal remain or burial good being transferred.

Source: Laws 1989, LB 340, § 10.

12-1211 Dispute; resolution; procedure.

Whenever a dispute arises with regard to the disposition of human skeletal remains or burial goods pursuant to the Unmarked Human Burial Sites and Skeletal Remains Protection Act, the procedure set forth in this section shall be the exclusive remedy available to the aggrieved party under the act. No cause of action shall lie until the procedure set forth in this section is completed.

The aggrieved party shall submit to the adverse party documentation describing the nature of the grievance. The aggrieved party and the adverse party shall meet within sixty days of the mailing of the initial grievance and shall either concur or disagree after reviewing the appropriate documentation.

If after such meeting the parties disagree, they shall, within fifteen days following such meeting, designate a third party, agreed on by both original parties, to assist in the resolution of the dispute. If an agreement as to the designation of the third party is not reached within the fifteen-day period, the Public Counsel shall automatically be designated to serve in that capacity.

Following the designation of a third party, the aggrieved party may submit a petition, together with supporting documentation, to the third party describing the nature of the grievance. The aggrieved party shall serve a copy of the petition and all supporting documents on the adverse party at the time of filing. The adverse party shall have thirty days to respond to the petition by filing a response and supporting documentation with the third party, copies of which shall be served on the aggrieved party by the adverse party at the time of filing the response.

The third party shall review the petition, the response, all supporting documentation submitted by the parties, and other relevant information. Following such review and within ninety days after the filing of the petition, the two original parties and the third party shall, by majority vote, render a decision with regard to the matter in dispute.

The decision may be appealed by either party, and such appeal shall be in accordance with section 25-1937.

When the disposition of any human skeletal remains or burial goods is disputed and subject to arbitration under this section, the party in possession of the remains or goods shall retain possession until the arbitration process and appeals provided for in this section are completed.

Source: Laws 1989, LB 340, § 11.

12-1212 Civil action; statute of limitation; recovery; attorney's fees.

(1) Any person, Indian tribe, or Indian tribal member shall have a civil cause of action against any person alleged to have intentionally violated the Unmarked Human Burial Sites and Skeletal Remains Protection Act or section 28-1301. The action shall be brought within two years of discovery by the plaintiff of the alleged violation or within two years of August 25, 1989, whichever is later. The action shall be filed either in the district court of the county in which the unmarked human burial, human skeletal remains, or burial goods are located or in which the defendant resides.

(2) If the plaintiff prevails in an action brought pursuant to this section:

(a) The court may award reasonable attorney's fees to the plaintiff and may grant injunctive or other appropriate relief, including forfeiture of any human skeletal remains or burial goods acquired as a result of or equipment used in the violation. The court shall order the disposition of any items forfeited, including the reinterment of any human skeletal remains or burial goods pursuant to the act; and

(b) The plaintiff may recover actual damages for each violation.

(3) If the defendant prevails in an action brought pursuant to this section, the court may award reasonable attorney's fees to the defendant.

Source: Laws 1989, LB 340, § 12.

ARTICLE 13

STATE VETERAN CEMETERY SYSTEM

Section

12-1301. Director of Veterans' Affairs; state veteran cemetery system; powers and duties; Veteran Cemetery Construction Fund; Nebraska Veteran Cemetery System Endowment Fund; Nebraska Veteran Cemetery System Operation Fund; created; use; investment.

12-1301 Director of Veterans' Affairs; state veteran cemetery system; powers and duties; Veteran Cemetery Construction Fund; Nebraska Veteran Cemetery System Endowment Fund; Nebraska Veteran Cemetery System Operation Fund; created; use; investment.

(1)(a) The Director of Veterans' Affairs shall establish and operate a state veteran cemetery system. The system shall consist of a facility in the city of Grand Island, subject to subdivision (b) of this subsection, and may include a facility in Box Butte County. The director may seek and expend private, state, and federal funds for the establishment, construction, maintenance, administration, and operation of the cemetery system as provided in this section. Any gift, bequest, or devise of real property and any acquisition of real property with the proceeds of a donation, gift, bequest, devise, or grant from an individual, an organization, a corporation, a foundation, or a similar entity or from a nonfederal governmental agency for the cemetery system shall be subject to the approval requirements of section 81-1108.33 notwithstanding the value of the real property. All funds received for the construction of the cemetery system shall be remitted to the State Treasurer for credit to the Veteran Cemetery Construction Fund. Any funds remaining in the Veteran Cemetery Construction Fund following the completion of construction of the facilities comprising the state veteran cemetery system shall upon such completion be transferred to the Nebraska Veteran Cemetery System Endowment Fund, and the Veteran Cemetery Construction Fund shall thereafter terminate.

(b) Beginning on August 7, 2020, the Director of Veterans' Affairs shall negotiate with the city of Grand Island to acquire an exclusive option for the transfer of title to the former Nebraska Veterans' Memorial Cemetery in the city of Grand Island and land adjacent to the cemetery, as identified in the required program statement, owned by the city of Grand Island. After being granted funding assistance from the National Cemetery Administration, the director shall accept from the city of Grand Island, at no cost, title to the real estate described in this subdivision in order to establish a state cemetery for veterans. The director shall prepare an initial program statement and make a request to the Legislature for funding as required by section 81-1108.41. The expenses of the initial program statement shall be paid from the Nebraska Veteran Cemetery System Operation Fund.

(2)(a) A trust fund to be known as the Nebraska Veteran Cemetery System Endowment Fund is hereby created. The fund shall consist of:

(i) Gifts, bequests, grants, or contributions from private or public sources designated for the maintenance, administration, or operation of the state veteran cemetery system;

(ii) Any funds transferred from the Veteran Cemetery Construction Fund following the completion of construction of the three facilities comprising the state veteran cemetery system; and

(iii) Following the termination of the Veteran Cemetery Construction Fund, any funds received by the state from any source for the state veteran cemetery system.

(b) No revenue from the General Fund shall be remitted to the Nebraska Veteran Cemetery System Endowment Fund. The Legislature shall not appropriate or transfer money from the Nebraska Veteran Cemetery System Endowment Fund for any purpose other than as provided in this section. Any money in the Nebraska Veteran Cemetery System Endowment Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. No portion of the principal of the Nebraska Veteran Cemetery System Endowment Fund shall be expended for any purpose except investment pursuant to this subdivision. All investment earnings from the Nebraska Veteran Cemetery System Endowment Fund shall be credited on a quarterly basis to the Nebraska Veteran Cemetery System Operation Fund.

(3) There is hereby created the Nebraska Veteran Cemetery System Operation Fund. Money in the fund shall be used for the operation, administration, and maintenance of the state veteran cemetery system. The fund may be used for the expenses of the initial program statement under subdivision (1)(b) of this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(4) The Director of Veterans' Affairs may make formal application to the federal government regarding federal financial assistance for the construction of any of the facilities comprising the state veteran cemetery system which is located in a county with a population of less than one hundred thousand persons when he or she determines that the requirements for such assistance have been met.

(5) The director may make formal application to the federal government regarding financial assistance for the construction of any facility comprising a

portion of the state veteran cemetery system located in a county with a population of more than one hundred thousand persons when sufficient funds have been remitted to the Nebraska Veteran Cemetery System Endowment Fund such that (a) the projected annual earnings from such fund available for transfer to the Nebraska Veteran Cemetery System Operation Fund plus (b) the projected annual value of formal agreements that have been entered into between the state and any political subdivisions or private entities to subsidize or undertake the operation, administration, or maintenance of any of the facilities within the state veteran cemetery system, has a value that is sufficient to fund the operation, administration, and maintenance of any cemetery created pursuant to this subsection.

(6) The director may expend such funds as may be available for any of the purposes authorized in this section.

(7) The director, with the approval of the Governor, may enter into agreements for cemetery construction, administration, operation, or maintenance with qualified persons, political subdivisions, or business entities. The director shall provide lots in the cemetery system for the interment of deceased veterans as defined by the National Cemetery Administration of the United States Department of Veterans Affairs. The director shall provide lots for the interment of those veterans' spouses, minor children, and unmarried adult children who were physically or mentally disabled and incapable of self-support. Section 12-501 does not apply to the state veteran cemetery system.

(8) The Veteran Cemetery Construction Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(9) The director may adopt and promulgate rules and regulations to carry out this section. The rules and regulations shall include requirements for proof of residency, cost of burial if any, and standards for cemeteries, including decorations and headstones.

Source: Laws 1999, LB 84, § 1; Laws 2004, LB 1231, § 1; Laws 2005, LB 54, § 2; Laws 2005, LB 227, § 1; Laws 2006, LB 996, § 1; Laws 2009, LB154, § 1; Laws 2011, LB264, § 1; Laws 2017, LB331, § 18; Laws 2020, LB911, § 1.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

ARTICLE 14

STATEWIDE CEMETERY REGISTRY

Section
12-1401. Statewide Cemetery Registry; established and maintained.

12-1401 Statewide Cemetery Registry; established and maintained.

(1) The Nebraska State Historical Society shall establish and maintain the Statewide Cemetery Registry. The registry shall be located in the office of the Nebraska State Historical Society and shall be made available to the public. The purpose of the registry is to provide a central data bank of accurate and

current information regarding the location of cemeteries, burial grounds, mausoleums, and columbaria in the state.

(2)(a) Each city, village, township, county, church, fraternal and benevolent society, cemetery district, cemetery association, mausoleum association, and any other person owning, operating, or maintaining a cemetery, pioneer cemetery, abandoned or neglected cemetery, mausoleum, or columbarium shall register with the Statewide Cemetery Registry.

(b) Except as provided in subdivision (c) of this subsection, the registration shall include the following:

(i) The location or address of the cemetery, mausoleum, or columbarium;

(ii) A plat of the cemetery, mausoleum, or columbarium grounds, including any lots, graves, niches, or crypts, if available;

(iii) The name and address of the person or persons representing the entity owning, operating, or maintaining the cemetery, mausoleum, or columbarium;

(iv) The inception date of the cemetery, mausoleum, or columbarium, if available; and

(v) If the cemetery, mausoleum, or columbarium is abandoned, the abandonment date, if available.

(c) The information required in subdivision (b) of this subsection regarding the operation and maintenance of a cemetery, mausoleum, or columbarium prior to January 1, 2006, shall be required only if such information is reasonably available to the registering entity.

(d) The entity owning, operating, or maintaining the cemetery, mausoleum, or columbarium may include information regarding the history of the operation of the cemetery, mausoleum, or columbarium.

(3) The entity owning, operating, or maintaining a registered cemetery, mausoleum, or columbarium shall update its entry in the registry every ten years following the initial registration by the entity.

Source: Laws 2005, LB 211, § 11; Laws 2008, LB995, § 10.

CHAPTER 13
CITIES, COUNTIES, AND OTHER POLITICAL SUBDIVISIONS

Article.

1. Children Born Out of Wedlock. Transferred or Repealed.
2. Community Development. 13-201 to 13-208.
3. Political Subdivisions; Particular Classes and Projects.
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28. Municipal Counties. 13-2801 to 13-2819.
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32. Property Assessed Clean Energy Act. 13-3201 to 13-3211.
33. Municipal Inland Port Authority Act. 13-3301 to 13-3313.

ARTICLE 1
CHILDREN BORN OUT OF WEDLOCK

Section
13-101. Transferred to section 43-1401.
13-102. Transferred to section 43-1402.
13-103. Transferred to section 43-1403.
13-104. Transferred to section 43-1404.
13-105. Transferred to section 43-1405.
13-106. Transferred to section 43-1406.
13-107. Transferred to section 43-1407.
13-108. Transferred to section 43-1408.
13-109. Transferred to section 43-1409.
13-110. Transferred to section 43-1410.
13-111. Transferred to section 43-1411.
13-112. Transferred to section 43-1412.
13-113. Repealed. Laws 1984, LB 845, § 35.
13-114. Repealed. Laws 1984, LB 845, § 35.
13-115. Transferred to section 43-1413.
13-116. Repealed. Laws 1984, LB 845, § 35.

13-101 Transferred to section 43-1401.

13-102 Transferred to section 43-1402.

13-103 Transferred to section 43-1403.

13-104 Transferred to section 43-1404.

13-105 Transferred to section 43-1405.

13-106 Transferred to section 43-1406.

13-107 Transferred to section 43-1407.

13-108 Transferred to section 43-1408.

13-109 Transferred to section 43-1409.

13-110 Transferred to section 43-1410.

13-111 Transferred to section 43-1411.

13-112 Transferred to section 43-1412.

13-113 Repealed. Laws 1984, LB 845, § 35.

13-114 Repealed. Laws 1984, LB 845, § 35.

13-115 Transferred to section 43-1413.

13-116 Repealed. Laws 1984, LB 845, § 35.

ARTICLE 2
COMMUNITY DEVELOPMENT

Cross References

Block grants, see sections 81-1201.01 to 81-1201.22.
Cities of the primary class, powers and duties, see sections 15-1301 to 15-1307.
Community development investments, see section 8-148.04.

Community Development Law, see section 18-2101.

Section
13-201. Act, how cited.
13-202. Legislative findings.
13-203. Terms, defined.
13-204. Community betterment organization; program; tax credit status.
13-205. Program proposal; local government subdivision; department; review.
13-206. Director; adopt rules and regulations; tax credits.
13-207. Business firm or individual; receive tax credit; maximum amount; when.
13-208. Tax credits; limit.

13-201 Act, how cited.

Sections 13-201 to 13-208 shall be known and may be cited as the Community Development Assistance Act.

Source: Laws 1984, LB 372, § 1.

13-202 Legislative findings.

The Legislature hereby finds that areas of chronic economic distress in the State of Nebraska are a detriment to the economic well-being, health, and safety of the citizens of Nebraska. The Legislature further contends that current governmental solutions have not been able to completely resolve certain problems such as overcrowding, unemployment, and poor health and sanitary conditions in a community which lead to further deterioration. Such problems cannot be remedied by the government alone, but can be alleviated through a partnership between the government and private enterprise. It is therefor declared to be public policy in this state to encourage contributions by business firms and individuals that offer and provide community and neighborhood assistance and community services.

Source: Laws 1984, LB 372, § 2; Laws 2005, LB 334, § 1.

13-203 Terms, defined.

For purposes of the Community Development Assistance Act, unless the context otherwise requires:

(1) Business firm shall mean any business entity, including a corporation, a fiduciary, a sole proprietorship, a partnership, a limited liability company, a corporation having an election in effect under Chapter 1, subchapter S of the Internal Revenue Code, as defined in section 49-801.01, subject to the state income tax imposed by section 77-2715 or 77-2734.02, an insurance company paying premium or related retaliatory taxes in this state pursuant to section 44-150 or 77-908, or a financial institution paying the tax imposed pursuant to sections 77-3801 to 77-3807;

(2) Community services shall mean any type of the following in a community development area: (a) Employment training; (b) human services; (c) medical services; (d) physical facility and neighborhood development services; (e) recreational services or activities; (f) educational services; or (g) crime prevention activities, including, but not limited to, (i) the instruction of any individual in the community development area that enables him or her to acquire vocational skills, (ii) counseling and advice, (iii) emergency services, (iv) community, youth, day care, and senior citizen centers, (v) in-home services, (vi) home improvement services and programs, and (vii) any legal enterprise which aids in the prevention or reduction of crime;

(3) Department shall mean the Department of Economic Development;

(4) Director shall mean the Director of Economic Development;

(5) Community development area shall mean any village, city, county, unincorporated area of a county, or census tract which has been designated by the department as an area of chronic economic distress;

(6) Community assistance shall mean furnishing financial assistance, labor, material, or technical advice to aid in the physical improvement of any part or all of a community development area;

(7) Community betterment organization shall mean (a) any organization performing community services or offering community assistance in a community development area and to which contributions are tax deductible under the provisions of the Internal Revenue Service of the United States Department of the Treasury and (b) a county, city, or village performing community services or offering community assistance in a community development area; and

(8) Area of chronic economic distress shall mean an area of the state which meets any of the following conditions:

(a) An unemployment rate which exceeds the statewide average unemployment rate;

(b) A per capita income below the statewide average per capita income; or

(c) A population loss between the two most recent federal decennial censuses.

Source: Laws 1984, LB 372, § 3; Laws 1985, LB 344, § 1; Laws 1986, LB 1114, § 1; Laws 1987, LB 302, § 1; Laws 1990, LB 1241, § 1; Laws 1991, LB 284, § 1; Laws 1993, LB 121, § 128; Laws 1995, LB 574, § 15; Laws 2001, LB 300, § 2; Laws 2006, LB 1003, § 1.

13-204 Community betterment organization; program; tax credit status.

Any community betterment organization which provides community assistance or community services in a community development area may apply any time during the fiscal year to the department to have one or more programs certified for tax credit status as provided in sections 13-205 to 13-208. The proposal shall set forth the program to be conducted, the community development area, the estimated amount to be required for completion of the program or the annual estimated amount required for an ongoing program, the plans for implementing the program, and the amount of contributions committed or anticipated for such activities or services.

Source: Laws 1984, LB 372, § 4; Laws 1991, LB 284, § 2; Laws 2005, LB 334, § 2.

13-205 Program proposal; local government subdivision; department; review.

If the subdivision of local government has adopted a community development plan for an area which includes the area in which the community betterment organization is providing community assistance or community services, the organization shall submit a copy of the program proposal to the chief executive officer of such subdivision. If the program proposal is consistent with the adopted community development plan, the chief executive officer shall so certify to the department for the department's approval or disapproval. If the program proposal is not consistent with the adopted community development

plan of the local subdivision, the chief executive officer shall so indicate and the proposal shall not be approved by the department. If the proposed activities are consistent with the adopted community development plan, but for other reasons they are not viewed as appropriate by the local subdivision, the chief executive officer shall so indicate and the department shall review the program proposal and approve or disapprove it. The local subdivision shall review the proposal within forty-five days from the date of receipt for review. If the subdivision does not issue its finding concerning the proposal within forty-five days after receipt, the proposal shall be deemed approved. The department shall approve or disapprove a program proposal submitted pursuant to section 13-204 within forty-five days of receipt by the department.

Source: Laws 1984, LB 372, § 5; Laws 1991, LB 284, § 3.

13-206 Director; adopt rules and regulations; tax credits.

(1) The director shall adopt and promulgate rules and regulations for the approval or disapproval of the program proposals submitted pursuant to section 13-205 taking into account the economic need level and the geographic distribution of the population of the community development area. The director shall also adopt and promulgate rules and regulations concerning the amount of the tax credit for which a program shall be certified. The tax credits shall be available for contributions to a certified program which may qualify as a charitable contribution deduction on the federal income tax return filed by the business firm or individual making such contribution. The decision of the department to approve or disapprove all or any portion of a proposal shall be in writing. If the proposal is approved, the maximum tax credit allowance for the certified program shall be stated along with the approval. The maximum tax credit allowance approved by the department shall be final for the fiscal year in which the program is certified. A copy of all decisions shall be transmitted to the Tax Commissioner. A copy of all credits allowed to business firms under sections 44-150 and 77-908 shall be transmitted to the Director of Insurance.

(2) For all business firms and individuals eligible for the credit allowed by section 13-207, except for insurance companies paying premium and related retaliatory taxes in this state pursuant to section 44-150 or 77-908, the Tax Commissioner shall provide for the manner in which the credit allowed by section 13-207 shall be taken and the forms on which such credit shall be allowed. The Tax Commissioner shall adopt and promulgate rules and regulations for the method of providing tax credits. The Director of Insurance shall provide for the manner in which the credit allowed by section 13-207 to insurance companies paying premium and related retaliatory taxes in this state pursuant to sections 44-150 and 77-908 shall be taken and the forms on which such credit shall be allowed. The Director of Insurance may adopt and promulgate rules and regulations for the method of providing the tax credit. The Tax Commissioner shall allow against any income tax due from the insurance companies paying premium and related retaliatory taxes in this state pursuant to section 44-150 or 77-908 a credit for the credit provided by section 13-207 and allowed by the Director of Insurance.

Source: Laws 1984, LB 372, § 6; Laws 1986, LB 1114, § 2; Laws 1987, LB 302, § 2; Laws 1990, LB 1241, § 2; Laws 2001, LB 300, § 3; Laws 2005, LB 334, § 3; Laws 2008, LB855, § 1.

13-207 Business firm or individual; receive tax credit; maximum amount; when.

(1) Any business firm or individual which plans to or which has contributed to a certified program of a community betterment organization may apply to the department for authorization for a tax credit for the contribution to the certified program in an amount up to but not exceeding the maximum tax credit allowed by the department. The maximum tax credit allowed by the department for each approved business firm or individual shall be in an amount which does not exceed forty percent of the total amount contributed by the business firm or individual during its taxable year to any programs certified pursuant to section 13-205. The director shall send a copy of the approved application which includes the amount of the tax credit to be allowed and a certification by the department that the contribution has been paid as proposed by the business firm or individual to the Tax Commissioner who shall grant a tax credit against any tax due under sections 77-2715, 77-2734.02, and 77-3801 to 77-3807 and to the Director of Insurance who shall grant a tax credit against any premium and related retaliatory taxes due under sections 44-150 and 77-908.

(2) No tax credit shall be granted to any business firm or individual in this state pursuant to the Community Development Assistance Act for activities that are a part of its normal course of business. Any tax credit balance may be carried over and applied against the business firm's or individual's tax liability for the next five years immediately succeeding the tax year in which the credit was first allowed.

Source: Laws 1984, LB 372, § 7; Laws 1985, LB 344, § 2; Laws 1986, LB 1114, § 3; Laws 1987, LB 302, § 3; Laws 1990, LB 1241, § 3; Laws 2001, LB 300, § 4; Laws 2005, LB 334, § 4.

13-208 Tax credits; limit.

The total amount of tax credit granted for programs approved and certified under the Community Development Assistance Act by the department for any fiscal year shall not exceed three hundred fifty thousand dollars, except that for fiscal year 2016-17, the total amount of tax credit granted under this section shall be reduced by seventy-five thousand dollars.

Source: Laws 1984, LB 372, § 8; Laws 2005, LB 334, § 5; Laws 2011, LB345, § 9; Laws 2014, LB1114, § 1; Laws 2016, LB1083, § 7.

ARTICLE 3

POLITICAL SUBDIVISIONS; PARTICULAR CLASSES AND PROJECTS

(a) ZONING

Section

13-301. Counties containing city of first class; comprehensive development plan; encouraged to prepare; enforcement.
13-302. County and city of metropolitan or primary class; assistance to enforce zoning and subdivision regulations; assess cost.

(b) AMBULANCE SERVICE

13-303. Counties, cities, and villages; contract; agreement; hearing; notice; cost; levy; fee.

(c) RECREATIONAL FACILITIES

13-304. Recreational facilities; authorization; tax levy.

Section
13-305. Cities, villages, school districts, and counties; joint facilities; powers.
13-306. Joint facilities; employees; park board; appointment; bonds; election; issuance.
13-307. Joint facilities; bonds; authority of county board; eminent domain; powers.

(d) HOME-DELIVERED MEALS

13-308. Municipal corporations; powers.
13-309. Municipal corporation, defined.

(e) PUBLIC WORKS OR IMPROVEMENTS

13-310. Formation of subdivision or district; special assessment; notice; copy to nonresident property owners.
13-311. Formation of district; mailing of notice; requirements.
13-312. Special assessment; mailing of notice; requirements.
13-313. Failure to mail copy of published notice; assessment invalidated.
13-314. Nonresident property owner, defined.

(f) PUBLICITY CAMPAIGNS

13-315. Appropriation or expenditure; purposes; method; limitation.
13-316. Expenditure; inclusion in budget.

(g) JUVENILE EMERGENCY SHELTER CARE

13-317. Juvenile emergency shelter care; contracts authorized.

(h) PUBLIC SAFETY SERVICES

13-318. Public safety services; joint financing and operation; public safety commission; members; powers and duties.
13-319. County; sales and use tax authorized; limitation; election.
13-320. Public safety services, defined.
13-321. Repealed. Laws 1997, LB 269, § 80.
13-322. Submission of question to voters; ballot language; procedure.
13-323. Submission of question to voters; notice.
13-324. Tax Commissioner; powers and duties; beginning and termination of taxation; procedure; notice; administrative fee; illegal assessment and collection; remedies.
13-325. County sales and use tax; distribution.
13-326. County sales and use tax; laws governing; source of sales.

(i) EXTRATERRITORIAL JURISDICTION

13-327. County; cede jurisdiction; when; procedure.
13-328. County; cede jurisdiction; limitation.

(j) MOTOR VEHICLE DONATION

13-329. County, city, village, or public utility; donation of motor vehicle; conditions.

(a) ZONING

13-301 Counties containing city of first class; comprehensive development plan; encouraged to prepare; enforcement.

Since counties containing larger municipalities are typically experiencing population and economic growth which promotes increased urban and rural land-use conflicts, the county government of a county that contains some or all portions of a city of the first class is strongly encouraged to prepare a comprehensive development plan that meets the requirements of section 23-114.02, adopt zoning and subdivision regulations covering all portions of its regulatory jurisdiction, and begin an organized and staffed program to enforce such zoning and subdivision regulations.

Source: Laws 1975, LB 317, § 2; Laws 1978, LB 186, § 13; Laws 1979, LB 412, § 22; R.S.1943, (1981), § 84-152; Laws 1985, LB 421, § 3.

13-302 County and city of metropolitan or primary class; assistance to enforce zoning and subdivision regulations; assess cost.

Effective July 1, 1976, a county government, city of the metropolitan class, or city of the primary class that is enforcing zoning and subdivision regulations shall, upon request, provide either directly or through an intergovernmental program all the necessary services and staff to assist villages and cities of the second class that are located wholly or partially within the county with the enforcement of their individual zoning and subdivision regulations, and such assistance may, at the option of the county, city of the metropolitan class, or city of the primary class, also be rendered to cities of the first class upon request. The county or municipality may assess the full costs of such assistance to a municipality served. The county or municipality providing the service may require a one-year notice before beginning or terminating such services.

Source: Laws 1975, LB 317, § 3; Laws 1979, LB 412, § 23; R.S.1943, (1981), § 84-153; Laws 1985, LB 421, § 4.

(b) AMBULANCE SERVICE

13-303 Counties, cities, and villages; contract; agreement; hearing; notice; cost; levy; fee.

The county boards of counties and the governing bodies of cities and villages may establish an emergency medical service, including the provision of scheduled and unscheduled ambulance service, as a governmental service either within or without the county or municipality, as the case may be. The county board or governing body may contract with any city, person, firm, or corporation licensed as an emergency medical service for emergency medical care by emergency care providers. Each may enter into an agreement with the other under the Interlocal Cooperation Act or Joint Public Agency Act for the purpose of establishing an emergency medical service or may provide a separate service for itself. Public funds may be expended therefor, and a reasonable service fee may be charged to the user. Before any such service is established under the authority of this section, the county board or the governing bodies of cities and villages shall hold a public hearing after giving at least ten days' notice thereof, which notice shall include a brief summary of the general plan for establishing such service, including an estimate of the initial cost and the possible continuing cost of operating such service. If the board or governing body after such hearing determines that an emergency medical service for emergency medical care by emergency care providers is needed, it may proceed as authorized in this section. The authority granted in this section shall be cumulative and supplementary to any existing powers heretofore granted. Any county board of counties and the governing bodies of cities and villages may pay their cost for such service out of available general funds or may levy a tax for the purpose of providing the service, which levy shall be in addition to all other taxes and shall be in addition to restrictions on the levy of taxes provided by statute, except that when a rural or suburban fire protection district provides the service, the county shall pay the cost for the county service by levying a tax on that property not in the rural or suburban fire protection district providing the service. The levy shall be subject to subsection (10) of section 77-3442 or section 77-3443, as applicable.

Source: Laws 1967, c. 111, § 1, p. 359; Laws 1973, LB 239, § 1; Laws 1978, LB 560, § 2; R.S.1943, (1983), § 23-378; Laws 1996, LB

1114, § 25; Laws 1997, LB 138, § 31; Laws 1999, LB 87, § 51; Laws 2001, LB 808, § 1; Laws 2015, LB325, § 1; Laws 2020, LB1002, § 1.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

(c) RECREATIONAL FACILITIES

13-304 Recreational facilities; authorization; tax levy.

Any city, village, school district, township, or county shall have the power to join with any other political or governmental subdivision, with any agency or public corporation, whether federal, state, or local, or with any number or combinations thereof by contract or otherwise in the joint ownership, operation, or performance of any property, facility, power, or function or in agreements containing the provisions that one or more thereof operate or perform for the other or others, this power as set forth in this section to be only for the express purpose of acquiring, holding, improving, and operating any park, playground, swimming pool, recreation center, or other recreational use or facility. Each such political or governmental subdivision shall also individually have power to acquire, hold, improve, and operate any park, playground, swimming pool, recreation center, or other recreational use or facility. For the exercise of the powers set forth in this section, each such political or governmental subdivision shall have the power to levy a tax, to be known as a park and recreation tax, upon all the taxable property in its jurisdiction. This levy may be accumulated as a sinking fund from fiscal year to fiscal year to provide funds for the purpose of acquisition, holding, improvement, and operation of any park, playground, swimming pool, recreation center, or other recreational use or facility.

Source: Laws 1963, c. 481, § 1, p. 1549; Laws 1969, c. 86, § 8, p. 434; R.S.1943, (1983), § 23-820; Laws 1992, LB 719A, § 29.

City may join with airport authority in acquisition of property for a park. Bowley v. City of Omaha, 181 Neb. 515, 149 N.W.2d 417 (1967).

13-305 Cities, villages, school districts, and counties; joint facilities; powers.

For the specific purposes set forth in section 13-304, any city, village, school district or county shall have the power to receive (1) any grant or devise of real estate, (2) any grant or gift or bequest of money or other personal property, and (3) any other donation in trust or otherwise.

Source: Laws 1963, c. 481, § 2, p. 1550; R.S.1943, (1983), § 23-821.

City may acquire real estate for park purposes by gift. Bowley v. City of Omaha, 181 Neb. 515, 149 N.W.2d 417 (1967).

13-306 Joint facilities; employees; park board; appointment; bonds; election; issuance.

To carry out the purposes set forth in section 13-304, the county board of any county is authorized to hire such employees as it deems necessary, and to appoint a park and recreation board of not less than three members to serve without compensation and to issue bonds for such purposes; *Provided,* that no

such bonds shall be issued until the question of issuing the same shall have been submitted to the electors of the county at a general election therein, or at a special election called for such purposes, and a majority of electors voting at such election shall have voted in favor of issuing the bonds. Notice of such election shall be given by publication once each week for three successive weeks prior thereto in a legal newspaper published in or of general circulation in such county. Such bonds shall be payable in not less than five nor more than twenty years from the date of issuance thereof, and shall bear interest not exceeding the rate of six percent per annum, payable annually, with interest coupons attached to the bonds.

Whenever five percent of the registered voters voting in the county at the last general election and residing in such county shall file a petition in the office of the county clerk of such county requesting the county board of such county to submit the question of issuing bonds to the electors at the next general election or at a special election; or to submit to such electors the question of levying a park and recreation tax, as authorized by section 13-304, or both such questions, the county clerk shall determine and certify whether such petition has been signed by at least five percent of the registered voters voting in the county in the last general election, and who appear to reside in such county. He shall then present such petition to the county board at its next regular meeting. The county board shall thereupon cause such question of the issuance of bonds or levying such tax or both such questions, according to such petition, to be submitted to the electors of such county at the next general election, or special election called for such purpose if requested in such petition.

Source: Laws 1969, c. 86, § 9, p. 435; Laws 1971, LB 557, § 1; R.S.1943, (1983), § 23-822.

13-307 Joint facilities; bonds; authority of county board; eminent domain; powers.

If a majority of the electors voting thereon vote in favor of such question or questions submitted, such county board shall proceed accordingly.

To acquire property for the purposes set forth in section 13-304, each county shall have the power of eminent domain which shall be exercised by the county board of each county in the manner provided in sections 76-704 to 76-724.

Source: Laws 1971, LB 557, § 2; R.S.1943, (1983), § 23-823.

(d) HOME-DELIVERED MEALS

13-308 Municipal corporations; powers.

Any municipal corporation may contract with any person and provide funds for home-delivered meals for the elderly and senior volunteer programs.

Source: Laws 1975, LB 307, § 1; R.S.1943, (1983), § 18-1730; Laws 2017, LB417, § 1.

13-309 Municipal corporation, defined.

For purposes of sections 13-308 and 13-309, municipal corporation shall mean any county, township, city, or village, whether organized and existing under direct provisions of the Constitution of Nebraska or statutes of this state,

or by virtue of charters or other corporate articles or instruments executed under authority of the Constitution or statutes of this state.

Source: Laws 1975, LB 307, § 2; R.S.1943, (1983), § 18-1731.

(e) PUBLIC WORKS OR IMPROVEMENTS

13-310 Formation of subdivision or district; special assessment; notice; copy to nonresident property owners.

Before any political subdivision, except any city of the metropolitan class, or special taxing district for public works or public improvements shall be formed, and before any political subdivision or special taxing district, excepting any city of the metropolitan class and school districts, may impose any special assessment for public works or public improvements, a copy of any notice required to be published by law shall be mailed to the last-known address of all nonresident property owners as shown on the current tax rolls at the time such notice is first published.

Source: Laws 1973, LB 344, § 1; Laws 1974, LB 655, § 1; R.S.1943, (1983), § 18-1216.

13-311 Formation of district; mailing of notice; requirements.

The county clerk, city clerk, clerk of any political subdivision, except any city of the metropolitan class, or any other person upon whom the duty is imposed by law to publish notice required by law in regard to the formation of a special taxing district for public works or public improvements shall mail by certified mail with return receipt requested a copy of the published notice in regard to the formation of any special taxing district within the county, city, or other political subdivision, except any city of the metropolitan class, to the last-known address as shown on the current tax rolls of each nonresident property owner.

Source: Laws 1973, LB 344, § 2; Laws 1974, LB 655, § 2; R.S.1943, (1983), § 18-1217.

13-312 Special assessment; mailing of notice; requirements.

The county clerk, city clerk, clerk of any political subdivision, except any city of the metropolitan class, or any other person upon whom the duty is imposed by law to publish notice required by law in regard to any special assessment by a special taxing district shall mail by certified mail with return receipt requested a copy of such notice to be published to the last-known address as shown on the current tax rolls of each nonresident property owner.

Source: Laws 1973, LB 344, § 3; Laws 1974, LB 655, § 3; R.S.1943, (1983), § 18-1218.

13-313 Failure to mail copy of published notice; assessment invalidated.

The failure of any county clerk, city clerk, clerk of a political subdivision, except any city of the metropolitan class, or any other person upon whom the duty is imposed by law to mail a copy of a published notice as provided in sections 13-310 to 13-314 shall invalidate the assessment against the property involved while permitting all other assessments and procedures to be lawful.

Source: Laws 1973, LB 344, § 4; Laws 1974, LB 655, § 4; R.S.1943, (1983), § 18-1219.

13-314 Nonresident property owner, defined.

The term nonresident property owner as used in sections 13-310 to 13-314 shall mean any person or corporation whose residence and mailing address as shown on the current tax rolls is outside the boundaries of the county and who is a record owner of property within the boundaries of the political subdivision, except any city of the metropolitan class, special assessment district, or taxing district involved.

Source: Laws 1973, LB 344, § 5; Laws 1974, LB 655, § 5; R.S.1943, (1983), § 18-1220.

(f) PUBLICITY CAMPAIGNS

13-315 Appropriation or expenditure; purposes; method; limitation.

The city commissioners or council of any city, the board of trustees of any village, and the county board of any county in the state shall have the power to appropriate or expend annually from the general funds or from revenue received from any proprietary functions of their respective political subdivision an amount not to exceed four-tenths of one percent of the taxable valuation of the city, village, or county for the purpose of encouraging immigration, new industries, and investment and to conduct and carry on a publicity campaign, including a publicity campaign conducted for the purpose of acquiring from any source a municipal electrical distribution system or exploiting and advertising the various agricultural, horticultural, manufacturing, commercial, and other resources, including utility services, of the city, village, or county. Such sum may be expended directly by the city, village, or county or may be paid to the chamber of commerce or other commercial organization or a similar county organization or multicounty organization or local development corporation to be expended for the purposes enumerated in this section under the direction of the board of directors of the organization. The total amount levied including the appropriation or expenditure made under this section shall not exceed the amount limited by law.

Source: Laws 1921, c. 187, § 1, p. 699; C.S.1922, § 4392; C.S.1929, § 18-1201; R.S.1943, § 18-1401; Laws 1969, c. 103, § 1, p. 478; Laws 1972, LB 1261, § 1; Laws 1979, LB 187, § 75; Laws 1980, LB 599, § 5; R.S.1943, (1983), § 18-1401; Laws 1991, LB 840, § 24; Laws 1992, LB 719A, § 30.

Provisions under this section for expenditure of tax money and income from proprietary functions for purchase by a municipality or a county of property for industrial development violate the Constitution, but the provisions of expenditures for other purposes by a municipality or county itself or through private organizations are constitutional. Chase v. County of Douglas, 195 Neb. 838, 241 N.W.2d 334 (1976).

There is no hard-and-fast rule in determining whether a proposed expenditure of public funds is valid as devoted to a public use or purpose, and each case must be decided with reference to the object sought to be accomplished and to the degree and manner in which that object affects the public welfare. Kalkowski v. Nebraska Nat. Trails Museum Found., 20 Neb. App. 541, 826 N.W.2d 589 (2013).

13-316 Expenditure; inclusion in budget.

The amount to be expended for the ensuing year or biennial period shall be fixed at the time of making up the annual or biennial budget required by law, and the same shall be included in the budget.

Source: Laws 1921, c. 187, § 2, p. 700; C.S.1922, § 4393; C.S.1929, § 18-1202; R.S.1943, (1983), § 18-1402; Laws 2000, LB 1116, § 5.

(g) JUVENILE EMERGENCY SHELTER CARE

13-317 Juvenile emergency shelter care; contracts authorized.

Any municipal corporation may contract with any person and provide funds for juvenile emergency shelter care. For purposes of this section:

(1) Juvenile emergency shelter care shall mean temporary twenty-four-hour physical care and supervision in crisis situations and at times when an appropriate foster care resource is not available to persons eighteen years of age or younger; and

(2) Municipal corporation shall be as defined in section 13-309.

Source: Laws 1993, LB 526, § 1.

(h) PUBLIC SAFETY SERVICES

13-318 Public safety services; joint financing and operation; public safety commission; members; powers and duties.

(1) Any county and any municipalities and fire protection districts within the county may provide for the joint financing and operation of public safety services pursuant to an agreement under the Interlocal Cooperation Act or Joint Public Agency Act.

(2) Joint public safety services shall be operated by a public safety commission consisting of at least three members who represent the county and the participating municipalities and fire protection districts as provided in the agreement. Only elected officials are eligible to serve on the commission. In counties with more than one hundred thousand inhabitants, the county and participating municipalities and fire protection districts may appoint a separate fire protection and emergency services commission of at least three members to operate or coordinate fire protection or emergency services in the county and participating municipalities and fire protection districts. If the public safety services to be provided include fire protection, at least one representative of each fire protection district shall be a member of the commission. The commission may employ officers and other employees necessary to carry out its duties and responsibilities for public safety services or fire protection or emergency services and may enter into contracts, acquire and dispose of property, and receive funds appropriated to it by the county and any participating municipality or fire protection district, granted or appropriated to it by the state or federal government or an agency thereof, given to it by any individual, or collected from the sales and use tax authorized by section 13-319. If fire protection services or emergency services are to be provided, the commission shall appoint an individual trained in fire protection or emergency services with at least five years of experience in providing such services who shall coordinate fire protection and financing of the services in the county. The individual shall serve at the pleasure of the commission. The commission shall have other powers as are granted to the county and any of the participating municipalities or fire protection districts acting independently except as limited by the agreement.

Source: Laws 1996, LB 1177, § 5; Laws 1997, LB 269, § 7; Laws 1999, LB 87, § 52.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

13-319 County; sales and use tax authorized; limitation; election.

Any county by resolution of the governing body may impose a sales and use tax of one-half percent, one percent, or one and one-half percent upon the same transactions sourced as provided in sections 77-2703.01 to 77-2703.04 within the county, but outside any incorporated municipality which has adopted a local sales tax pursuant to section 77-27,142, on which the state is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended from time to time. Any sales and use tax imposed pursuant to this section must be used (1) to finance public safety services provided by a public safety commission, (2) to provide the county share of funds required under any other agreement executed under the Interlocal Cooperation Act or Joint Public Agency Act, or (3) to finance public safety services provided by the county. A sales and use tax shall not be imposed pursuant to this section until an election has been held and a majority of the qualified electors have approved the tax pursuant to sections 13-322 and 13-323. A sales and use tax shall not be imposed pursuant to this section if the county is imposing a tax pursuant to section 77-6403.

Source: Laws 1996, LB 1177, § 6; Laws 1999, LB 87, § 53; Laws 2003, LB 282, § 2; Laws 2011, LB106, § 2; Laws 2019, LB472, § 7.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.
Nebraska Revenue Act of 1967, see section 77-2701.

13-320 Public safety services, defined.

For purposes of sections 13-318 to 13-326, public safety services means crime prevention, offender detention, and firefighter, police, medical, ambulance, or other emergency services.

Source: Laws 2011, LB106, § 1.

13-321 Repealed. Laws 1997, LB 269, § 80.

13-322 Submission of question to voters; ballot language; procedure.

The powers granted by section 13-319 shall not be exercised unless and until the question has been submitted at a primary, general, or special election held within the area which would be subject to the tax and in which all registered voters are entitled to vote on such question. The officials of the incorporated municipality or county shall order the submission of the question by submitting a certified copy of the resolution proposing the tax to the election commissioner or county clerk. The question may include any terms and conditions set forth in the resolution proposing the tax, such as a termination date or the specific public safety service for which the revenue received from the tax will be allocated, and shall include the following language: Shall the county impose a sales and use tax upon the same transactions within the county, other than in municipalities which impose a local option sales tax, on which the State of Nebraska is authorized to impose a tax to finance public safety services? If a majority of the votes cast upon the question are in favor of the tax, the

governing body may impose the tax. If a majority of those voting on the question are opposed to the tax, the governing body shall not impose the tax. Any election under this section shall be conducted in accordance with the procedures provided in the Election Act.

Source: Laws 1996, LB 1177, § 9; Laws 1997, LB 269, § 8.

Cross References

Election Act, see section 32-101.

13-323 Submission of question to voters; notice.

The election commissioner or county clerk shall give notice of the submission of the question of imposing a tax under section 13-319 not more than thirty days nor less than ten days before the election, by publication one time in one or more newspapers published in or of general circulation in the municipality or county in which the question is to be submitted. This notice is in addition to any other notice required under the Election Act.

Source: Laws 1996, LB 1177, § 10; Laws 1997, LB 269, § 9.

Cross References

Election Act, see section 32-101.

13-324 Tax Commissioner; powers and duties; beginning and termination of taxation; procedure; notice; administrative fee; illegal assessment and collection; remedies.

(1) The Tax Commissioner shall administer all sales and use taxes adopted under section 13-319. The Tax Commissioner may prescribe forms and adopt and promulgate reasonable rules and regulations in conformity with the Nebraska Revenue Act of 1967, as amended, for the making of returns and for the ascertainment, assessment, and collection of taxes. The county shall furnish a certified copy of the adopting or repealing resolution to the Tax Commissioner in accordance with such rules and regulations. The tax shall begin the first day of the next calendar quarter which is at least one hundred twenty days following receipt by the Tax Commissioner of the certified copy of the adopted resolution. The Tax Commissioner shall provide at least sixty days' notice of the adoption of the tax or a change in the rate to retailers. Notice shall be provided to retailers within the county. Notice to retailers may be provided through the website of the Department of Revenue or by other electronic means.

(2) For resolutions containing a termination date, the termination date is the first day of a calendar quarter. The county shall furnish a certified statement to the Tax Commissioner no more than one hundred eighty days and at least one hundred twenty days before the termination date that the termination date stated in the resolution is still valid. If the certified statement is not furnished within the prescribed time, the tax shall remain in effect, and the Tax Commissioner shall continue to collect the tax until the first day of the calendar quarter which is at least one hundred twenty days after receipt of the certified statement notwithstanding the termination date stated in the resolution. The Tax Commissioner shall provide at least sixty days' notice of the termination of the tax to retailers. Notice shall be provided to retailers within the county. Notice to retailers may be provided through the website of the department or other electronic means.

(3) The Tax Commissioner shall collect the sales and use tax concurrently with collection of a state tax in the same manner as the state tax is collected. The Tax Commissioner shall remit monthly the proceeds of the tax to the counties imposing the tax, after deducting the amount of refunds made and three percent of the remainder as an administrative fee necessary to defray the cost of collecting the tax and the expenses incident thereto. The Tax Commissioner shall keep full and accurate records of all money received and distributed. All receipts from the three-percent administrative fee shall be deposited in the state General Fund.

(4) Upon any claim of illegal assessment and collection, the taxpayer has the same remedies provided for claims of illegal assessment and collection of the state tax. It is the intention of the Legislature that the provisions of law which apply to the recovery of state taxes illegally assessed and collected apply to the recovery of sales and use taxes illegally assessed and collected under section 13-319.

(5) Boundary changes or the adoption of a sales and use tax by an incorporated municipality that affects any tax imposed by this section shall be governed as provided in subsections (3) through (10) of section 77-27,143.

Source: Laws 1996, LB 1177, § 11; Laws 2003, LB 282, § 3; Laws 2003, LB 381, § 1; Laws 2005, LB 274, § 221; Laws 2006, LB 887, § 1; Laws 2011, LB211, § 1.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

13-325 County sales and use tax; distribution.

The proceeds of the sales and use tax imposed by a county under section 13-319 shall be distributed to the county for deposit in its general fund.

Source: Laws 1996, LB 1177, § 12.

13-326 County sales and use tax; laws governing; source of sales.

(1) All relevant provisions of the Nebraska Revenue Act of 1967, as amended, not inconsistent with sections 13-319, 13-324, and 13-325, shall govern transactions, proceedings, and activities pursuant to any sales and use tax imposed by a county.

(2) For the purposes of the sales and use tax imposed by a county, all retail sales, rentals, and leases, as defined and described in the Nebraska Revenue Act of 1967, are sourced as provided in sections 77-2703.01 to 77-2703.04.

Source: Laws 1996, LB 1177, § 13; Laws 1999, LB 34, § 1; Laws 2002, LB 947, § 2; Laws 2003, LB 282, § 4.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

(i) EXTRATERRITORIAL JURISDICTION

13-327 County; cede jurisdiction; when; procedure.

(1) The governing body of any city of the first or second class or village may, by majority vote of its members, request that the county board formally cede and transfer to the city or village extraterritorial zoning jurisdiction over land

outside the area extending two miles from the corporate boundaries of a city of the first class and one mile from the corporate boundaries of a city of the second class or village. In making its request, the city or village shall describe the territory over which jurisdiction is being sought by metes and bounds or by reference to an official map, except that a village shall not request jurisdiction over any territory that is more than one-quarter mile outside the area extending one mile from the corporate boundaries of a village.

(2) Unless prohibited pursuant to section 13-328, the county board may, by majority vote of its members, grant the request with regard to some or all of the requested territory if:

(a) The county has formally adopted a comprehensive development plan and zoning resolution pursuant to section 23-114 not less than two years immediately preceding the date of the city's or village's request;

(b) The city or village, on the date of the request, is exercising extraterritorial zoning jurisdiction over territory within the boundaries of the county;

(c) The requested territory is within the projected growth pattern of the city or village and would be within the city's or village's extraterritorial zoning jurisdiction by reason of annexation within a reasonable period of years;

(d) Not more than a total of twenty-five percent of the territory of the county located outside the corporate boundaries of any city or village within the county shall be ceded to the jurisdiction of one city or village within ten years after the date upon which the initial request for the cession of territory to the city or village was approved by the governing body of the city or village; and

(e) No portion of the territory ceded to the city's or village's jurisdiction by the county lies within an area extending one-half mile from the extraterritorial zoning jurisdiction of any other city of the first or second class or village on the date the request is approved by the governing body of the city or village unless such other city or village adopts a resolution in support of such request.

(3) If the county board approves the cession and transfer of extraterritorial zoning jurisdiction to a city or village pursuant to this section, such transfer shall take effect on the effective date of the ordinance as provided for in subsection (4) of section 16-902 in the case of a city of the first class or as provided for in subsection (5) of section 17-1002 in the case of a city of the second class or village. Upon the effective date of such transfer, the transferred jurisdiction shall be treated for all purposes as if such land were located within two miles of the corporate boundaries of a city of the first class or within one mile of the corporate boundaries of a city of the second class or village.

Source: Laws 2002, LB 729, § 1; Laws 2012, LB1126, § 1; Laws 2016, LB864, § 1.

13-328 County; cede jurisdiction; limitation.

A county which encompasses a city of the metropolitan class or city of the primary class shall not cede or transfer extraterritorial jurisdiction over land to a city of the first or second class or village if, on the date the county receives a request pursuant to subsection (1) of section 13-327, such land lies within the area extending three miles from the extraterritorial jurisdiction boundaries of such city of the metropolitan class or city of the primary class.

Source: Laws 2002, LB 729, § 2; Laws 2012, LB1126, § 2.

(j) MOTOR VEHICLE DONATION

13-329 County, city, village, or public utility; donation of motor vehicle; conditions.

The governing body of a county, city, village, or public utility may authorize the donation of any motor vehicle that is owned by such county, city, village, or public utility, if the governing body has determined that the motor vehicle has reached the end of its useful life, to any charitable organization described in section 501(c)(3) or 501(c)(19) of the Internal Revenue Code that is incorporated pursuant to the Nebraska Nonprofit Corporation Act unless such donation is prohibited by law. The governing body shall not authorize such donation if any employee of the charitable organization or any proposed recipient of the motor vehicle from the charitable organization is a family member of any member of the governing body. For purposes of this section, family member means a spouse, child, parent, brother, sister, grandchild, or grandparent by blood, marriage, or adoption.

Source: Laws 2011, LB628, § 4.

Cross References

Nebraska Nonprofit Corporation Act, see section 21-1901.

ARTICLE 4

POLITICAL SUBDIVISIONS; LAWS APPLICABLE TO ALL

Section
13-401. Members and employees; personal liability insurance; authorized.
13-402. Political subdivisions, state agency; authorized to file petition in United States Bankruptcy Court; limitation; governing body; duties.
13-403. Real property; purchase, lease-purchase, or acquisition; appraisal required.
13-404. Civil offices; vacancy; how filled.
13-405. Definition or legal status of animal; political subdivision; limitation on power.

13-401 Members and employees; personal liability insurance; authorized.

The governing board of any political subdivision in the State of Nebraska, may provide its members and employees of the political subdivision, either collectively or individually, with personal liability insurance coverage insuring against any liability and claim arising by reason of any act or omission in any manner relating to the performance, attempted performance, or failure of performance of official duties as such member or employee, and may authorize the payment of the premium, cost, and expense of such insurance from the general fund of such political subdivision.

Source: Laws 1973, LB 339, § 1; R.S.1943, (1983), § 23-175.01.

13-402 Political subdivisions, state agency; authorized to file petition in United States Bankruptcy Court; limitation; governing body; duties.

(1) Any county, city, village, school district, agency of the state government, drainage district, sanitary and improvement district, or other political subdivision of the State of Nebraska is hereby permitted, authorized, and given the power to file a petition in the United States Bankruptcy Court under 11 U.S.C. chapter 9 and any acts amendatory thereto and supplementary thereof and to incur and pay the expenses incident to the consummation of a plan of adjustment of debts as contemplated by such petition.

(2)(a) The authority and power to file a petition provided for in subsection (1) of this section shall not apply to any city or village that, at the time of its governing body authorizing the filing of such petition, has its defined benefit retirement plan, if any, with a funded ratio of the actuarial value of assets less than fifty-one and sixty-five hundredths percent for any such petition to be filed during the period between January 1, 2020, and January 1, 2023; fifty-four and forty-one hundredths percent for any such petition to be filed during the period between January 1, 2023, and January 1, 2026; fifty-eight and twenty-one hundredths percent for any such petition to be filed during the period between January 1, 2026, and January 1, 2029; sixty-three and forty-one hundredths percent for any such petition to be filed during the period between January 1, 2029, and January 1, 2032; seventy and seventy-one hundredths percent for any such petition to be filed during the period between January 1, 2032, and January 1, 2035; eighty and sixty-one hundredths percent for any such petition to be filed during the period between January 1, 2035, and January 1, 2038; and ninety percent thereafter.

(b) Within ninety days prior to taking action authorizing the filing of such petition, the governing body of any city or village that has a defined benefit retirement plan shall conduct an actuarial valuation to determine the funded ratio of such defined benefit retirement plan. Such determination shall be prima facie evidence in establishing the authority of the city or village to exercise authority under this section.

(c)(i) A city or village that does not have a defined benefit retirement plan may by ordinance declare and affirm that its general obligation bonds, whether existing before, after, or at the time of such ordinance, shall, unless otherwise provided in the related authorizing measure, be equally and ratably secured by a statutory lien on all ad valorem taxes levied and to be levied from year to year by such city or village and on all proceeds derived therefrom. The statutory lien authorized hereunder shall be deemed to attach and be continuously perfected from the time the bonds are issued without further action or authorization by the city or village. The statutory lien is valid and binding from the time the bonds are issued without any physical delivery thereof or further act required. No filing need be made under the Uniform Commercial Code or otherwise to perfect the statutory lien on any ad valorem taxes or proceeds derived therefrom in favor of any general obligation bonds. Bonds so secured shall have a first priority lien on such ad valorem taxes so levied and on all proceeds derived therefrom and shall have priority against all parties having claims of contract or tort or otherwise against the city or village, whether or not the parties have notice thereof. The absence of such declaration or affirmation shall not reduce or degrade the priority or secured status of such bonds otherwise existing under law.

(ii) For purposes of this subdivision, statutory lien shall have the meaning given to that term under 11 U.S.C. 101(53) of the federal Bankruptcy Reform Act of 1994, as it existed on August 24, 2017.

(d) An actuary performing actuarial valuations pursuant to this subsection shall be a member of the American Academy of Actuaries and shall meet the academy's qualification standards to render a statement of actuarial opinion.

Source: Laws 1981, LB 327, § 2; R.S.1943, (1986), § 77-2419; Laws 1989, LB 14, § 1; Laws 2017, LB72, § 1.

13-403 Real property; purchase, lease-purchase, or acquisition; appraisal required.

Notwithstanding any other provision of law, no political subdivision shall purchase, lease-purchase, or acquire for consideration real property having an estimated value of one hundred thousand dollars or more unless an appraisal of such property has been performed by a certified real property appraiser.

Source: Laws 1994, LB 681, § 1; Laws 2006, LB 778, § 3.

13-404 Civil offices; vacancy; how filled.

Every civil office in a political subdivision filled by appointment shall be vacant upon the happening of any one of the events listed in section 32-560 except as provided in section 32-561. The resignation of the incumbent of such a civil office may be made as provided in section 32-562. Vacancies in such a civil office shall be filled as provided in sections 32-567 and 32-574 and shall be subject to section 32-563.

Source: Laws 1994, LB 76, § 468; Laws 2015, LB575, § 2.

13-405 Definition or legal status of animal; political subdivision; limitation on power.

No political subdivision may by rule, regulation, ordinance, resolution, or proclamation define or assign a legal status to an animal or animals that is in any manner inconsistent with the status of animals as personal property.

Source: Laws 2012, LB459, § 1.

ARTICLE 5

BUDGETS

(a) NEBRASKA BUDGET ACT

Section

13-501. Act, how cited.
13-502. Purpose of act; applicability.
13-503. Terms, defined.
13-504. Proposed budget statement; contents; corrections; cash reserve; limitation.
13-504.01. Repealed. Laws 2002, LB 568, § 15.
13-505. Proposed budget statement; estimated expenditures; unencumbered balances; estimated income.
13-506. Proposed budget statement; notice; contents; hearing; adoption; certify to board; file with auditor; school district; duties.
13-507. Levy increase; indicate on budget statement.
13-508. Adopted budget statement; certified taxable valuation; levy.
13-509. County assessor; certify taxable value; when; annexation of property; governing body; duties.
13-509.01. Cash balance; expenditure authorized; limitation.
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13-510. Emergency; transfer of funds; violation; penalty.
13-511. Revision of adopted budget statement; when; supplemental funds; hearing; notice; warrants; issuance; correction.
13-512. Budget statement; taxpayer; contest; basis; procedure.
13-513. Auditor; request information; late fee; failure to provide information; auditor powers.
13-514. Repealed. Laws 1992, LB 1063, § 214; Laws 1992, Second Spec. Sess., LB 1, § 182.
13-515. Repealed. Laws 2000, LB 968, § 91.

Section

(b) POWER DISTRICTS AND AGENCIES

13-516. Public power district; public power and irrigation district; rural power district; power project agency; proposed budget; contents; notice; meeting; changes.

(c) SCHOOL DISTRICTS AND EDUCATIONAL SERVICE UNITS

13-517. School districts and educational service units; Nebraska Budget Act applicable.

(d) BUDGET LIMITATIONS

13-518. Terms, defined.
13-519. Governmental unit; adoption of budget; limitations; additional increases authorized; procedure.
13-520. Limitations; not applicable to certain restricted funds.
13-521. Governmental unit; unused restricted funds; authority to carry forward.
13-522. Noncompliance with budget limitations; Auditor of Public Accounts; State Treasurer; duties.

(a) NEBRASKA BUDGET ACT

13-501 Act, how cited.

Sections 13-501 to 13-513 shall be known and may be cited as the Nebraska Budget Act.

Source: Laws 1969, c. 145, § 50, p. 701; R.S.1943, (1983), § 23-933; Laws 1992, LB 1063, § 2; Laws 1992, Second Spec. Sess., LB 1, § 2; Laws 1993, LB 310, § 1; Laws 1993, LB 734, § 15; Laws 1994, LB 1257, § 2; Laws 1996, LB 900, § 1017; Laws 1997, LB 250, § 1; Laws 1997, LB 397, § 1; Laws 1999, LB 86, § 2; Laws 2000, LB 968, § 2; Laws 2004, LB 939, § 1.

Cross References

For applicability to school districts and educational service units, see section 13-517.

13-502 Purpose of act; applicability.

(1) The purpose of the Nebraska Budget Act is to require governing bodies of this state to which the act applies to follow prescribed budget practices and procedures and make available to the public pertinent information pertaining to the financial requirements and expectations of such governing bodies so that intelligent and informed support, opposition, criticism, suggestions, or observations can be made by those affected.

(2) The act shall not apply to governing bodies which have a budget of less than five thousand dollars per year.

(3) The act shall not apply to proprietary functions of municipalities for which a separate budget has been approved by the city council or village board as provided in the Municipal Proprietary Function Act.

(4) The Nebraska Budget Act shall not apply to any governing body for any fiscal year in which the governing body will not have a property tax request or receive state aid as defined in section 13-518.

(5) The act shall not apply to any public power district or public power and irrigation district organized pursuant to Chapter 70, article 6, to any rural

power district organized pursuant to Chapter 70, article 8, or to any agency created pursuant to sections 18-2426 to 18-2434.

Source: Laws 1969, c. 145, § 1, p. 669; Laws 1971, LB 157, § 1; R.S.1943, (1983), § 23-921; Laws 1991, LB 15, § 5; Laws 1993, LB 734, § 16; Laws 2000, LB 968, § 3; Laws 2000, LB 1279, § 1.

Cross References

Municipal Proprietary Function Act, see section 18-2801.

A budget of an airport authority adopted without full compliance with the requirements of the Nebraska Budget Act is void and may be set aside. Willms v. Nebraska City Airport Authority, 193 Neb. 567, 228 N.W.2d 276 (1975).

13-503 Terms, defined.

For purposes of the Nebraska Budget Act, unless the context otherwise requires:

(1) Governing body means the governing body of any county agricultural society, elected county fair board, joint airport authority formed under the Joint Airport Authorities Act, city or county airport authority, bridge commission created pursuant to section 39-868, cemetery district, city, village, municipal county, community college, community redevelopment authority, county, drainage or levee district, educational service unit, rural or suburban fire protection district, historical society, hospital district, irrigation district, learning community, natural resources district, nonprofit county historical association or society for which a tax is levied under subsection (1) of section 23-355.01, public building commission, railroad transportation safety district, reclamation district, road improvement district, rural water district, school district, sanitary and improvement district, township, offstreet parking district, transit authority, regional metropolitan transit authority, metropolitan utilities district, Educational Service Unit Coordinating Council, political subdivision with the authority to have a property tax request, with the authority to levy a toll, or that receives state aid, and joint entity created pursuant to the Interlocal Cooperation Act that receives tax funds generated under section 2-3226.05;

(2) Levying board means any governing body which has the power or duty to levy a tax;

(3) Fiscal year means the twelve-month period used by each governing body in determining and carrying on its financial and taxing affairs;

(4) Tax means any general or special tax levied against persons, property, or business for public purposes as provided by law but shall not include any special assessment;

(5) Auditor means the Auditor of Public Accounts;

(6) Cash reserve means funds required for the period before revenue would become available for expenditure but shall not include funds held in any special reserve fund;

(7) Public funds means all money, including nontax money, used in the operation and functions of governing bodies. For purposes of a county, city, or village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the county, city, or village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes;

(8) Adopted budget statement means a proposed budget statement which has been adopted or amended and adopted as provided in section 13-506. Such

term shall include additions, if any, to an adopted budget statement made by a revised budget which has been adopted as provided in section 13-511;

(9) Special reserve fund means any special fund set aside by the governing body for a particular purpose and not available for expenditure for any other purpose. Funds created for (a) the retirement of bonded indebtedness, (b) the funding of employee pension plans, (c) the purposes of the Political Subdivisions Self-Funding Benefits Act, (d) the purposes of the Local Option Municipal Economic Development Act, (e) voter-approved sinking funds, or (f) statutorily authorized sinking funds shall be considered special reserve funds;

(10) Biennial period means the two fiscal years comprising a biennium commencing in odd-numbered or even-numbered years used by a city, village, or natural resources district in determining and carrying on its financial and taxing affairs; and

(11) Biennial budget means (a) a budget by a city of the primary or metropolitan class that adopts a charter provision providing for a biennial period to determine and carry on the city's financial and taxing affairs, (b) a budget by a city of the first or second class or village that provides for a biennial period to determine and carry on the city's or village's financial and taxing affairs, or (c) a budget by a natural resources district that provides for a biennial period to determine and carry on the natural resources district's financial and taxing affairs.

Source: Laws 1969, c. 145, § 2, p. 669; Laws 1972, LB 537, § 1; Laws 1977, LB 510, § 6; R.S.1943, (1987), § 23-922; Laws 1988, LB 802, § 2; Laws 1992, LB 1063, § 3; Laws 1992, Second Spec. Sess., LB 1, § 3; Laws 1993, LB 734, § 17; Laws 1994, LB 1257, § 3; Laws 1996, LB 299, § 10; Laws 1997, LB 250, § 2; Laws 1999, LB 437, § 25; Laws 2000, LB 968, § 4; Laws 2000, LB 1116, § 6; Laws 2001, LB 142, § 25; Laws 2003, LB 607, § 1; Laws 2006, LB 1024, § 1; Laws 2007, LB603, § 1; Laws 2009, LB392, § 2; Laws 2010, LB779, § 1; Laws 2013, LB111, § 1; Laws 2015, LB164, § 2; Laws 2019, LB492, § 26; Laws 2020, LB148, § 1.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Airport Authorities Act, see section 3-716.
Local Option Municipal Economic Development Act, see section 18-2701.
Nebraska County and City Lottery Act, see section 9-601.
Political Subdivisions Self-Funding Benefits Act, see section 13-1601.

13-504 Proposed budget statement; contents; corrections; cash reserve; limitation.

(1) Each governing body shall annually or biennially, as the case may be, prepare a proposed budget statement on forms prescribed and furnished by the auditor. The proposed budget statement shall be made available to the public by the political subdivision prior to publication of the notice of the hearing on the proposed budget statement pursuant to section 13-506. A proposed budget statement shall contain the following information, except as provided by state law:

(a) For the immediately preceding fiscal year or biennial period, the revenue from all sources, including motor vehicle taxes, other than revenue received from personal and real property taxation, allocated to the funds and separately

stated as to each such source: The unencumbered cash balance at the beginning and end of the year or biennial period; the amount received by taxation of personal and real property; and the amount of actual expenditures;

(b) For the current fiscal year or biennial period, actual and estimated revenue from all sources, including motor vehicle taxes, allocated to the funds and separately stated as to each such source: The actual unencumbered cash balance available at the beginning of the year or biennial period; the amount received from personal and real property taxation; and the amount of actual and estimated expenditures, whichever is applicable. Such statement shall contain the cash reserve for each fiscal year or biennial period and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years or biennial periods. The cash reserve shall not exceed fifty percent of the total budget adopted exclusive of capital outlay items;

(c) For the immediately ensuing fiscal year or biennial period, an estimate of revenue from all sources, including motor vehicle taxes, other than revenue to be received from taxation of personal and real property, separately stated as to each such source: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year or biennial period; the amounts proposed to be expended during the year or biennial period; and the amount of cash reserve, based on actual experience of prior years or biennial periods, which cash reserve shall not exceed fifty percent of the total budget adopted exclusive of capital outlay items;

(d) A statement setting out separately the amount sought to be raised from the levy of a tax on the taxable value of real property (i) for the purpose of paying the principal or interest on bonds issued or authorized to be issued by the governing body or the legal voters of the political subdivision and (ii) for all other purposes;

(e) A uniform summary of the proposed budget statement, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the governing body;

(f) For municipalities, a list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the city council or village board as provided in the Municipal Proprietary Function Act; and

(g) For school districts and educational service units, a separate identification and description of all current and future costs to the school district or educational service unit which are reasonably anticipated as a result of any contract, and any adopted amendments thereto, for superintendent services to be rendered to such school district or administrator services to be rendered to such educational service unit.

(2) The actual or estimated unencumbered cash balance required to be included in the budget statement by this section shall include deposits and investments of the political subdivision as well as any funds held by the county treasurer for the political subdivision and shall be accurately stated on the proposed budget statement.

(3) The political subdivision shall correct any material errors in the budget statement detected by the auditor or by other sources.

Source: Laws 1969, c. 145, § 3, p. 670; Laws 1971, LB 129, § 1; Laws 1984, LB 932, § 3; Laws 1986, LB 889, § 2; Laws 1987, LB 183, § 3; R.S.Supp.,1987, § 23-923; Laws 1989, LB 33, § 6; Laws 1993, LB 310, § 3; Laws 1993, LB 734, § 18; Laws 1994, LB 1310, § 1; Laws 1995, LB 490, § 22; Laws 1996, LB 1362, § 1; Laws 1997, LB 271, § 9; Laws 1999, LB 86, § 3; Laws 2000, LB 968, § 5; Laws 2002, LB 568, § 1; Laws 2013, LB111, § 2; Laws 2014, LB470, § 1; Laws 2015, LB164, § 3; Laws 2022, LB1165, § 1.
Effective date July 21, 2022.

Cross References

Municipal Proprietary Function Act, see section 18-2801.

A budget of an airport authority adopted without full compliance with the requirements of the Nebraska Budget Act is void and may be set aside. Willms v. Nebraska City Airport Authority, 193 Neb. 567, 228 N.W.2d 276 (1975).

13-504.01 Repealed. Laws 2002, LB 568, § 15.

13-505 Proposed budget statement; estimated expenditures; unencumbered balances; estimated income.

The estimated expenditures plus the required cash reserve for the ensuing fiscal year or biennial period less all estimated and actual unencumbered balances at the beginning of the year or biennial period and less the estimated income from all sources, including motor vehicle taxes, other than taxation of personal and real property shall equal the amount to be received from taxes, and such amount shall be shown on the proposed budget statement pursuant to section 13-504. The amount to be raised from taxation of personal and real property, as determined above, plus the estimated revenue from other sources, including motor vehicle taxes, and the unencumbered balances shall equal the estimated expenditures, plus the necessary required cash reserve, for the ensuing year or biennial period.

Source: Laws 1969, c. 145, § 4, p. 671; R.S.1943, (1983), § 23-924; Laws 1993, LB 310, § 4; Laws 1997, LB 271, § 10; Laws 2002, LB 568, § 2; Laws 2013, LB111, § 3.

13-506 Proposed budget statement; notice; contents; hearing; adoption; certify to board; file with auditor; school district; duties.

(1) Each governing body shall each year or biennial period conduct a public hearing on its proposed budget statement. Such hearing shall be held separately from any regularly scheduled meeting of the governing body and shall not be limited by time. Notice of place and time of such hearing, together with a summary of the proposed budget statement, shall be published at least four calendar days prior to the date set for hearing in a newspaper of general circulation within the governing body's jurisdiction. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. When the total operating budget, not including reserves, does not exceed ten thousand dollars per year or twenty thousand dollars per biennial period, the proposed budget summary may be posted at the governing body's principal headquarters. At such hearing, the governing body shall make

at least three copies of the proposed budget statement available to the public and shall make a presentation outlining key provisions of the proposed budget statement, including, but not limited to, a comparison with the prior year's budget. Any member of the public desiring to speak on the proposed budget statement shall be allowed to address the governing body at the hearing and shall be given a reasonable amount of time to do so. After such hearing, the proposed budget statement shall be adopted, or amended and adopted as amended, and a written record shall be kept of such hearing. The amount to be received from personal and real property taxation shall be certified to the levying board after the proposed budget statement is adopted or is amended and adopted as amended. If the levying board represents more than one county, a member or a representative of the governing board shall, upon the written request of any represented county, appear and present its budget at the hearing of the requesting county. The certification of the amount to be received from personal and real property taxation shall specify separately (a) the amount to be applied to the payment of principal or interest on bonds issued or authorized to be issued by the governing body or the legal voters of the political subdivision and (b) the amount to be received for all other purposes. If the adopted budget statement reflects a change from that shown in the published proposed budget statement, a summary of such changes shall be published within twenty calendar days after its adoption in the manner provided in this section, but without provision for hearing, setting forth the items changed and the reasons for such changes.

(2) Upon approval by the governing body, the budget shall be filed with the auditor. The auditor may review the budget for errors in mathematics, improper accounting, and noncompliance with the Nebraska Budget Act or sections 13-518 to 13-522. If the auditor detects such errors, he or she shall immediately notify the governing body of such errors. The governing body shall correct any such error as provided in section 13-511. Warrants for the payment of expenditures provided in the budget adopted under this section shall be valid notwithstanding any errors or noncompliance for which the auditor has notified the governing body.

(3) Each school district shall include in the notice required pursuant to subsection (1) of this section the following statement: For more information on statewide receipts and expenditures, and to compare cost per pupil and performance to other school districts, go to: [Insert Internet address for the website established pursuant to section 79-302.01]. In addition, each school district shall electronically publish such statement on the school district website. Such electronic publication shall be prominently displayed with an active link to the Internet address for the website established pursuant to section 79-302.01 to allow the public access to the information.

Source: Laws 1969, c. 145, § 5, p. 672; Laws 1971, LB 129, § 2; Laws 1973, LB 95, § 1; R.S.1943, (1983), § 23-925; Laws 1993, LB 310, § 5; Laws 1996, LB 1362, § 2; Laws 1997, LB 271, § 11; Laws 1999, LB 86, § 4; Laws 2002, LB 568, § 3; Laws 2013, LB111, § 4; Laws 2017, LB151, § 1; Laws 2020, LB148, § 2; Laws 2021, LB528, § 4; Laws 2022, LB1165, § 2.
Effective date July 21, 2022.

A budget of an airport authority adopted without full compliance with the requirements of the Nebraska Budget Act is void and may be set aside. Willms v. Nebraska City Airport Authority, 193 Neb. 567, 228 N.W.2d 276 (1975).

13-507 Levy increase; indicate on budget statement.

When a levy increase has been authorized by vote of the electors, the adopted budget statement shall indicate the amount of the levy increase.

Source: Laws 1969, c. 145, § 6, p. 672; R.S.1943, (1983), § 23-926.

13-508 Adopted budget statement; certified taxable valuation; levy.

(1) After publication and hearing thereon and within the time prescribed by law, each governing body shall file with and certify to the levying board or boards on or before September 30 of each year or September 30 of the final year of a biennial period and file with the auditor a copy of the adopted budget statement which complies with sections 13-518 to 13-522 or 79-1023 to 79-1030, together with the amount of the tax required to fund the adopted budget, setting out separately (a) the amount to be levied for the payment of principal or interest on bonds issued or authorized to be issued by the governing body or the legal voters of the political subdivision and (b) the amount to be levied for all other purposes. Proof of publication shall be attached to the statements. For fiscal years prior to fiscal year 2017-18, learning communities shall also file a copy of such adopted budget statement with member school districts on or before September 1 of each year. If the prime rate published by the Federal Reserve Board is ten percent or more at the time of the filing and certification required under this subsection, the governing body, in certifying the amount required, may make allowance for delinquent taxes not exceeding five percent of the amount required plus the actual percentage of delinquent taxes for the preceding tax year or biennial period and for the amount of estimated tax loss from any pending or anticipated litigation which involves taxation and in which tax collections have been or can be withheld or escrowed by court order. For purposes of this section, anticipated litigation shall be limited to the anticipation of an action being filed by a taxpayer who or which filed a similar action for the preceding year or biennial period which is still pending. Except for such allowances, a governing body shall not certify an amount of tax more than one percent greater or lesser than the amount determined under section 13-505.

(2) Each governing body shall use the certified taxable values as provided by the county assessor pursuant to section 13-509 for the current year in setting or certifying the levy. Each governing body may designate one of its members to perform any duty or responsibility required of such body by this section.

Source: Laws 1969, c. 145, § 7, p. 672; Laws 1971, LB 129, § 3; Laws 1977, LB 391, § 1; Laws 1979, LB 178, § 1; R.S.1943, (1983), § 23-927; Laws 1989, LB 643, § 1; Laws 1992, LB 1063, § 4; Laws 1992, Second Spec. Sess., LB 1, § 4; Laws 1993, LB 310, § 6; Laws 1993, LB 734, § 19; Laws 1995, LB 452, § 2; Laws 1996, LB 299, § 11; Laws 1996, LB 900, § 1018; Laws 1996, LB 1362, § 3; Laws 1997, LB 269, § 10; Laws 1998, LB 306, § 2; Laws 1998, Spec. Sess., LB 1, § 1; Laws 1999, LB 86, § 5; Laws 2002, LB 568, § 4; Laws 2006, LB 1024, § 2; Laws 2008, LB1154, § 1; Laws 2009, LB166, § 1; Laws 2013, LB111, § 5; Laws 2016, LB1067, § 2; Laws 2017, LB432, § 1; Laws 2018, LB377, § 1; Laws 2021, LB644, § 6; Laws 2022, LB1165, § 3. Effective date July 21, 2022.

A budget of an airport authority adopted without full compliance with the requirements of the Nebraska Budget Act is void and may be set aside. Willms v. Nebraska City Airport Authority, 193 Neb. 567, 228 N.W.2d 276 (1975).

13-509 County assessor; certify taxable value; when; annexation of property; governing body; duties.

(1) On or before August 20 of each year, the county assessor shall certify to each governing body or board empowered to levy or certify a tax levy the current taxable value of the taxable real and personal property subject to the applicable levy. The certification shall be provided to the governing body or board (a) by mail if requested by the governing body or board, (b) electronically, or (c) by listing such certification on the county assessor's website.

(2) Current taxable value for real property shall mean the value established by the county assessor and equalized by the county board of equalization and the Tax Equalization and Review Commission. Current taxable value for tangible personal property shall mean the net book value reported by the taxpayer and certified by the county assessor.

(3) If a political subdivision annexes property since the last time taxable values were certified under subsection (1) of this section, the governing body of such political subdivision shall file and record a certified copy of the annexation ordinance, petition, or resolution in the office of the register of deeds or, if none, the county clerk and the county assessor of the county in which the annexed property is located. The annexation ordinance, petition, or resolution shall include a full legal description of the annexed property. If the register of deeds or county clerk receives and records such ordinance, petition, or resolution prior to July 1 or, for annexations by a city of the metropolitan class, prior to August 1, the valuation of the real and personal property annexed shall be considered in the taxable valuation of the annexing political subdivision for the current year. If the register of deeds or county clerk receives and records such ordinance, petition, or resolution on or after July 1 or, for annexations by a city of the metropolitan class, on or after August 1, the valuation of the real and personal property annexed shall be considered in the taxable valuation of the annexing political subdivision for the following year.

Source: Laws 1977, LB 391, § 3; Laws 1979, LB 187, § 256; Laws 1984, LB 835, § 1; R.S.Supp.,1986, § 23-927.01; Laws 1991, LB 829, § 1; Laws 1992, LB 1063, § 5; Laws 1992, Second Spec. Sess., LB 1, § 5; Laws 1993, LB 734, § 20; Laws 1994, LB 902, § 12; Laws 1995, LB 452, § 3; Laws 1997, LB 271, § 12; Laws 1997, LB 397, § 2; Laws 1998, LB 306, § 3; Laws 1999, LB 194, § 1; Laws 1999, LB 813, § 1; Laws 2005, LB 261, § 1; Laws 2009, LB166, § 2; Laws 2010, LB1071, § 1; Laws 2017, LB217, § 2; Laws 2019, LB524, § 1.

13-509.01 Cash balance; expenditure authorized; limitation.

On and after the first day of its fiscal year in 1993 and of each succeeding year or on or after the first day of its biennial period and until the adoption of the budget by a governing body in September, the governing body may expend any balance of cash on hand for the current expenses of the political subdivision governed by the governing body. Except as provided in section 13-509.02, such expenditures shall not exceed an amount equivalent to the total amount expended under the last budget in the equivalent period of the prior budget year or biennial period. Such expenditures shall be charged against the appro-

priations for each individual fund or purpose as provided in the budget when adopted.

Source: Laws 1993, LB 734, § 21; Laws 1994, LB 1257, § 4; Laws 2013, LB111, § 6.

13-509.02 Cash balance; expenditure limitation; exceeded; when; section, how construed.

The restriction on expenditures in section 13-509.01 may be exceeded upon the express finding of the governing body of the political subdivision that expenditures beyond the amount authorized are necessary to enable the political subdivision to meet its statutory duties and responsibilities. The finding and approval of the expenditures in excess of the statutory authorization shall be adopted by the governing body of the political subdivision in open public session of the governing body. Expenditures authorized by this section shall be charged against appropriations for each individual fund or purpose as provided in the budget when adopted, and nothing in this section shall be construed to authorize expenditures by the political subdivision in excess of that authorized by any other statutory provision.

Source: Laws 1994, LB 1257, § 1.

13-510 Emergency; transfer of funds; violation; penalty.

Whenever during the current fiscal year or biennial period it becomes apparent to a governing body that due to unforeseen emergencies there is temporarily insufficient money in a particular fund to meet the requirements of the adopted budget of expenditures for that fund, the governing body may by a majority vote, unless otherwise provided by state law, transfer money from other funds to such fund. No expenditure during any fiscal year or biennial period shall be made in excess of the amounts indicated in the adopted budget statement, except as authorized in section 13-511, or by state law. Any officer or officers of any governing body who obligates funds contrary to the provisions of this section shall be guilty of a Class V misdemeanor.

Source: Laws 1969, c. 145, § 8, p. 673; Laws 1977, LB 40, § 95; R.S.1943, (1983), § 23-928; Laws 2000, LB 1116, § 7.

A determination of ''emergency'' under the Nebraska Budget Act is a question for a county board and will not be disturbed on appeal unless there has been an abuse of discretion. Meyer v. Colin, 204 Neb. 96, 281 N.W.2d 737 (1979).

13-511 Revision of adopted budget statement; when; supplemental funds; hearing; notice; warrants; issuance; correction.

(1) Unless otherwise provided by law, whenever during the current fiscal year or biennial period it becomes apparent to a governing body that (a) there are circumstances which could not reasonably have been anticipated at the time the budget for the current year or biennial period was adopted, (b) the budget adopted violated sections 13-518 to 13-522, such that the revenue of the current fiscal year or biennial period for any fund thereof will be insufficient, additional expenses will be necessarily incurred, or there is a need to reduce the budget requirements to comply with sections 13-518 to 13-522, or (c) the governing body has been notified by the auditor of a mathematical or accounting error or noncompliance with the Nebraska Budget Act, such governing body may propose to revise the previously adopted budget statement and shall conduct a

public hearing on such proposal. The public hearing requirement shall not apply to emergency expenditures pursuant to section 81-829.51.

(2) Notice of the time and place of the hearing shall be published at least four calendar days prior to the date set for hearing in a newspaper of general circulation within the governing body's jurisdiction. For purposes of such notice, the four calendar days shall include the day of publication but not the day of hearing. Such published notice shall set forth (a) the time and place of the hearing, (b) the amount in dollars of additional or reduced money required and for what purpose, (c) a statement setting forth the nature of the unanticipated circumstances and, if the budget requirements are to be increased, the reasons why the previously adopted budget of expenditures cannot be reduced during the remainder of the current year or biennial period to meet the need for additional money in that manner, (d) a copy of the summary of the originally adopted budget previously published, and (e) a copy of the summary of the proposed revised budget.

(3) At such hearing any taxpayer may appear or file a written statement protesting any application for additional money. A written record shall be kept of all such hearings.

(4) Upon conclusion of the public hearing on the proposed revised budget and approval of the proposed revised budget by the governing body, the governing body shall file with the county clerk of the county or counties in which such governing body is located, with the learning community coordinating council for fiscal years prior to fiscal year 2017-18 for school districts that are members of learning communities, and with the auditor, a copy of the revised budget, as adopted. The governing body may then issue warrants in payment for expenditures authorized by the adopted revised budget. Such warrants shall be referred to as registered warrants and shall be repaid during the next fiscal year or biennial period from funds derived from taxes levied therefor.

(5) Within thirty calendar days after the adoption of the budget under section 13-506, a governing body may, or within thirty calendar days after notification of an error by the auditor, a governing body shall, correct an adopted budget which contains a clerical, mathematical, or accounting error which does not affect the total amount budgeted by more than one percent or increase the amount required from property taxes. No public hearing shall be required for such a correction. After correction, the governing body shall file a copy of the corrected budget with the county clerk of the county or counties in which such governing body is located and with the auditor. The governing body may then issue warrants in payment for expenditures authorized by the budget.

Source: Laws 1969, c. 145, § 9, p. 673; R.S.1943, (1983), § 23-929; Laws 1993, LB 734, § 22; Laws 1996, LB 299, § 12; Laws 1999, LB 86, § 6; Laws 2000, LB 1116, § 8; Laws 2001, LB 797, § 2; Laws 2002, LB 568, § 5; Laws 2006, LB 1024, § 3; Laws 2015, LB283, § 1; Laws 2016, LB1067, § 3; Laws 2017, LB151, § 2.

13-512 Budget statement; taxpayer; contest; basis; procedure.

A taxpayer upon whom a tax will be imposed as a result of the action of a governing body in adopting a budget statement may contest the validity of the budget statement adopted by the governing body by filing an action in the district court of the county in which the governing body is situated. Such action

shall be based either upon a violation of or a failure to comply with the provisions and requirements of the Nebraska Budget Act by the governing body. In response to such action, the governing body shall be required to show cause why the budget statement should not be ordered set aside, modified, or changed. The action shall be tried to the court without a jury and shall be given priority by the district court over other pending civil litigation, and by the appellate court on appeal, to the extent possible and feasible to expedite a decision. Such action shall be filed within thirty days after the adopted budget statement is required to be filed by the governing body with the levying board. If the district court finds that the governing body has violated or failed to comply with the requirements of the act, the court shall, in whole or in part, set aside, modify, or change the adopted budget statement or tax levy as the justice of the case may require. The district court's decision may be appealed to the Court of Appeals.

The remedy provided in this section shall not be exclusive but shall be in addition to any other remedy provided by law.

Source: Laws 1969, c. 145, § 10, p. 674; Laws 1979, LB 187, § 125; R.S.1943, (1983), § 23-930; Laws 1991, LB 732, § 18; Laws 1992, LB 360, § 2.

In an action hereunder, the trial court is without authority to award the plaintiff an attorney's fee. Willms v. Nebraska City Airport Authority, 193 Neb. 567, 228 N.W.2d 276 (1975).

13-513 Auditor; request information; late fee; failure to provide information; auditor powers.

(1) The auditor shall, on or before August 1 each year, request information from each governing body in a form prescribed by the auditor regarding (a) trade names, corporate names, or other business names under which the governing body operates and (b) agreements to which the governing body is a party under the Interlocal Cooperation Act and the Joint Public Agency Act. Each governing body shall provide such information to the auditor on or before September 30.

(2) Information requested pursuant to this section that is not received by the auditor on or before September 30 shall be delinquent. The auditor shall notify the political subdivision by facsimile transmission, email, or first-class mail of such delinquency. Beginning on the day that such notification is sent, the auditor may assess the political subdivision a late fee of twenty dollars per day for each calendar day the requested information remains delinquent. The total late fee assessed to a political subdivision under this section shall not exceed two thousand dollars per delinquency.

(3) The auditor shall remit to the State Treasurer for credit to the Auditor of Public Accounts Cash Fund a remedial fee sufficient to reimburse the direct costs of administering and enforcing this section, but such remedial fee shall not exceed one hundred dollars from any late fee received under this section. The auditor shall remit any late fee amount in excess of one hundred dollars received under this section to the State Treasurer to be distributed in accordance with Article VII, section 5, of the Constitution of Nebraska.

(4) If a political subdivision fails to provide the information requested under this section on or before September 30, the auditor may, at his or her

discretion, audit such political subdivision. The expense of such audit shall be paid by the political subdivision.

Source: Laws 2004, LB 939, § 2; Laws 2013, LB192, § 1; Laws 2017, LB151, § 3; Laws 2021, LB644, § 7.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

13-514 Repealed. Laws 1992, LB 1063, § 214; Laws 1992, Second Spec. Sess., LB 1, § 182.

13-515 Repealed. Laws 2000, LB 968, § 91.

(b) POWER DISTRICTS AND AGENCIES

13-516 Public power district; public power and irrigation district; rural power district; power project agency; proposed budget; contents; notice; meeting; changes.

A public power district or public power and irrigation district organized pursuant to Chapter 70, article 6, a rural power district organized pursuant to Chapter 70, article 8, or any agency created pursuant to sections 18-2426 to 18-2434 shall prepare in writing each year a proposed budget which shall include at a minimum: Revenue from all sources separately stated as to each source and expenditures from the prior two years; estimates of the current year's revenue from all sources separately stated as to each source and expenditures; and a summary which outlines the fiscal policy of the district or agency for the period covered by the budget. Such proposed budget shall be available for inspection by the general public at each district's or agency's principal headquarters at least seven days prior to the meeting of the board of directors at which such budget is to be adopted. The budget shall be in a form approved by the Nebraska Power Review Board.

Notice of the place and time of such meeting of the board of directors shall be published at least seven days prior to the date set for such meeting in a newspaper of general circulation within the district or agency. The notice shall include a statement that the proposed budget is available for public inspection and the location where it is available. Any changes to the proposed budget made between the date the proposed budget is made available for public inspection and the date of the board meeting shall be added to the proposed budget at the principal headquarters of the district or agency prior to the board meeting. At such meeting the public shall have an opportunity to testify before the proposed budget is adopted, and a written record shall be kept of such meeting. If the adopted budget reflects a change from that shown in the proposed budget a summary of such changes shall be available for inspection at the principal headquarters of such district or agency.

Source: Laws 1993, LB 310, § 12.

(c) SCHOOL DISTRICTS AND EDUCATIONAL SERVICE UNITS

13-517 School districts and educational service units; Nebraska Budget Act applicable.

The annual budget of all school districts and educational service units shall be subject to the Nebraska Budget Act.

Source: Laws 1967, c. 509, § 1, p. 1711; Laws 1971, LB 292, § 19; R.S.1943, (1981), § 79-548; Laws 1987, LB 127, § 2; Laws 1992, LB 1063, § 196; Laws 1992, Second Spec. Sess., LB 1, § 167; R.S.Supp.,1992, § 79-547.03; Laws 1993, LB 348, § 42.

Cross References

Nebraska Budget Act, see section 13-501.

(d) BUDGET LIMITATIONS

13-518 Terms, defined.

For purposes of sections 13-518 to 13-522:

(1) Allowable growth means (a) for governmental units other than community colleges, the percentage increase in taxable valuation in excess of the base limitation established under section 77-3446, if any, due to improvements to real property as a result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any increase in valuation due to annexation and any personal property valuation over the prior year and (b) for community colleges, the percentage increase in excess of the base limitation, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined;

(2) Capital improvements means (a) acquisition of real property or (b) acquisition, construction, or extension of any improvements on real property;

(3) Governing body has the same meaning as in section 13-503;

(4) Governmental unit means every political subdivision which has authority to levy a property tax or authority to request levy authority under section 77-3443 except sanitary and improvement districts which have been in existence for five years or less and school districts;

(5) Qualified sinking fund means a fund or funds maintained separately from the general fund to pay for acquisition or replacement of tangible personal property with a useful life of five years or more which is to be undertaken in the future but is to be paid for in part or in total in advance using periodic payments into the fund. The term includes sinking funds under subdivision (13) of section 35-508 for firefighting and rescue equipment or apparatus;

(6) Restricted funds means (a) property tax, excluding any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee, (g) any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements but which were not spent and are not expected to be spent for capital improvements, (h) the tax provided in sections 77-27,223 to 77-27,227 beginning in the second fiscal year in which the county will receive a full year of receipts, and (i) any excess tax collections returned to the county under section 77-1776. Funds received pursuant to the nameplate capacity tax levied under section 77-6203 for the first five years after

a renewable energy generation facility has been commissioned are nonrestricted funds; and

(7) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-3,202 and 77-3523 and reimbursement provided pursuant to section 77-1239;

(b) For municipalities, state aid to municipalities paid pursuant to sections 39-2501 to 39-2520, 60-3,190, and 77-27,139.04 and insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections 60-3,184 to 60-3,190, insurance premium tax paid to counties, and reimbursements to counties from funds appropriated pursuant to section 29-3933;

(d) For community colleges, state aid to community colleges paid pursuant to the Community College Aid Act;

(e) For educational service units, state aid appropriated under sections 79-1241.01 and 79-1241.03; and

(f) For local public health departments as defined in section 71-1626, state aid as distributed under section 71-1628.08.

Source: Laws 1996, LB 299, § 1; Laws 1997, LB 269, § 11; Laws 1998, LB 989, § 1; Laws 1998, LB 1104, § 4; Laws 1999, LB 36, § 2; Laws 1999, LB 86, § 7; Laws 1999, LB 881, § 6; Laws 2001, LB 335, § 1; Laws 2002, LB 259, § 6; Laws 2002, LB 876, § 3; Laws 2003, LB 540, § 1; Laws 2003, LB 563, § 16; Laws 2004, LB 1005, § 1; Laws 2005, LB 274, § 222; Laws 2007, LB342, § 30; Laws 2009, LB218, § 1; Laws 2009, LB549, § 1; Laws 2010, LB1048, § 1; Laws 2010, LB1072, § 1; Laws 2011, LB59, § 1; Laws 2011, LB383, § 1; Laws 2012, LB946, § 8; Laws 2015, LB259, § 4; Laws 2015, LB424, § 1; Laws 2017, LB382, § 1; Laws 2019, LB3, § 1; Laws 2021, LB509, § 1.

Cross References

Community College Aid Act, see section 85-2231.

13-519 Governmental unit; adoption of budget; limitations; additional increases authorized; procedure.

(1)(a) Subject to subdivisions (1)(b) and (c) of this section, for all fiscal years beginning on or after July 1, 1998, no governmental unit shall adopt a budget containing a total of budgeted restricted funds more than the last prior year's total of budgeted restricted funds plus allowable growth plus the basic allowable growth percentage of the base limitation established under section 77-3446. For the second fiscal year in which a county will receive a full year of receipts from the tax imposed in sections 77-27,223 to 77-27,227, the prior year's total of restricted funds shall be the prior year's total of restricted funds plus the total receipts from the tax imposed in sections 77-27,223 to 77-27,227 in the prior year. If a governmental unit transfers the financial responsibility of providing a service financed in whole or in part with restricted funds to another governmental unit or the state, the amount of restricted funds associated with providing the service shall be subtracted from the last prior year's total of budgeted restricted funds for the previous provider and may be added to the last prior year's total of restricted funds for the new provider. For governmental units that have consolidated, the calculations made under this section for

consolidating units shall be made based on the combined total of restricted funds, population, or full-time equivalent students of each governmental unit.

(b) For all fiscal years beginning on or after July 1, 2008, educational service units may exceed the limitations of subdivision (1)(a) of this section to the extent that one hundred ten percent of the needs for the educational service unit calculated pursuant to section 79-1241.03 exceeds the budgeted restricted funds allowed pursuant to subdivision (1)(a) of this section.

(c) For fiscal year 2017-18, the last prior year's total of restricted funds for counties shall be the last prior year's total of restricted funds less the last prior year's restricted funds budgeted by counties under sections 39-2501 to 39-2520, plus the last prior year's amount of restricted funds budgeted by counties under sections 39-2501 to 39-2520 to be used for capital improvements.

(d) The limitations of subdivision (1)(a) of this section shall not apply to the budget or budget statement adopted by a regional metropolitan transit authority for the first five fiscal years commencing on the January 1 that follows the effective date of the conversion of the transit authority established under the Transit Authority Law into a regional metropolitan transit authority.

(2) A governmental unit may exceed the limit provided in subdivision (1)(a) of this section for a fiscal year by up to an additional one percent upon the affirmative vote of at least seventy-five percent of the governing body.

(3) A governmental unit may exceed the applicable allowable growth percentage otherwise prescribed in this section by an amount approved by a majority of legal voters voting on the issue at a special election called for such purpose upon the recommendation of the governing body or upon the receipt by the county clerk or election commissioner of a petition requesting an election signed by at least five percent of the legal voters of the governmental unit. The recommendation of the governing body or the petition of the legal voters shall include the amount and percentage by which the governing body would increase its budgeted restricted funds for the ensuing year over and above the current year's budgeted restricted funds. The county clerk or election commissioner shall call for a special election on the issue within thirty days after the receipt of such governing body recommendation or legal voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the governing body. The issue may be approved on the same question as a vote to exceed the levy limits provided in section 77-3444.

(4) In lieu of the election procedures in subsection (3) of this section, any governmental unit may, for a period of one year, exceed the allowable growth percentage otherwise prescribed in this section by an amount approved by a majority of legal voters voting at a meeting of the residents of the governmental unit, called after notice is published in a newspaper of general circulation in the governmental unit at least twenty days prior to the meeting. At least ten percent of the registered voters residing in the governmental unit shall constitute a quorum for purposes of taking action to exceed the allowable growth percentage. If a majority of the registered voters present at the meeting vote in favor of exceeding the allowable growth percentage, a copy of the record of that action shall be forwarded to the Auditor of Public Accounts along with the budget documents. The issue to exceed the allowable growth percentage may be

approved at the same meeting as a vote to exceed the limits or final levy allocation provided in section 77-3444.

Source: Laws 1996, LB 299, § 2; Laws 1998, LB 989, § 2; Laws 2001, LB 329, § 9; Laws 2002, LB 259, § 7; Laws 2003, LB 9, § 1; Laws 2005, LB 38, § 1; Laws 2008, LB1154, § 2; Laws 2009, LB121, § 1; Laws 2009, LB501, § 1; Laws 2010, LB1072, § 2; Laws 2015, LB261, § 1; Laws 2017, LB382, § 2; Laws 2019, LB212, § 1; Laws 2019, LB492, § 27.

Cross References

Election Act, see section 32-101.
Transit Authority Law, see section 14-1826.

13-520 Limitations; not applicable to certain restricted funds.

The limitations in section 13-519 shall not apply to (1) restricted funds budgeted for capital improvements, (2) restricted funds expended from a qualified sinking fund for acquisition or replacement of tangible personal property with a useful life of five years or more, (3) restricted funds pledged to retire bonds as defined in subdivision (1) of section 10-134 and approved according to law, (4) restricted funds used by a public airport to retire interest-free loans from the Division of Aeronautics of the Department of Transportation in lieu of bonded indebtedness at a lower cost to the public airport, (5) restricted funds budgeted in support of a service which is the subject of an agreement or a modification of an existing agreement whether operated by one of the parties to the agreement or by an independent joint entity or joint public agency, (6) restricted funds budgeted to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster emergency pursuant to the Emergency Management Act, (7) restricted funds budgeted to pay for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a governmental unit which require or obligate a governmental unit to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a governmental unit, (8) restricted funds budgeted to pay benefits under the Firefighter Cancer Benefits Act, or (9) the dollar amount by which restricted funds budgeted by a natural resources district to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed its restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04.

Source: Laws 1996, LB 299, § 3; Laws 1998, LB 989, § 3; Laws 1999, LB 86, § 8; Laws 1999, LB 87, § 54; Laws 1999, LB 141, § 1; Laws 2004, LB 962, § 4; Laws 2009, LB121, § 2; Laws 2015, LB261, § 2; Laws 2017, LB339, § 73; Laws 2019, LB212, § 2; Laws 2021, LB432, § 10.

Cross References

Emergency Management Act, see section 81-829.36.
Firefighter Cancer Benefits Act, see section 35-1002.
Nebraska Ground Water Management and Protection Act, see section 46-701.

13-521 Governmental unit; unused restricted funds; authority to carry forward.

A governmental unit may choose not to increase its total of restricted funds by the full amount allowed by law in a particular year. In such cases, the governmental unit may carry forward to future budget years the amount of unused restricted funds authority. The governmental unit shall calculate its unused restricted funds authority and submit an accounting of such amount with the budget documents for that year. Such unused restricted funds authority may then be used in later years for increases in the total of restricted funds allowed by law. Any unused budget authority existing on April 8, 1998, by reason of any prior law may be used for increases in restricted funds authority.

Source: Laws 1996, LB 299, § 4; Laws 1998, LB 989, § 4.

13-522 Noncompliance with budget limitations; Auditor of Public Accounts; State Treasurer; duties.

The Auditor of Public Accounts shall prepare budget documents to be submitted by governmental units which calculate the restricted funds authority for each governmental unit. Each governmental unit shall submit its calculated restricted funds authority with its budget documents at the time the budgets are due to the Auditor of Public Accounts. If the Auditor of Public Accounts determines from the budget documents that a governmental unit is not complying with the budget limits provided in sections 13-518 to 13-522, he or she shall notify the governing body of his or her determination and notify the State Treasurer of the noncompliance. The State Treasurer shall then suspend distribution of state aid allocated to the governmental unit until such sections are complied with. The funds shall be held for six months until the governmental unit complies, and if the governmental unit complies within the six-month period, it shall receive the suspended funds, but after six months, if the governmental unit fails to comply, the suspended funds shall be forfeited and shall be redistributed to other recipients of the state aid or, in the case of homestead exemption reimbursement, returned to the General Fund.

Source: Laws 1996, LB 299, § 5.

ARTICLE 6

FINANCES

Section
13-601. Local governments; receive funds from United States Government; expenditures authorized.
13-602. Revenue sharing; interpretation.
13-603. Revenue sharing; supplemental to existing laws; joint operations authorized.
13-604. Municipalities and counties; federal and other funds; expenditures authorized.
13-605. State, municipalities, and counties; housing and community development programs; funding and administration authorized; restriction.
13-606. Financial statements; filing requirements.
13-607. Repealed. Laws 2016, LB843, § 9.
13-608. Repealed. Laws 2016, LB843, § 9.
13-609. Electronic payments; acceptance; conditions.
13-610. Purchasing card program; authorized; requirements; governing body; duties.

13-601 Local governments; receive funds from United States Government; expenditures authorized.

It shall be lawful for any unit of local government of the State of Nebraska to receive funds from the United States Government pursuant to Title I of the federal State and Local Fiscal Assistance Act of 1972, Public Law 92-512, 92nd

Congress, Second Session, 31 U.S.C. 1221 and following, or any successor act thereto. Such local government may use local assistance and other available resources for any purpose for which other revenue may be lawfully expended including the following:

(1) Ordinary and necessary maintenance and operating expenses for (a) public safety, including law enforcement, fire protection, and building code enforcement, (b) environmental protection, including sewage disposal, sanitation, and pollution abatement, (c) public transportation, including transit systems and streets and roads, (d) health, (e) recreation, (f) libraries, (g) social services as defined in section 68-1202, and (h) financial administration; and

(2) Ordinary and necessary capital expenditures authorized by law.

Source: Laws 1974, LB 824, § 1; Laws 1978, LB 519, § 2; R.S.1943, (1983), § 23-2701.

13-602 Revenue sharing; interpretation.

It is the intent of the Legislature that in construing section 13-601 the courts will be guided by the interpretations given by the Office of Revenue Sharing, U.S. Department of Treasury and by the federal courts to section 103 of the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1222, as from time to time amended.

Source: Laws 1974, LB 824, § 2; R.S.1943, (1983), § 23-2702.

13-603 Revenue sharing; supplemental to existing laws; joint operations authorized.

The provisions of sections 13-601 to 13-603 are supplementary to existing laws relating to any unit of local government and confer upon such units of local government powers not previously granted by state law to permit those governmental subdivisions to use such funds and other available resources for the purposes of sections 13-601 to 13-603, and any unit of local government shall have the power to join with any other governmental subdivision, or with any agency or nonprofit corporation, whether federal, state, or local, or with any number or combinations thereof, by contract or otherwise, in joint ownership, operation of any function, or exercise of any power pursuant to the provisions of sections 13-601 to 13-603, or in agreements containing the provision that one or more operate or perform for the other or others.

Source: Laws 1974, LB 824, § 3; R.S.1943, (1983), § 23-2703.

13-604 Municipalities and counties; federal and other funds; expenditures authorized.

It shall be lawful for any municipality and for any county to spend its own revenue and other available resources, including funds received under Title I of the federal State and Local Fiscal Assistance Act of 1972 (Public Law 92-512, 23 U.S.C. chapter 24), or any successor act thereto, for any purpose for which other revenue may be lawfully expended including the following:

(1) Ordinary and necessary maintenance and operating expenses for (a) public safety, including law enforcement, fire protection, and building code enforcement; (b) environmental protection, including sewage disposal, sanitation and pollution abatement; (c) public transportation, including transit sys-

tems for streets and roads; (d) health; (e) recreation; (f) libraries; (g) social services as defined in section 68-1202; and (h) financial administration; and

(2) Ordinary and necessary capital expenditures authorized by law.

Source: Laws 1975, LB 345, § 1; Laws 1978, LB 519, § 1; R.S.1943, (1983), § 18-1735.

13-605 State, municipalities, and counties; housing and community development programs; funding and administration authorized; restriction.

The Legislature hereby finds and declares that the problems relating to the critical social, economic, and environmental problems of the nation's cities, towns, and smaller urban communities which are found and declared to exist by the Congress of the United States in the Housing and Community Development Act of 1974 as amended through the Housing and Community Development Amendments of 1981 exist within this state and that it is in the public interest for the state, cities of all classes, villages, or counties to be authorized to apply for, receive, or expend federal funds for the eligible activities under such act or to administer such programs. The Legislature hereby declares such activities to be a public purpose within this state. Money received from the federal government for such activities shall be placed in a distinct and separate fund and shall not be commingled with other money of the state, city, village, or county.

Source: Laws 1983, LB 71, § 1; R.S.1943, (1983), § 18-1735.01.

13-606 Financial statements; filing requirements.

Every governing body of any political subdivision that is required by law to submit to an audit of its accounts shall provide and file with its secretary or clerk, in the year of its organization and each year thereafter, not later than August 1 of each year, financial statements showing its actual and budgeted figures for the most recently completed fiscal year.

Source: Laws 1984, LB 932, § 2; R.S.Supp.,1986, § 23-934.

13-607 Repealed. Laws 2016, LB843, § 9.

13-608 Repealed. Laws 2016, LB843, § 9.

13-609 Electronic payments; acceptance; conditions.

(1) Any county treasurer, county official, or political subdivision official may accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a method of cash payment of any tax, levy, excise, duty, custom, toll, interest, penalty, fine, license, fee, or assessment of whatever kind or nature, whether general or special, as provided by section 77-1702.

(2) The total amount of such taxes, levies, excises, duties, customs, tolls, interest, penalties, fines, licenses, fees, or assessments of whatever kind or nature, whether general or special, paid for by credit card, charge card, debit card, or electronic funds transfer shall be collected by the county treasurer, county official, or political subdivision official.

(3) Any political subdivision operating a facility in a proprietary capacity may choose to accept credit cards, charge cards, or debit cards, whether presented in person or electronically, or electronic funds transfers as a means of cash

payment and may adjust the price for services to reflect the handling and payment costs.

(4) The county treasurer, county official, or political subdivision official shall obtain, for each transaction, authorization for use of any credit card, charge card, or debit card used pursuant to this section from the financial institution, vending service company, credit card or charge card company, or third-party merchant bank providing such service.

(5) The types of credit cards, charge cards, or debit cards accepted and the payment services provided shall be determined by the State Treasurer and the Director of Administrative Services with the advice of a committee convened by the State Treasurer and the director. The committee shall consist of the State Treasurer, the Tax Commissioner, the director, and representatives from counties, cities, and other political subdivisions as may be appropriate. The committee shall develop recommendations for the contracting of such services. The State Treasurer and the director shall contract with one or more credit card, charge card, or debit card companies or third-party merchant banks for services on behalf of the state and those counties, cities, and political subdivisions that choose to participate in the state contract for such services. The State Treasurer and the director shall consider, for purposes of this section, any negotiated discount, processing, or transaction fee imposed by a credit card, charge card, or debit card company or third-party merchant bank as an administrative expense. Counties, cities, and other political subdivisions that choose not to participate in the state contract may choose types of credit cards, charge cards, and debit cards and may negotiate and contract independently or collectively as a governmental entity with one or more financial institutions, vending service companies, credit card, charge card, or debit card companies, or third-party merchant banks for the provision of such services. All county officials within each county choosing to accept credit cards, charge cards, and debit cards shall contract for services through the same financial institutions, vending service companies, credit card, charge card, or debit card companies, or third-party merchant banks for the provision of such services. County officials who accept credit cards, charge cards, and debit cards shall notify the county board of such decision and the discount or administrative fees charged for such service.

(6) A county treasurer, county official, or political subdivision official authorizing acceptance of credit card or charge card payments shall be authorized but not required to impose a surcharge or convenience fee upon the person making a payment by credit card or charge card so as to wholly or partially offset the amount of any discount or administrative fees charged to the political subdivision, but the surcharge or convenience fee shall not exceed the surcharge or convenience fee imposed by the credit card or charge card companies or third-party merchant banks which have contracted under subsection (5) of this section. The surcharge or convenience fee shall be applied only when allowed by the operating rules and regulations of the credit card or charge card involved or when authorized in writing by the credit card or charge card company involved. When a person elects to make a payment to a political subdivision by credit card or charge card and such a surcharge or convenience fee is imposed, the payment of such surcharge or convenience fee shall be deemed voluntary by such person and shall be in no case refundable. If a payment is made electronically by credit card, charge card, debit card, or electronic funds transfer as part of a system for providing or retrieving

information electronically, the county treasurer, county official, or political subdivision official shall be authorized but not required to impose an additional surcharge or convenience fee upon the person making a payment.

(7) For purposes of this section, electronic funds transfer means the movement of funds by nonpaper means, usually through a payment system, including, but not limited to, an automated clearinghouse or the Federal Reserve's Fedwire system.

Source: Laws 1997, LB 70, § 2; Laws 2002, LB 994, § 1.

13-610 Purchasing card program; authorized; requirements; governing body; duties.

(1) A political subdivision, through its governing body, may create its own purchasing card program. The governing body shall determine the type of purchasing card or cards utilized in the purchasing card program and shall approve or disapprove those persons who will be assigned a purchasing card. Under the direction of its governing body, any political subdivision may contract with one or more financial institutions, card-issuing banks, credit card companies, charge card companies, debit card companies, or third-party merchant banks capable of operating the purchasing card program on behalf of the political subdivision. Expenses associated with the political subdivision's purchasing card program shall be considered, for purposes of this section, as an administrative or operational expense.

(2) Any political subdivision may utilize its purchasing card program for the purchase of goods and services for and on behalf of the political subdivision.

(3) Vendors accepting a political subdivision's purchasing card shall obtain authorization for all transactions. Authorization shall be from the financial institution, card-issuing bank, credit card company, charge card company, debit card company, or third-party merchant bank contracted to provide such service to the political subdivision. Each transaction shall be authorized in accordance with the instructions provided by the political subdivision.

(4) An itemized receipt for purposes of tracking expenditures shall accompany all purchasing card purchases. In the event that a receipt does not accompany such a purchase, purchasing card privileges shall be temporarily or permanently suspended in accordance with rules and regulations adopted and promulgated by the political subdivision.

(5) Upon the termination or suspension of employment of an individual using a purchasing card, such individual's purchasing card account shall be immediately closed and he or she shall return the purchasing card to the political subdivision.

(6) No officer or employee of a political subdivision shall use a political subdivision purchasing card for any unauthorized use as determined by the governing body.

Source: Laws 1999, LB 113, § 2.

ARTICLE 7

NEBRASKA EMERGENCY SEAT OF LOCAL GOVERNMENT ACT

Cross References

Constitutional provisions:
Governmental continuity in emergencies, see Article III, section 29, Constitution of Nebraska.

Section
13-701. Act, how cited.
13-702. Terms, defined.
13-703. Temporary location of seat of government; location.
13-704. Temporary location of seat of government; validity of acts done.
13-705. Temporary location of seat of government; conditions; rules and regulations; preliminary plans and preparations; construction permitted.
13-706. Sections, how construed.

13-701 Act, how cited.

Sections 13-701 to 13-706 shall be known and may be cited as the Nebraska Emergency Seat of Local Government Act.

Source: Laws 1959, c. 92, § 1, p. 402; Laws 1972, LB 1048, § 3; R.S.1943, (1983), § 23-2101.

13-702 Terms, defined.

As used in sections 13-701 to 13-706, and unless otherwise clearly required by the context, the following terms have the respective meanings and connotations shown:

(1) An attack means any action or series of actions by an enemy of the United States, causing, or which may cause, substantial injury or damage to civilian persons or property in the United States in any manner, whether by sabotage, or by the use of bombs, missiles, or shellfire, or by atomic, radiological, chemical, bacteriological, or biological means, or by other weapons or processes;

(2) The term political subdivisions includes counties, townships, cities, villages, districts, authorities, and other public corporations and entities, whether organized and existing under direct provisions of the Constitution of Nebraska or statutes of this state, or by virtue of charters or other corporate articles or instruments executed under authority of such Constitution or laws; and

(3) The term seat of local government, when applied to a political subdivision, usually means the place fixed by law, charter, etc., as the situs of its separate government; as, for example, the county seat of a county. But in any instance where the law, charter, etc., does not fix a specific place therefor, then the term seat of local government means the place at which the separate government of the subdivision usually is maintained in accordance with tradition or custom.

Source: Laws 1959, c. 92, § 2, p. 402; R.S.1943, (1983), § 23-2102.

13-703 Temporary location of seat of government; location.

Whenever, due to an emergency resulting from the effects of any enemy attack upon the United States, or the immediate threat thereof, it becomes imprudent, inexpedient, or impossible to conduct the affairs of the government of any political subdivision at the permanent seat of local government, the governing body thereof shall meet at such place, within or without the territorial limits of the subdivision, as the presiding officer or any two members may fix, and then shall proceed to establish and designate, by ordinance, resolution, resolve, or other appropriate manner, a temporary location or locations for an emergency local seat of government. Such location or locations shall be a site or sites which, in the judgment of the governing body, is or are proper and appropriate, under the conditions and circumstances then prevailing, and may

be within or without the territorial limits of the political subdivision, or within or without this state. Thereafter, such governing body shall take such action and shall issue such orders and directives as may be necessary for the prompt and orderly transition of the affairs of the local government to such temporary location or locations. Such temporary location or locations shall be and remain the emergency local seat of government until another temporary location or locations shall be designated in the same manner, or until the Governor, by proclamation, or the Legislature, by resolution approved by the Governor, shall declare the emergency to be ended, at which time the seat of local government shall be returned to its permanent location, or shall be removed to a new permanent seat of local government established in accordance with the Constitution of Nebraska and general laws of this state.

Source: Laws 1959, c. 92, § 3, p. 402; R.S.1943, (1983), § 23-2103.

13-704 Temporary location of seat of government; validity of acts done.

During such time as such temporary location or locations shall remain the emergency seat of local government of any such political subdivision, all official acts done or performed thereat by or on the part of any officer, office, council, board, court, department, or division, or any other agency or authority of such political subdivision, shall be as valid, effective and binding as if regularly done or performed at the permanent seat of local government.

Source: Laws 1959, c. 92, § 4, p. 403; R.S.1943, (1983), § 23-2104.

13-705 Temporary location of seat of government; conditions; rules and regulations; preliminary plans and preparations; construction permitted.

(1) The official designation of the location or locations of an emergency seat of local government, and the removal thereto of the government of the political subdivision concerned, shall be subject to such rules and regulations as may be promulgated by the then Governor; and shall in no instance precede: (a) The inception of an attack; or (b) the inception of a strategic or tactical warning period duly proclaimed by the President of the United States, the Governor of Nebraska, or both such officials and based on the imminence of an attack.

(2) Prior to any such attack or warning period, any political subdivision is hereby authorized and empowered to make such preliminary plans and preparations as may be deemed necessary and advisable to facilitate the subsequent accomplishment, during such emergency, of the actions provided in sections 13-701 to 13-706. Such plans and preparations, which likewise shall be subject to such rules and regulations as may be promulgated by the then Governor, may include any or all of the following steps, but shall not necessarily be limited thereto: (a) Selection, by the governing body as mentioned in section 13-703, of a tentative location or locations for an emergency local seat of government, in the event that as provided in subsection (1) of this section, it subsequently becomes necessary and advisable to designate such tentative location or locations as the official location or locations of the emergency local seat of government; (b) negotiation with local authorities, property owners, and other proper persons, for the possible use and occupancy of specific buildings, areas, or buildings and areas, at or near such tentative location or locations, for the purposes mentioned in sections 13-701 to 13-706 during a subsequent emergency; and (c) storing and stockpiling, at or near the tentative location or locations, of essential supplies and equipment, or vital records or duplicates

thereof which would be necessary to permit the continuity of the governmental operation of the political subdivision concerned in an emergency.

(3) Prior to an attack or warning period, as set out in subsection (1) of this section, neither any political subdivision, nor any official or agency of or on behalf thereof, shall, except only for the storage and safeguarding of vital records or duplicates thereof, purchase, contract for the purchase of, or obligate funds of the state or of such political subdivision for the purchase of any real estate or appurtenance thereto, for subsequent use as an emergency local seat of government; *Provided,* that no political subdivision, nor any official or agency of or on behalf thereof, shall be prevented from constructing an emergency local seat of government on any property owned by such political subdivision or owned jointly with some other political subdivision, and such local seat of government may be constructed as a part of a joint city and county jail authorized under sections 47-302 to 47-308.

Source: Laws 1959, c. 92, § 5, p. 403; Laws 1963, c. 122, § 1, p. 469; R.S.1943, (1983), § 23-2105.

13-706 Sections, how construed.

The provisions of sections 13-701 to 13-706, in the event they shall be employed, shall control and take precedence over any provision of any other law, charter, ordinance, or regulation to the contrary or in conflict therewith; *Provided,* that nothing herein shall be construed as contravening, suspending, or otherwise affecting any provision of the Constitution of Nebraska or laws of this state, or of any local charter or other corporate articles or instrument of the political subdivision concerned, relating to the permanent relocation of any local seat of government.

Source: Laws 1959, c. 92, § 6, p. 405; Laws 1972, LB 1048, § 4; R.S.1943, (1983), § 23-2106.

ARTICLE 8

INTERLOCAL COOPERATION ACT

Section
13-801. Act, how cited.
13-802. Purpose of act.
13-803. Terms, defined.
13-804. Public agencies; powers; agreements.
13-805. Public agencies; submission of agreements for approval; when.
13-806. Public agencies; appropriation of funds; supply personnel.
13-807. Public agencies; contracts authorized; contents.
13-808. Joint entity; issuance of bonds; powers; purposes.
13-809. Joint entity; issuance of bonds; amounts; use.
13-810. Issuance of bonds; immunity; limitations.
13-811. Issuance of bonds; authorization; terms; signature.
13-812. Bonds and coupons; negotiability; sale; price.
13-813. Bonds and coupons; validity of signatures.
13-814. Issuance of bonds; joint entity; powers.
13-815. Joint entity; refunding bonds; authorized.
13-816. Refunding bonds; exchange.
13-817. Refunding bonds; proceeds; use.
13-818. Refunding bonds; terms.
13-819. Bond issuance; other consent not required.
13-820. Joint entity; publication of resolution or other proceeding.
13-821. Joint entity; notice of intention to issue bonds; contents.

Section
13-822. Resolution, proceeding, or bonds; right to contest.
13-823. Bonds; designated as securities; investment authorized.
13-824. Joint entity; bonds and property; exempt from taxation; when.
13-824.01. Contracts relating to electric generating facility and related facilities; estimated cost; bid procedure; advertising; purchases authorized without advertising or sealed bidding.
13-824.02. Advertisement for sealed bids; requirements.
13-824.03. Governing body; award of contract; considerations.
13-825. Act, how construed.
13-826. Pledge of state.
13-827. Act, liberal construction.

13-801 Act, how cited.

Sections 13-801 to 13-827 shall be known and may be cited as the Interlocal Cooperation Act.

Source: Laws 1963, c. 333, § 2, p. 1071; R.S.1943, (1983), § 23-2202; Laws 1991, LB 731, § 1; Laws 2007, LB636, § 1.

13-802 Purpose of act.

It is the purpose of the Interlocal Cooperation Act to permit local governmental units to make the most efficient use of their taxing authority and other powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

Source: Laws 1963, c. 333, § 1, p. 1071; R.S.1943, (1983), § 23-2201; Laws 1991, LB 731, § 2; Laws 1996, LB 1177, § 14.

The city of Omaha was not authorized by the Interlocal Cooperation Act to divert part of Elmwood Park to the university for a parking lot. Gallagher v. City of Omaha, 189 Neb. 598, 204 N.W.2d 157 (1973).

Interest in holding job with governmental agency not first amendment interest, but first amendment protections come into play when governmental employer makes decision to deprive public employee of benefit of government employment on a basis that infringes his interest in freedom of speech or association. Rose v. Eastern Neb. Human Serv. Agency, 510 F.Supp. 1343 (D. Neb. 1981).

13-803 Terms, defined.

For purposes of the Interlocal Cooperation Act:

(1) Joint entity shall mean an entity created by agreement pursuant to section 13-804;

(2) Public agency shall mean any county, city, village, school district, or agency of the state government or of the United States, any drainage district, sanitary and improvement district, or other municipal corporation or political subdivision of this state, and any political subdivision of another state;

(3) Public safety services shall mean public services for the protection of persons or property. Public safety services shall include law enforcement, fire protection, and emergency response services; and

(4) State shall mean a state of the United States and the District of Columbia.

Source: Laws 1963, c. 333, § 3, p. 1071; Laws 1971, LB 874, § 1; Laws 1975, LB 104, § 9; R.S.1943, (1983), § 23-2203; Laws 1991, LB 731, § 3; Laws 1996, LB 1177, § 15.

13-804 Public agencies; powers; agreements.

(1) Any power or powers, privileges, or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges, and authority conferred by the Interlocal Cooperation Act upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the Interlocal Cooperation Act. Appropriate action by ordinance, resolution, or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) Any such agreement shall specify the following:

(a) Its duration;

(b) The general organization, composition, and nature of any separate legal or administrative entity created by the agreement together with the powers delegated to the entity;

(c) Its purpose or purposes;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) The manner of levying, collecting, and accounting for any tax authorized under sections 13-318 to 13-326 or 13-2813 to 13-2816; and

(g) Any other necessary and proper matters.

(4) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items enumerated in subsection (3) of this section, contain the following:

(a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, the public agencies party to the agreement shall be represented; and

(b) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.

(5) No agreement made pursuant to the Interlocal Cooperation Act shall relieve any public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance by a joint board or other legal or administrative entity created by an agreement made pursuant to the act, which performance may be offered in satisfaction of the obligation or responsibility.

(6) In the event that an agreement made pursuant to this section creates a joint entity, such joint entity shall be subject to control by its members in accordance with the terms of the agreement; shall constitute a separate public body corporate and politic of this state, exercising public powers and acting on behalf of the public agencies which are parties to such agreement; and shall

have power (a) to sue and be sued, (b) to have a seal and alter the same at pleasure or to dispense with its necessity, (c) to make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and (d) from time to time, to make, amend, and repeal bylaws, rules, and regulations, not inconsistent with the Interlocal Cooperation Act and the agreement providing for its creation, to carry out and effectuate its powers and purposes.

(7) No entity created by local public agencies pursuant to the Interlocal Cooperation Act shall be considered a state agency, and no employee of such an entity shall be considered a state employee.

(8) Any governing body as defined in section 13-503 which is a party to an agreement made pursuant to the Interlocal Cooperation Act shall provide information to the Auditor of Public Accounts regarding such agreements as required in section 13-513.

Source: Laws 1963, c. 333, § 4, p. 1072; R.S.1943, (1983), § 23-2204; Laws 1991, LB 81, § 1; Laws 1991, LB 731, § 4; Laws 1996, LB 1177, § 16; Laws 1997, LB 269, § 12; Laws 2001, LB 142, § 26; Laws 2004, LB 939, § 3.

Under subsection (6) of this section, a joint entity created under the Interlocal Cooperation Act is subject to the control of its members in accordance with the agreement. City of Falls City v. Nebraska Mun. Power Pool, 279 Neb. 238, 777 N.W.2d 327 (2010).

13-805 Public agencies; submission of agreements for approval; when.

In the event that an agreement made pursuant to the Interlocal Cooperation Act deals in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by the officer or agency as to all matters within the officer's or agency's jurisdiction.

Source: Laws 1963, c. 333, § 5, p. 1073; Laws 1975, LB 104, § 10; R.S.1943, (1983), § 23-2205; Laws 1991, LB 731, § 5.

13-806 Public agencies; appropriation of funds; supply personnel.

Any public agency entering into an agreement pursuant to the Interlocal Cooperation Act may appropriate funds and may sell, lease, give, or otherwise supply the administrative joint board, joint entity, or other legal or administrative entity created to operate the joint or cooperative undertaking by providing such personnel or services therefor as may be within its legal power to furnish.

Source: Laws 1963, c. 333, § 6, p. 1073; R.S.1943, (1983), § 23-2206; Laws 1991, LB 731, § 6.

13-807 Public agencies; contracts authorized; contents.

Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity, or undertaking which at least one of the public agencies entering into the contract is authorized by law to perform. Such contract shall be authorized by the governing body of each party to the contract. Such contract shall set forth fully as provided in the Interlocal Cooperation Act the purposes, powers, rights, objectives, and responsibilities of the contracting parties.

Source: Laws 1963, c. 333, § 7, p. 1074; R.S.1943, (1983), § 23-2207; Laws 1991, LB 731, § 7; Laws 1997, LB 269, § 13.

13-808 Joint entity; issuance of bonds; powers; purposes.

(1) Any joint entity may issue such types of bonds as its governing body may determine subject only to any agreement with the holders of outstanding bonds, including bonds as to which the principal and interest are payable exclusively from all or a portion of the revenue from one or more projects, from one or more revenue-producing contracts, including securities acquired from any person, bonds issued by any qualified public agency under the Public Facilities Construction and Finance Act, or leases made by the joint entity with any person, including any of those public agencies which are parties to the agreement creating the joint entity, or from its revenue generally or which may be additionally secured by a pledge of any grant, subsidy, or contribution from any person or a pledge of any income or revenue, funds, or money of the joint entity from any source whatsoever or a mortgage or security interest in any real or personal property, commodity, product, or service or interest therein.

(2) Any bonds issued by such joint entity shall be issued on behalf of those public agencies which are parties to the agreement creating such joint entity and shall be authorized to be issued for the specific purpose or purposes for which the joint entity has been created. Such specific purposes may include, but shall not be limited to, joint projects authorized by the Public Facilities Construction and Finance Act; solid waste collection, management, and disposal; waste recycling; sanitary sewage treatment and disposal; public safety communications; correctional facilities; water treatment plants and distribution systems; drainage systems; flood control projects; fire protection services; ground water quality management and control; river-flow enhancement; education and postsecondary education; hospital and other health care services; bridges, roads, and streets; and law enforcement.

(3) As an alternative to issuing bonds for financing public safety communication projects, any joint entity may enter into a financing agreement with the Nebraska Investment Finance Authority for such purpose.

(4) Any joint entity formed for purposes of providing or assisting with the provision of public safety communications may enter into an agreement with any other joint entity relating to (a) the operation, maintenance, or management of the property or facilities of such joint entity or (b) the operation, maintenance, or management of the property or facilities of such other joint entity.

Source: Laws 1991, LB 731, § 8; Laws 2002, LB 1211, § 1; Laws 2005, LB 217, § 9; Laws 2007, LB701, § 13.

Cross References

Public Facilities Construction and Finance Act, see section 72-2301.

13-809 Joint entity; issuance of bonds; amounts; use.

Any joint entity may from time to time issue its bonds in such principal amounts as its governing body shall deem necessary to provide sufficient funds to carry out any of the joint entity's purposes and powers, including the establishment or increase of reserves, the payment of interest accrued during construction of a project and for such period thereafter as the governing body may determine, and the payment of all other costs or expenses of the joint entity incident to and necessary or convenient to carry out its purposes and powers. Bonds issued on or after April 18, 2018, for purposes of the Public

Facilities Construction and Finance Act shall be subject to a vote prior to issuance as provided in the act.

Source: Laws 1991, LB 731, § 9; Laws 2018, LB1000, § 1.

Cross References

Public Facilities Construction and Finance Act, see section 72-2301.

13-810 Issuance of bonds; immunity; limitations.

(1) Neither the members of a joint entity's governing body nor any person executing the bonds shall be liable personally on such bonds by reason of the issuance thereof.

(2) The bonds shall not be a debt of any political subdivision or of this state and neither this state nor any political subdivision shall be liable thereon. Bonds shall be payable only out of any funds or properties of the issuing joint entity. Such limitations shall be plainly stated upon the face of the bonds.

Source: Laws 1991, LB 731, § 10.

13-811 Issuance of bonds; authorization; terms; signature.

Bonds shall be authorized by resolution of the issuing joint entity's governing body and may be issued under a resolution or under a trust indenture or other security instrument in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, trust indenture, or other security instrument may provide and without limitation by any other law limiting amounts, maturities, or interest rates. Any officer authorized or designated to sign, countersign, execute, or attest any bond or any coupon may utilize a facsimile signature in lieu of his or her manual signature.

Source: Laws 1991, LB 731, § 11.

13-812 Bonds and coupons; negotiability; sale; price.

(1) Except as the issuing joint entity's governing body may otherwise provide, any bond and any interest coupons thereto attached shall be fully negotiable within the meaning of and for all purposes of article 8, Uniform Commercial Code.

(2) The bonds may be sold at public or private sale as the issuing joint entity's governing body may provide and at such price or prices as such governing body shall determine.

Source: Laws 1991, LB 731, § 12.

13-813 Bonds and coupons; validity of signatures.

If any of the officers whose signatures appear on any bonds or coupons cease to be such officers before the delivery of such obligations, such signatures shall nevertheless be valid and sufficient for all purposes to the same extent as if such officers had remained in office until such delivery.

Source: Laws 1991, LB 731, § 13.

13-814 Issuance of bonds; joint entity; powers.

Any joint entity may in connection with the issuance of its bonds:

(1) Covenant as to the use of any or all of its property, real or personal;

(2) Redeem the bonds, covenant for their redemption, and provide the terms and conditions thereof;

(3) Covenant to charge or seek necessary approvals to charge rates, fees, and charges sufficient to meet operating and maintenance expenses of the agency, costs of renewals and replacements to a project, interest and principal payments, whether at maturity or upon sinking-fund redemption, on any outstanding bonds or other indebtedness of the joint entity, and creation and maintenance of any reasonable reserves therefor and to provide for any margins or coverages over and above debt service on the bonds deemed desirable for the marketability or security of the bonds;

(4) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity, as to the terms and conditions upon which such declaration and its consequences may be waived, and as to the consequences of default and the remedies of bondholders;

(5) Covenant as to the mortgage or pledge of or the grant of any other security interest in any real or personal property and all or any part of the revenue from any project or projects or any revenue-producing contract or contracts made by the joint entity with any person to secure the payment of bonds, subject to such agreements with the holders of outstanding bonds as may then exist;

(6) Covenant as to the custody, collection, securing, investment, and payment of any revenue, assets, money, funds, or property with respect to which the joint entity may have any rights or interest;

(7) Covenant as to the purposes to which the proceeds from the sale of any bonds then or thereafter to be issued may be applied and the pledge of such proceeds to secure the payment of the bonds;

(8) Covenant as to limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

(9) Covenant as to the rank or priority of any bonds with respect to any lien or security;

(10) Covenant as to the procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(11) Covenant as to the custody, safekeeping, and insurance of any of its properties or investments and the use and disposition of insurance proceeds;

(12) Covenant as to the vesting in a trustee or trustees, within or outside the state, of such properties, rights, powers, and duties in trust as the joint entity may determine;

(13) Covenant as to the appointing and providing for the duties and obligations of a paying agent or paying agents or other fiduciaries within or outside the state;

(14) Make all other covenants and do any and all such acts and things as may be necessary, convenient, or desirable in order to secure its bonds or in the absolute discretion of the joint entity tend to make the bonds more marketable, notwithstanding that such covenants, acts, or things may not be enumerated in this section; and

(15) Execute all instruments necessary or convenient in the exercise of the powers in the Interlocal Cooperation Act granted or in the performance of covenants or duties, which instruments may contain such covenants and provisions as any purchaser of bonds may reasonably require.

Source: Laws 1991, LB 731, § 14.

13-815 Joint entity; refunding bonds; authorized.

Any joint entity may issue and sell refunding bonds for the purpose of paying or providing for the payment of any of its bonds at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at any time prior to or at the maturity or redemption of the refunded bonds as the joint entity's governing body deems appropriate. The refunding bonds may be issued in principal amount not exceeding an amount sufficient to pay or to provide for the payment of (1) the principal of the bonds being refunded, (2) any redemption premium thereon, (3) interest accrued or to accrue to the first or any subsequent redemption date or dates selected by the joint entity's governing body in its discretion or to the date or dates of maturity, whichever is determined to be most advantageous or convenient for the joint entity, (4) the expenses of issuing the refunding bonds, including bond discount, and redeeming the bonds being refunded, and (5) such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be deemed necessary or convenient by the governing body of the issuing joint entity. A determination by the governing body that any refinancing is advantageous or necessary to the joint entity, that any of the amounts provided in this section should be included in such refinancing, or that any of the bonds to be refinanced should be called for redemption on the first or any subsequent redemption date or permitted to remain outstanding until their respective dates of maturity shall be conclusive.

Source: Laws 1991, LB 731, § 15.

13-816 Refunding bonds; exchange.

Refunding bonds may be exchanged for and in payment and discharge of any of the outstanding obligations being refunded. The refunding bonds may be exchanged for a like, greater, or smaller principal amount of the bonds being refunded as the issuing joint entity's governing body may determine in its discretion. The holder or holders of the bonds being refunded need not pay accrued interest on the refunding bonds if and to the extent that interest is due or accrued and unpaid on the bonds being refunded and to be surrendered.

Source: Laws 1991, LB 731, § 16.

13-817 Refunding bonds; proceeds; use.

To the extent not required for the immediate payment and retirement of the obligations being refunded or for the payment of expenses incurred in connection with such refunding and subject to any agreement with the holders of any outstanding bonds, principal proceeds from the sale of any refunding bonds

shall be deposited in trust to provide for the payment and retirement of the bonds being refunded, payment of interest and any redemption premiums, and payment of any expenses incurred in connection with such refunding, but provision may be made for the pledging and disposition of any surplus, including, but not limited to, provision for the pledging of any such surplus to the payment of the principal of and interest on any issue or series of refunding bonds. Money in any such trust fund may be invested in direct obligations of or obligations the principal of and interest on which are guaranteed by the United States Government, in obligations of any agency or instrumentality of the United States Government, or in certificates of deposit issued by a bank, capital stock financial institution, qualifying mutual financial institution, or trust company if such certificates are secured by a pledge of any of such obligations having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing in this section shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded but which have not matured and which are not presently redeemable or, if presently redeemable, have not been called for redemption. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1991, LB 731, § 17; Laws 2001, LB 362, § 7.

13-818 Refunding bonds; terms.

The issue of refunding bonds, the manner of sale, the maturities, interest rates, form, and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties, and obligations of the joint entity in respect of the same shall be governed by the provisions of the Interlocal Cooperation Act relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

Source: Laws 1991, LB 731, § 18.

13-819 Bond issuance; other consent not required.

Bonds may be issued under the Interlocal Cooperation Act without obtaining the consent of any department, division, commission, board, bureau, or instrumentality of this state and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required therefor by the Interlocal Cooperation Act, and the validity of and security for any bonds shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions, or things.

Source: Laws 1991, LB 731, § 19.

13-820 Joint entity; publication of resolution or other proceeding.

The governing body of the joint entity may provide for the publication of any resolution or other proceeding adopted by it pursuant to the Interlocal Cooperation Act in a newspaper of general circulation published in the political subdivision or county where the principal office or place of business of the joint agency is located or, if no newspaper is so published, in a newspaper qualified to carry legal notices having general circulation in the political subdivision or county.

Source: Laws 1991, LB 731, § 20.

13-821 Joint entity; notice of intention to issue bonds; contents.

In the case of a resolution or other proceeding providing for the issuance of bonds pursuant to the Interlocal Cooperation Act, the governing body of the joint entity may, either before or after the adoption of such resolution or other proceeding, in lieu of publishing the entire resolution or other proceeding, publish a notice of intention to issue bonds under the act, titled as such, containing:

(1) The name of the joint entity;

(2) The purpose of the issue, including a brief description of the project and the name of the political subdivisions to be serviced by the project;

(3) The principal amount of bonds to be issued;

(4) The maturity date or dates and amount or amounts maturing on such dates;

(5) The maximum rate of interest payable on the bonds; and

(6) The times and place where a copy of the form of the resolution or other proceeding providing for the issuance of the bonds may be examined which shall be at an office of the joint entity, identified in the notice, during regular business hours of the joint entity as described in the notice and for a period of at least thirty days after the publication of the notice.

Source: Laws 1991, LB 731, § 21.

13-822 Resolution, proceeding, or bonds; right to contest.

For a period of thirty days after such publication, any interested person shall have the right to contest the legality of such resolution or proceeding or any bonds which may be authorized thereby, any provisions made for the security and payment of such bonds, or any contract of purchase, sale, or lease relating to the issuance of such bonds. After such time no one shall have any cause of action to contest the regularity, formality, or legality thereof for any cause whatsoever.

Source: Laws 1991, LB 731, § 22.

13-823 Bonds; designated as securities; investment authorized.

Bonds issued pursuant to the Interlocal Cooperation Act shall be securities in which all public officers and instrumentalities of the state and all political subdivisions, insurance companies, trust companies, banks, savings and loan associations, investment companies, executors, administrators, personal representatives, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds shall be securities which may properly and legally be deposited with and received by any officer or instrumentality of this state or any political subdivision for any purpose for which the deposit of bonds or obligations of this state or any political subdivision thereof is now or may hereafter be authorized by law.

Source: Laws 1991, LB 731, § 23.

13-824 Joint entity; bonds and property; exempt from taxation; when.

(1) All bonds of a joint entity are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all taxes.

(2) The property of a joint entity to the extent it is used for a public purpose, including any pro rata share of any property owned by a joint entity in conjunction with any other person, is declared to be public property of a governmental subdivision of the state. Such property and the income of a joint entity shall be exempt from all taxes of the state or any political subdivision of the state and shall be exempt from all special assessments of any participating municipality if used for a public purpose.

Source: Laws 1991, LB 731, § 24; Laws 2001, LB 173, § 11.

13-824.01 Contracts relating to electric generating facility and related facilities; estimated cost; bid procedure; advertising; purchases authorized without advertising or sealed bidding.

(1) A joint entity shall cause estimates of the costs to be made by some competent engineer or engineers before the joint entity enters into any contract for the construction, management, ownership, maintenance, or purchase of an electric generating facility and related facilities.

(2) If the estimated cost exceeds the sum of one hundred thousand dollars, no such contract shall be entered into without advertising for sealed bids.

(3)(a) The provisions of subsection (2) of this section and sections 13-824.02 and 13-824.03 relating to sealed bids shall not apply to contracts entered into by a joint entity in the exercise of its rights and powers relating to radioactive material or the energy therefrom, any technologically complex or unique equipment, equipment or supplemental labor procurement from an electric utility or from or through an electric utility alliance, or any maintenance or repair if:

(i) The engineer or engineers certify that, by reason of the nature of the subject matter of the contract, compliance with subsection (2) of this section would be impractical or not in the public interest;

(ii) The engineer's certification is approved by a two-thirds vote of the governing body of the joint entity; and

(iii) The joint entity advertises notice of its intention to enter into such contract, the general nature of the proposed work, and the name of the person to be contacted for additional information by anyone interested in contracting for such work.

(b) Any contract for which the governing body has approved an engineer's certificate described in subdivision (a) of this subsection shall be advertised in three issues, not less than seven days between issues, in one or more newspapers of general circulation in the municipality or county where the principal office or place of business of the joint entity is located, or if no newspaper is so published then in a newspaper qualified to carry legal notices having general circulation therein, and in such additional newspapers or trade or technical periodicals as may be selected by the governing body in order to give proper notice of its intention to enter into such contract, and any such contract shall not be entered into prior to twenty days after the last advertisement.

(4) The provisions of subsection (2) of this section and sections 13-824.02 and 13-824.03 shall not apply to contracts in excess of one hundred thousand dollars entered into for the purchase of any materials, machinery, or apparatus to be used in facilities described in subsection (1) of this section if, after advertising for sealed bids:

(a) No responsive bids are received; or

(b) The governing body of the joint entity determines that all bids received are in excess of the fair market value of the subject matter of such bids.

(5) Notwithstanding any other provision of subsection (2) of this section or sections 13-824.02 and 13-824.03, a joint entity may, without advertising or sealed bidding, purchase replacement parts or services relating to such replacement parts for any generating unit, transformer, or other transmission and distribution equipment from the original manufacturer of such equipment upon certification by an engineer or engineers that such manufacturer is the only available source of supply for such replacement parts or services and that such purchase is in compliance with standards established by the governing body of the joint entity. A written statement containing such certification and a description of the resulting purchase of replacement parts or services from the original manufacturer shall be submitted to the joint entity by the engineer or engineers certifying the purchase for the governing body's approval. After such certification, but not necessarily before the governing body's review, notice of any such purchase shall be published once a week for at least three consecutive weeks in one or more newspapers of general circulation in the municipality or county where the principal office or place of business of the joint entity is located and published in such additional newspapers or trade or technical periodicals as may be selected by the governing body in order to give proper notice of such purchase.

(6) Notwithstanding any other provision of subsection (2) of this section or sections 13-824.02 and 13-824.03, a joint entity may, without advertising or sealed bidding, purchase used equipment and materials on a negotiated basis upon certification by an engineer that such equipment is or such materials are in compliance with standards established by the governing body. A written statement containing such certification shall be submitted to the joint entity by the engineer for the governing body's approval.

Source: Laws 2007, LB636, § 2; Laws 2008, LB939, § 1; Laws 2011, LB155, § 1.

13-824.02 Advertisement for sealed bids; requirements.

Prior to advertisement for sealed bids, plans and specifications for the proposed work or materials shall be prepared and filed at the principal office or place of business of the joint entity. Such advertisement shall be made in three issues, not less than seven days between issues, in one or more newspapers of general circulation in the municipality or county where the principal office or place of business of the joint entity is located, or if no newspaper is so published then in a newspaper qualified to carry legal notices having general circulation therein, and in such additional newspapers or trade or technical periodicals as may be selected by the governing body of the joint entity in order to give proper notice of the receiving of bids. Such advertisement shall designate the nature of the work proposed to be done or materials proposed to be purchased, that the plans and specifications therefor may be inspected at the office of the joint entity, giving the location thereof, the time within which bids shall be filed, and the date, hour, and place the same shall be opened.

Source: Laws 2007, LB636, § 3.

13-824.03 Governing body; award of contract; considerations.

The governing body of the joint entity may let the contract for such work or materials to the responsible bidder who submits the lowest and best bid, or in the sole discretion of the governing body, all bids tendered may be rejected, and readvertisement for bids made, in the manner, form, and time as provided in section 13-824.02. In determining whether a bidder is responsible, the governing body may consider the bidder's financial responsibility, skill, experience, record of integrity, ability to furnish repairs and maintenance services, and ability to meet delivery or performance deadlines and whether the bid is in conformance with specifications. Consideration may also be given by the governing body of the joint entity to the relative quality of supplies and services to be provided, the adaptability of machinery, apparatus, supplies, or services to be purchased to the particular uses required, the preservation of uniformity, and the coordination of machinery and equipment with other machinery and equipment already installed. No such contract shall be valid nor shall any money of the joint entity be expended thereunder unless advertisement and letting has been had as provided in sections 13-824.01 to 13-824.03.

Source: Laws 2007, LB636, § 4.

13-825 Act, how construed.

The provisions of the Interlocal Cooperation Act shall be deemed to provide an additional, alternative, and complete method for the doing of the things authorized by the act and shall be deemed and construed to be supplemental and additional to, and not in derogation of, powers conferred upon political subdivisions, agencies, and others by law. Insofar as the provisions of the Interlocal Cooperation Act are inconsistent with the provisions of any general or special law, administrative order, or regulation, the provisions of the Interlocal Cooperation Act shall be controlling.

Source: Laws 1991, LB 731, § 25.

13-826 Pledge of state.

The State of Nebraska does hereby pledge to and agree with the holders of any bonds and with those persons who may enter into contracts with any joint entity or political subdivision under the Interlocal Cooperation Act that the state will not alter, impair, or limit the rights thereby vested until the bonds, together with applicable interest, are fully met and discharged and such contracts are fully performed. Nothing contained in the Interlocal Cooperation Act shall preclude such alteration, impairment, or limitation if and when adequate provisions are made by law for the protection of the holders of the bonds or persons entering into contracts with any joint entity or political subdivision. Each joint entity and political subdivision may include this pledge and undertaking for the state in such bonds or contracts.

Source: Laws 1991, LB 731, § 26.

13-827 Act, liberal construction.

The Interlocal Cooperation Act is necessary for the welfare of the state and its inhabitants and shall be construed liberally to effect its purposes.

Source: Laws 1991, LB 731, § 27.

ARTICLE 9
POLITICAL SUBDIVISIONS TORT CLAIMS ACT

Section
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13-901 Act, how cited.

Sections 13-901 to 13-928 shall be known and may be cited as the Political Subdivisions Tort Claims Act.

Source: Laws 1969, c. 138, § 20, p. 634; Laws 1984, LB 590, § 1; Laws 1985, Second Spec. Sess., LB 14, § 1; Laws 1987, LB 258, § 5; R.S.Supp.,1987, § 23-2420; Laws 2007, LB564, § 1; Laws 2011, LB589, § 1.

The Political Subdivisions Tort Claims Act provides for interaction between that act and the Nebraska Hospital-Medical Liability Act. Jacobson v. Shresta, 21 Neb. App. 102, 838 N.W.2d 19 (2013).

13-902 Legislative declarations.

The Legislature hereby declares that no political subdivision of the State of Nebraska shall be liable for the torts of its officers, agents, or employees, and that no suit shall be maintained against such political subdivision or its officers, agents, or employees on any tort claim except to the extent, and only to the extent, provided by the Political Subdivisions Tort Claims Act. The Legislature further declares that it is its intent and purpose through this enactment to provide uniform procedures for the bringing of tort claims against all political subdivisions, whether engaging in governmental or proprietary functions, and

that the procedures provided by the act shall be used to the exclusion of all others.

Source: Laws 1969, c. 138, § 1, p. 627; R.S.1943, (1983), § 23-2401; Laws 1992, LB 262, § 7.

1. Suits subject to act
2. Constitutionality
3. Appeals under act
4. Miscellaneous

1. Suits subject to act

The Political Subdivisions Tort Claims Act reflects a limited waiver of governmental immunity and prescribes the exclusive procedure for maintenance of a tort claim against a political subdivision or its officers, agents, or employees. Reiber v. County of Gage, 303 Neb. 325, 928 N.W.2d 916 (2019).

Tort actions against political subdivisions of the State of Nebraska are governed exclusively by the Political Subdivisions Tort Claims Act. McKenna v. Julian, 277 Neb. 522, 763 N.W.2d 384 (2009).

The Political Subdivisions Tort Claims Act removes, in part, the traditional immunity of subdivisions for the negligent acts of their employees. Talbot v. Douglas County, 249 Neb. 620, 544 N.W.2d 839 (1996).

A sanitary and improvement district is a ''political subdivision'' to which the terms of the Political Subdivisions Tort Claims Act apply. West Omaha Inv. v. S.I.D. No. 48, 227 Neb. 785, 420 N.W.2d 291 (1988).

A drainage district is a political subdivision within the meaning of the Political Subdivisions Tort Claims Act. Parriott v. Drainage District No. 6, 226 Neb. 123, 410 N.W.2d 97 (1987).

An irrigation district properly organized under the statutes is a political subdivision. Peterson v. Gering Irr. Dist., 219 Neb. 281, 363 N.W.2d 145 (1985).

This act specifically excludes from its provisions any claim arising in respect to the detention of goods or merchandise by any law enforcement officer. Nash v. City of North Platte, 198 Neb. 623, 255 N.W.2d 52 (1977).

This section removes, partially, the traditional immunity of subdivisions for the negligent acts of their employees and officers. Koepf v. County of York, 198 Neb. 67, 251 N.W.2d 866 (1977).

Person intoxicated when confined in cell with another who attacked and injured him recovered damages from city under this act. Daniels v. Andersen, 195 Neb. 95, 237 N.W.2d 397 (1975).

The common law rule of governmental immunity has not been completely abrogated in Nebraska, and an action for damages for misrepresentation and deceit is not permitted. Hall v. Abel Inv. Co., 192 Neb. 256, 219 N.W.2d 760 (1974).

Claim for indemnification and contribution from political subdivision of state does not have to be filed pursuant to the Nebraska Political Subdivisions Tort Claims Act, and its one-year statute of limitations does not apply. Waldinger Co. v. P & Z Co., Inc., 414 F.Supp. 59 (D. Neb. 1976).

2. Constitutionality

Political Subdivisions Tort Claims Act including one-year notice of claim requirement and two-year limitation for bringing action held constitutional. Campbell v. City of Lincoln, 195 Neb. 703, 240 N.W.2d 339 (1976).

3. Appeals under act

A district court's factual findings in a case brought under the Political Subdivisions Tort Claims Act will not be set aside unless such findings are clearly incorrect. Zeller v. County of Howard, 227 Neb. 667, 419 N.W.2d 654 (1988); Hughes v. Enterprise Irrigation Dist., 226 Neb. 230, 410 N.W.2d 494 (1987); Lynn v. Metropolitan Utilities Dist., 225 Neb. 121, 403 N.W.2d 335 (1987).

In reviewing a bench trial under the Political Subdivisions Tort Claims Act, sections 23-2401 et seq., the Supreme Court must consider the evidence in the light most favorable to the successful party, resolving any conflicts in the evidence in favor of that party and giving to that party the benefit of all reasonable inferences that can be deduced from the evidence. The findings of fact of the trial court in a proceeding under this act will not be set aside unless such findings are clearly incorrect. Phillips v. City of Omaha, 227 Neb. 233, 417 N.W.2d 12 (1987).

A municipality, sued under the Political Subdivisions Tort Claims Act, may avail itself of the immunity protections established in the Recreational Liability Act as an owner of land. Bailey v. City of North Platte, 218 Neb. 810, 359 N.W.2d 766 (1984).

Findings of fact made by the district court in a case brought under the Political Subdivisions Tort Claims Act, section 23-2401 et seq., will not be disturbed on appeal unless clearly wrong. Watson v. City of Omaha, 209 Neb. 835, 312 N.W.2d 256 (1981); Craig v. Gage County, 190 Neb. 320, 208 N.W.2d 82 (1973).

In a proceeding brought under the Political Subdivisions Tort Claims Act, the findings of fact by the trial court will not be overturned unless clearly wrong. Lee v. City of Omaha, 209 Neb. 345, 307 N.W.2d 800 (1981); Naber v. City of Humboldt, 197 Neb. 433, 249 N.W.2d 726 (1977).

4. Miscellaneous

The trial court was not clearly wrong in inferring from a political subdivision's admission that an action was brought ''pursuant to'' the Political Subdivisions Tort Claims Act that the plaintiff completely complied with the act, in view of the fact that the political subdivision never challenged compliance through summary judgment, motion for a new trial, or otherwise. Schmid v. Malcolm Sch. Dist., 233 Neb. 580, 447 N.W.2d 20 (1989).

A petition to state a claim against a political subdivision must allege compliance with the terms of the Political Subdivisions Tort Claims Act. West Omaha Inv. v. S.I.D. No. 48, 227 Neb. 785, 420 N.W.2d 291 (1988).

The Political Subdivisions Tort Claims Act does not foreclose suits against individual employees of a political subdivision for their own personal negligence. Dieter v. Hand, 214 Neb. 257, 333 N.W.2d 772 (1983).

Court held evidence of custom and usage in the electrical industry is pertinent on the question of negligence and is a question of fact in determining whether due care has been exercised. Steel Containers, Inc. v. Omaha P. P. Dist., 198 Neb. 81, 251 N.W.2d 669 (1977).

13-903 Terms, defined.

For purposes of the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610, unless the context otherwise requires:

(1) Political subdivision shall include villages, cities of all classes, counties, school districts, learning communities, public power districts, and all other units of local government, including entities created pursuant to the Interlocal Cooperation Act or Joint Public Agency Act. Political subdivision shall not be construed to include any contractor with a political subdivision;

(2) Governing body shall mean the village board of a village, the city council of a city, the board of commissioners or board of supervisors of a county, the board of directors of a public power district, the governing board or other governing body of an entity created pursuant to the Interlocal Cooperation Act or Joint Public Agency Act, and any duly elected or appointed body holding the power and authority to determine the appropriations and expenditures of any other unit of local government;

(3) Employee of a political subdivision shall mean any one or more officers or employees of the political subdivision or any agency of the subdivision and shall include members of the governing body, duly appointed members of boards or commissions when they are acting in their official capacity, volunteer firefighters, and volunteer rescue squad personnel. Employee shall not be construed to include any contractor with a political subdivision; and

(4) Tort claim shall mean any claim against a political subdivision for money only on account of damage to or loss of property or on account of personal injury or death, caused by the negligent or wrongful act or omission of any employee of the political subdivision, while acting within the scope of his or her office or employment, under circumstances in which the political subdivision, if a private person, would be liable to the claimant for such damage, loss, injury, or death but shall not include any claim accruing before January 1, 1970.

Source: Laws 1969, c. 138, § 2, p. 628; Laws 1987, LB 258, § 4; R.S.Supp.,1987, § 23-2402; Laws 1991, LB 81, § 2; Laws 1996, LB 900, § 1019; Laws 1999, LB 87, § 55; Laws 2009, LB392, § 3.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

Volunteer firefighters employed by a nonprofit corporation are employees of a political subdivision under subsection (3) of this section. Hatcher v. Bellevue Vol. Fire Dept., 262 Neb. 23, 628 N.W.2d 685 (2001).

The definition of ''governing body'' under the Political Subdivisions Tort Claims Act does not include an insurance carrier for the political subdivision. Davis v. Town of Clatonia, 231 Neb. 814, 438 N.W.2d 479 (1989).

A contract action does not involve a tort claim, as defined in this section, and thus is not subject to the provisions of the Political Subdivisions Tort Claims Act. Employers Reins. Corp. v. Santee Pub. Sch. Dist. No. C-5, 231 Neb. 744, 438 N.W.2d 124 (1989).

The Political Subdivisions Tort Claims Act eliminates the need for the doctrine by which a claimant is required to prove that the negligent act was committed by the municipal employee in furtherance of a private duty owed to the claimant. Maple v. City of Omaha, 222 Neb. 293, 384 N.W.2d 254 (1986).

The liability of a political subdivision under the Political Subdivisions Tort Claims Act is not absolute, but rather such liability as would exist in a private person without such immunity. Koepf v. County of York, 198 Neb. 67, 251 N.W.2d 866 (1977).

Loss of employment does not qualify as a loss of property under the Political Subdivisions Tort Claims Act. Craw v. City of Lincoln, 24 Neb. App. 788, 899 N.W.2d 915 (2017).

13-904 Governing body; powers.

Authority is hereby conferred upon the governing body of any political subdivision to consider, ascertain, adjust, compromise, settle, determine, and allow any tort claim as defined in the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610.

Source: Laws 1969, c. 138, § 3, p. 628; R.S.1943, (1983), § 23-2403; Laws 1996, LB 900, § 1020.

13-905 Tort claims; filing; requirements.

All tort claims under the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall be filed with the clerk, secretary, or other official whose duty it is to maintain the official records of the political subdivision, or the governing body of a political subdivision may provide that such claims may be filed with the duly constituted law department of such subdivision. It shall be the duty of the official with whom the claim is filed to present the claim to the governing body. All such claims shall be in writing and shall set forth the time and place of the occurrence giving rise to the claim and such other facts pertinent to the claim as are known to the claimant.

Source: Laws 1969, c. 138, § 4, p. 628; R.S.1943, (1983), § 23-2404; Laws 1996, LB 900, § 1021.

1. Constitutionality
2. Notice requirements
3. Affirmative defense

1. Constitutionality

This section is relevant and related to a legitimate governmental interest, and therefore does not violate the uniformity clause of the Nebraska Constitution or the equal protection clause of the U.S. Constitution. Willis v. City of Lincoln, 232 Neb. 533, 441 N.W.2d 846 (1989).

2. Notice requirements

The doctrine of substantial compliance applies when determining whether presuit presentment requirements pertaining to a claim's content are met. Saylor v. State, 306 Neb. 147, 944 N.W.2d 726 (2020).

Where the secretary of a county hospital's board of trustees was the person whose duty it was to maintain the official records of the political subdivision, a claim filed with the county clerk and the county hospital's chief executive officer did not comply with the notice requirements of the Political Subdivisions Tort Claims Act. Brothers v. Kimball Cty. Hosp., 289 Neb. 879, 857 N.W.2d 789 (2015).

A written claim must make a demand upon a political subdivision for the satisfaction of an obligation rather than merely alerting the political subdivision to the possibility of a claim. Jessen v. Malhotra, 266 Neb. 393, 665 N.W.2d 586 (2003).

For substantial compliance with the written notice requirements of this section, within 1 year from the act or omission on which the claim is based, the written notice of the claim must be filed with an individual or office designated in the Political Subdivisions Tort Claims Act as the authorized recipient for notice of claim against a political subdivision. A notice of claim filed only with one unauthorized to receive a claim pursuant to this section does not substantially comply with the notice requirements of the act. Estate of McElwee v. Omaha Transit Auth., 266 Neb. 317, 664 N.W.2d 461 (2003).

With regard to a claim's content, substantial compliance with the statutory provisions supplies the requisite and sufficient notice to a political subdivision, so long as the written notice is filed with an individual or office designated in the Political Subdivisions Tort Claims Act as the authorized recipient of claims. Woodard v. City of Lincoln, 256 Neb. 61, 588 N.W.2d 831 (1999).

Notice requirements for a claim filed pursuant to the Political Subdivisions Tort Claims Act are to be liberally construed so that one with a meritorious claim may not be denied relief as the result of some technical noncompliance. Mere knowledge of an act or omission, by a nondesignated party, is not sufficient to satisfy this section's notice requirements. If a political subdivision, by an appropriately specific allegation in a demurrer or answer, raises the issue of a plaintiff's failure to comply with the notice requirement of this section, the plaintiff then has the burden to show compliance. Schoemaker v. Metropolitan Utilities Dist., 245 Neb. 967, 515 N.W.2d 675 (1994).

Compliance with the filing or presentment of claim provision in this section is a condition precedent to commencement of a negligence action against a political subdivision. Schmidt v. Omaha Pub. Power Dist., 245 Neb. 776, 515 N.W.2d 756 (1994).

Filing or presentment of a claim under the Political Subdivisions Tort Claims Act is neither a condition precedent to a political subdivision's tort liability nor a substantive element for a claimant's recovery in a negligence action against a political subdivision, but is a condition precedent to commencement of a negligence action against a political subdivision. Millman v. County of Butler, 235 Neb. 915, 458 N.W.2d 207 (1990).

For substantial compliance with the notice requirement of this section, within one year from the act or omission on which the claim is based, the written notice of claim must be filed with an individual designated in the Political Subdivisions Tort Claims Act as the authorized recipient for notice of claim. Willis v. City of Lincoln, 232 Neb. 533, 441 N.W.2d 846 (1989).

The filing of a notice of claim under the Political Subdivisions Tort Claims Act is a condition precedent to the institution of a suit to which the act applies. When the act does apply, failure to allege compliance with its provisions is a fatal defect, rendering the petition defective and subject to a demurrer. Employers Reins. Corp. v. Santee Pub. Sch. Dist. No. C-5, 231 Neb. 744, 438 N.W.2d 124 (1989).

Substantial compliance with the statutory provisions pertaining to a claim's content supplies the requisite and sufficient notice to a political subdivision in accordance with this section, when the lack of compliance has caused no prejudice to the political subdivision. Franklin v. City of Omaha, 230 Neb. 598, 432 N.W.2d 808 (1988); West Omaha Inv. v. S.I.D. No. 48, 227 Neb. 785, 420 N.W.2d 291 (1988); Chicago Lumber Co. v. School Dist. No. 71, 227 Neb. 355, 417 N.W.2d 757 (1988).

The filing of a notice of claim under the Political Subdivisions Tort Claims Act is a condition precedent to the institution of suit for an alleged tort against a political subdivision. All that is necessary to be included in a claim under this act is a recitation of the time and place of the occurrence giving rise to the claim and such other facts pertinent to the claim as are known to the claimant; it is not necessary that the claim contain the amount of damages or loss. West Omaha Inv. v. S.I.D. No. 48, 227 Neb. 785, 420 N.W.2d 291 (1988).

The notice required by this section does not have to state the indicated information, circumstances, or facts with the fullness or precision required in a pleading. Chicago Lumber Co. v. School Dist. No. 71, 227 Neb. 355, 417 N.W.2d 757 (1988).

A notice of a possible future claim does not satisfy the requirements of the statute. Peterson v. Gering Irr. Dist., 219 Neb. 281, 363 N.W.2d 145 (1985).

The notice requirement of this section applies to intentional and negligent acts because the requirement applies to all tort claims. Hedglin v. Esch, 25 Neb. App. 306, 905 N.W.2d 105 (2017).

For substantial compliance with the written notice requirements of the Political Subdivisions Tort Claims Act, within 1 year from the act or omission on which the claim is based, the written notice of claim must be filed with an individual or office designated in the act as the authorized recipient for notice of claim against a political subdivision. Notice of claim filed only with one unauthorized to receive a claim does not substantially comply with the notice requirements of the act, even when settlement negotiations have been conducted with one unauthorized to receive the claim. Nyamatore v. Schuerman, 25 Neb. App. 209, 904 N.W.2d 730 (2017).

A substantial compliance analysis is applied when there is a question about whether the content of the required claim meets the requirements of the statute; however, if the notice is not filed with the person designated by statute as the authorized recipient, a substantial compliance analysis is not applicable. Lowe v. Lancaster Cty. Sch. Dist. 0001, 17 Neb. App. 419, 766 N.W.2d 408 (2009).

The filing requirement of this section constitutes a ''procedural precedent'' to the commencement of a judicial action. Lowe v. Lancaster Cty. Sch. Dist. 0001, 17 Neb. App. 419, 766 N.W.2d 408 (2009).

There is no statutory requirement that a claim filed pursuant to the Political Subdivisions Tort Claims Act need be addressed to a particular individual. Lowe v. Lancaster Cty. Sch. Dist. 0001, 17 Neb. App. 419, 766 N.W.2d 408 (2009).

A motorist's letter to the city substantially complied with the notice provisions of the Political Subdivisions Tort Claims Act, such that the motorist could maintain a negligence action against the city to recover damages for injuries he sustained in a motor vehicle accident with a city employee, where the letter stated the date, location, and circumstances of the accident, that the motorist suffered personal injuries as a result of the accident, and that the letter served as notice to the city under the act. Villanueva v. City of South Sioux City, 16 Neb. App. 288, 743 N.W.2d 771 (2008).

Notification to the insurance carrier of a political subdivision alone is insufficient to constitute substantial compliance with the notice provision of the Political Subdivisions Tort Claims Act. Written notice must be sent to a person or entity designated in the act. The filing of a notice of claim under the Political Subdivisions Tort Claims Act is a condition precedent to the institution of a suit to which the act applies. The partial payment of an insurance claim by a political subdivision's insurer standing alone is insufficient to create a question of fact precluding summary judgment as to whether the political subdivision is equitably estopped to assert the 1-year filing requirement. Keene v. Teten, 8 Neb. App. 819, 602 N.W.2d 29 (1999).

3. Affirmative defense

The filing or presentment of a claim under the Political Subdivisions Tort Claims Act is a condition precedent to commencement of a negligence action against a political subdivision. Noncompliance with the notice requirements is an available defense to a political subdivision, provided it is raised as an affirmative defense. Polinski v. Omaha Pub. Power Dist., 251 Neb. 14, 554 N.W.2d 636 (1996).

A general denial in a political subdivision's answer does not raise the issue of noncompliance, which must be raised as an affirmative defense specifically expressing the plaintiff's noncompliance with this section. Schoemaker v. Metropolitan Utilities Dist., 245 Neb. 967, 515 N.W.2d 675 (1994).

A general denial in a political subdivision's answer does not raise the issue of noncompliance, which must be raised as an affirmative defense specifically expressing plaintiff's noncompliance with the notice requirement of this section. Miles v. Box Butte County, 241 Neb. 588, 489 N.W.2d 829 (1992).

A political subdivision must raise an affirmative defense by specifically expressing the plaintiff's noncompliance with the notice requirement. Once the noncompliance issue is properly raised, the plaintiff has the burden to show compliance with the notice requirement. Millman v. County of Butler, 235 Neb. 915, 458 N.W.2d 207 (1990).

Noncompliance with the notice requirement of this section must be raised as an affirmative defense and specifically alleged. A plaintiff has a limited right to commence an action under the Political Subdivisions Tort Claims Act in the form of a precedent filed claim prescribed by this section. Knight v. Hays, 4 Neb. App. 388, 544 N.W.2d 106 (1996).

13-906 Civil suit; when permitted.

No suit shall be permitted under the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610 unless the governing body of the political subdivision has made final disposition of the claim, except that if the governing body does not make final disposition of a claim within six months after it is filed, the claimant may, by notice in writing, withdraw the claim from consideration of the governing body and begin suit under such act and sections.

Source: Laws 1969, c. 138, § 5, p. 629; R.S.1943, (1983), § 23-2405; Laws 1996, LB 900, § 1022.

Because compliance with the statutory time limits set forth in this section can be determined with precision, the doctrine of substantial compliance has no application. Geddes v. York County, 273 Neb. 271, 729 N.W.2d 661 (2007).

In conjunction with section 25-2221 and section 49-801(13), a political subdivision has until the end of the last day of the 6-month period after a claimant has filed a tort claim upon which to make a final disposition of such claim. Geddes v. York County, 273 Neb. 271, 729 N.W.2d 661 (2007).

The plain and ordinary meaning of the phrase ''within six months'' includes the last day of the 6-month time period. Geddes v. York County, 273 Neb. 271, 729 N.W.2d 661 (2007).

The word ''month'' as used in this section means calendar month. Geddes v. York County, 273 Neb. 271, 729 N.W.2d 661 (2007).

Because compliance with the statutory time limit can be determined with precision, the doctrine of substantial compliance has no application to this section. Big Crow v. City of Rushville, 266 Neb. 750, 669 N.W.2d 63 (2003).

Noncompliance with this section must be pled as an affirmative defense. Big Crow v. City of Rushville, 266 Neb. 750, 669 N.W.2d 63 (2003).

Absent any consideration of the statute of limitations, filing of a petition is substantial compliance with the terms of this

section as to the withdrawal of a claim from consideration. Malzahn v. Transit Authority, 244 Neb. 425, 507 N.W.2d 289 (1993).

Substantial compliance with this section is sufficient when a lack of precise compliance has caused no prejudice to the political subdivision. Big Crow v. City of Rushville, 11 Neb. App. 498, 654 N.W.2d 383 (2002).

13-907 Jurisdiction; venue; procedure; appeal.

Jurisdiction, venue, procedure, and rights of appeal in all suits brought under the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall be determined in the same manner as if the suits involved private individuals, except that such suits shall be heard and determined by the appropriate court without a jury.

Source: Laws 1969, c. 138, § 6, p. 629; R.S.1943, (1983), § 23-2406; Laws 1996, LB 900, § 1023.

In 1875, there was no right to a jury trial on any issue in a suit against the State or its political subdivisions because the common-law doctrine of sovereign immunity, and the related common-law doctrine of governmental immunity, operated to bar such suits at that time. Jacobson v. Shresta, 288 Neb. 615, 849 N.W.2d 515 (2014).

The Legislature has the right to decide the terms under which it will waive its sovereign and governmental immunity for tort actions against the State or its political subdivisions. Because a jury trial is not one of the terms of the State's waiver of governmental immunity under the Political Subdivisions Tort Claims Act, a party is not entitled to a jury trial on its claim that a defendant is not a political subdivision employee. Jacobson v. Shresta, 288 Neb. 615, 849 N.W.2d 515 (2014).

Whether an employee of a political subdivision is acting within his scope of employment is not a question for the jury. Bohl v. Buffalo Cty., 251 Neb. 492, 557 N.W.2d 668 (1997).

An action under the Political Subdivisions Tort Claims Act is tried to the court without a jury. Findings of fact by the trial court will not be overturned unless clearly wrong. Hume v. Otoe County, 212 Neb. 616, 324 N.W.2d 810 (1982); Buttner v. Omaha P. P. Dist., 193 Neb. 515, 227 N.W.2d 862 (1975).

In a proceeding brought under the Political Subdivisions Tort Claims Act, the findings of fact by the trial court will not be overturned unless clearly wrong. Lee v. City of Omaha, 209 Neb. 345, 307 N.W.2d 800 (1981); Lindgren v. City of Gering, 206 Neb. 360, 292 N.W.2d 921 (1980); Daniels v. Andersen, 195 Neb. 95, 237 N.W.2d 397 (1975); Craig v. Gage County, 190 Neb. 320, 208 N.W.2d 82 (1973).

13-908 Political subdivision; liability; no writ of execution; offer of settlement; effect.

Except as otherwise provided in the Political Subdivisions Tort Claims Act, in all suits brought under the act the political subdivision shall be liable in the same manner and to the same extent as a private individual under like circumstances, except that no writ of execution shall issue against a political subdivision. Disposition of or offer to settle any claim made under the act shall not be competent evidence of liability of the political subdivision or any employee or the amount of damages.

Source: Laws 1969, c. 138, § 7, p. 629; R.S.1943, (1983), § 23-2407; Laws 1991, LB 15, § 6.

13-909 Final judgment; effect.

Final judgment in any suit under the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the employee of the political subdivision whose act or omission gave rise to the claim, but this section shall not apply if the court rules that the claim is not permitted under such act and sections.

Source: Laws 1969, c. 138, § 8, p. 629; R.S.1943, (1983), § 23-2408; Laws 1996, LB 900, § 1024.

Dismissal of claim against employee was correct after final judgment in suit under this act. Craig v. Gage County, 190 Neb. 320, 208 N.W.2d 82 (1973).

13-910 Act and sections; exemptions.

The Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall not apply to:

(1) Any claim based upon an act or omission of an employee of a political subdivision, exercising due care, in the execution of a statute, ordinance, or officially adopted resolution, rule, or regulation, whether or not such statute, ordinance, resolution, rule, or regulation is valid;

(2) Any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of the political subdivision or an employee of the political subdivision, whether or not the discretion is abused;

(3) Any claim based upon the failure to make an inspection or making an inadequate or negligent inspection of any property other than property owned by or leased to such political subdivision to determine whether the property complies with or violates any statute, ordinance, rule, or regulation or contains a hazard to public health or safety unless the political subdivision had reasonable notice of such hazard or the failure to inspect or inadequate or negligent inspection constitutes a reckless disregard for public health or safety;

(4) Any claim based upon the issuance, denial, suspension, or revocation of or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, or order. Nothing in this subdivision shall be construed to limit a political subdivision's liability for any claim based upon the negligent execution by an employee of the political subdivision in the issuance of a certificate of title under the Motor Vehicle Certificate of Title Act and the State Boat Act except when such title is issued upon an application filed electronically by an approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507;

(5) Any claim arising with respect to the assessment or collection of any tax or fee or the detention of any goods or merchandise by any law enforcement officer;

(6) Any claim caused by the imposition or establishment of a quarantine by the state or a political subdivision, whether such quarantine relates to persons or property;

(7) Any claim arising out of assault, battery, false arrest, false imprisonment, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights, except that this subdivision does not apply to a claim under the Healthy Pregnancies for Incarcerated Women Act;

(8) Any claim by an employee of the political subdivision which is covered by the Nebraska Workers' Compensation Act;

(9) Any claim arising out of the malfunction, destruction, or unauthorized removal of any traffic or road sign, signal, or warning device unless it is not corrected by the political subdivision responsible within a reasonable time after actual or constructive notice of such malfunction, destruction, or removal. Nothing in this subdivision shall give rise to liability arising from an act or omission of any political subdivision in placing or removing any traffic or road signs, signals, or warning devices when such placement or removal is the result of a discretionary act of the political subdivision;

(10) Any claim arising out of snow or ice conditions or other temporary conditions caused by nature on any highway as defined in section 60-624, bridge, public thoroughfare, or other public place due to weather conditions. Nothing in this subdivision shall be construed to limit a political subdivision's liability for any claim arising out of the operation of a motor vehicle by an

employee of the political subdivision while acting within the course and scope of his or her employment by the political subdivision;

(11) Any claim arising out of the plan or design for the construction of or an improvement to any highway as defined in such section or bridge, either in original construction or any improvement thereto, if the plan or design is approved in advance of the construction or improvement by the governing body of the political subdivision or some other body or employee exercising discretionary authority to give such approval;

(12) Any claim arising out of the alleged insufficiency or want of repair of any highway as defined in such section, bridge, or other public thoroughfare. Insufficiency or want of repair shall be construed to refer to the general or overall condition and shall not refer to a spot or localized defect. A political subdivision shall be deemed to waive its immunity for a claim due to a spot or localized defect only if (a) the political subdivision has had actual or constructive notice of the defect within a reasonable time to allow repair prior to the incident giving rise to the claim or (b) the claim arose during the time specified in a notice provided by the political subdivision pursuant to subsection (3) of section 39-1359 and the state or political subdivision had actual or constructive notice; or

(13)(a) Any claim relating to recreational activities for which no fee is charged (i) resulting from the inherent risk of the recreational activity, (ii) arising out of a spot or localized defect of the premises unless the spot or localized defect is not corrected by the political subdivision leasing, owning, or in control of the premises within a reasonable time after actual or constructive notice of the spot or localized defect, or (iii) arising out of the design of a skatepark or bicycle motocross park constructed for purposes of skateboarding, inline skating, bicycling, or scootering that was constructed or reconstructed, reasonably and in good faith, in accordance with generally recognized engineering or safety standards or design theories in existence at the time of the construction or reconstruction. For purposes of this subdivision, a political subdivision shall be charged with constructive notice only when the failure to discover the spot or localized defect of the premises is the result of gross negligence.

(b) For purposes of this subdivision:

(i) Recreational activities include, but are not limited to, whether as a participant or spectator: Hunting, fishing, swimming, boating, camping, picnicking, hiking, walking, running, horseback riding, use of trails, nature study, waterskiing, winter sports, use of playground equipment, biking, roller blading, skateboarding, golfing, athletic contests; visiting, viewing, or enjoying entertainment events, festivals, or historical, archaeological, scenic, or scientific sites; and similar leisure activities;

(ii) Inherent risk of recreational activities means those risks that are characteristic of, intrinsic to, or an integral part of the activity;

(iii) Gross negligence means the absence of even slight care in the performance of a duty involving an unreasonable risk of harm; and

(iv) Fee means a fee to participate in or be a spectator at a recreational activity. A fee shall include payment by the claimant to any person or organization other than the political subdivision only to the extent the political subdivision retains control over the premises or the activity. A fee shall not include payment of a fee or charge for parking or vehicle entry.

(c) This subdivision, and not subdivision (3) of this section, shall apply to any claim arising from the inspection or failure to make an inspection or negligent inspection of premises owned or leased by the political subdivision and used for recreational activities.

Source: Laws 1969, c. 138, § 9, p. 629; Laws 1986, LB 811, § 10; R.S.Supp.,1986, § 23-2409; Laws 1992, LB 262, § 8; Laws 1993, LB 370, § 2; Laws 1996, LB 900, § 1025; Laws 1999, LB 228, § 1; Laws 2004, LB 560, § 1; Laws 2005, LB 276, § 98; Laws 2007, LB564, § 2; Laws 2011, LB589, § 2; Laws 2017, LB263, § 1; Laws 2019, LB690, § 8.

Cross References

Healthy Pregnancies for Incarcerated Women Act, see section 47-1001.
Motor Vehicle Certificate of Title Act, see section 60-101.
Nebraska Workers' Compensation Act, see section 48-1,110.
State Boat Act, see section 37-1201.

1. Discretionary function
2. Due care
3. Intentional torts
4. Governmental immunity
5. Miscellaneous

1. Discretionary function

A school's decision to enforce a ''no dogs'' policy only during school hours and to not supervise the playground area after school hours involved judgment shielded by the discretionary function exception. Lambert v. Lincoln Public Schools, 306 Neb. 192, 945 N.W.2d 84 (2020).

Cases construing the discretionary function exception under the State Tort Claims Act apply as well to the discretionary function exception granted to political subdivisions in the Political Subdivisions Tort Claims Act. Amend v. Nebraska Pub. Serv. Comm., 298 Neb. 617, 905 N.W.2d 551 (2018).

A county does not have a nondiscretionary duty to provide a safe working environment where the dangerous condition present is readily apparent to persons likely to be injured by the dangerous condition. McGauley v. Washington County, 297 Neb. 134, 897 N.W.2d 851 (2017).

A county's decision to grant a quarry easement for the purpose of building up a county road that was at risk of flooding came within the discretionary function exception to the waiver of sovereign immunity under the Political Subdivisions Tort Claims Act. McGauley v. Washington County, 297 Neb. 134, 897 N.W.2d 851 (2017).

A county waived its claim that it was entitled to sovereign immunity by failing to identify immunity under the discretionary function exception as an issue for trial in the pretrial order. Hall v. County of Lancaster, 287 Neb. 969, 846 N.W.2d 107 (2014).

Sovereign immunity barred a claim against the State of Nebraska and Cass County concerning a sight-restricted railroad crossing at which a collision occurred because neither the State nor the county had any mandatory legal duty to improve any sight restrictions at the crossing. Shipley v. Department of Roads, 283 Neb. 832, 813 N.W.2d 455 (2012).

Sovereign immunity barred a claim against the State of Nebraska and Cass County concerning the lack of pavement markings at a railroad crossing at which a collision occurred because the decision of whether to place pavement markings at the crossing was discretionary. Shipley v. Department of Roads, 283 Neb. 832, 813 N.W.2d 455 (2012).

Sovereign immunity barred failure-to-warn claim concerning a sight-restricted railroad crossing; neither the State of Nebraska nor Cass County had a nondiscretionary duty to warn where the truck wash facility alleged to be the cause of the sight restriction was built by a private party on private property and was readily apparent to a motorist approaching the crossing. Shipley v. Department of Roads, 283 Neb. 832, 813 N.W.2d 455 (2012).

In order for the discretionary function exception under subsection (2) of this section to apply, the evidence must show facts of the specific policy and conduct in accordance with that policy. Doe v. Omaha Pub. Sch. Dist., 273 Neb. 79, 727 N.W.2d 447 (2007).

Once a city elects to install a pedestrian crosswalk signal, it is required to conform to the Manual on Uniform Traffic Control Devices in determining the pedestrian clearance interval, and the discretionary immunity exception of this section does not apply. Tadros v. City of Omaha, 269 Neb. 528, 694 N.W.2d 180 (2005).

The placement of traffic control devices is a discretionary function of a political subdivision under subsection (2) of this section. McCormick v. City of Norfolk, 263 Neb. 693, 641 N.W.2d 638 (2002).

The discretionary function exemption provided for in subsection (2) of this section extends only to basic policy decisions made in governmental activity, and not to ministerial activities implementing such policy decisions. Norman v. Ogallala Pub. Sch. Dist., 259 Neb. 184, 609 N.W.2d 338 (2000).

The discretionary function exception is expressed in nearly identical language in the State Tort Claims Act and the Political Subdivisions Tort Claims Act; thus, cases construing the state exception apply as well to the exception granted to political subdivisions. The discretionary function exceptions to the general waiver of tort immunity are matters of defense which must be pled and proved by a political subdivision. Lawry v. County of Sarpy, 254 Neb. 193, 575 N.W.2d 605 (1998).

Pursuant to subsection (2) of this section, the discretionary function exemption applies only to basic policy decisions and not to the exercise of discretionary acts at an operational level. A county attorney's actions in collecting unpaid child support are operational in nature rather than a basic policy decision. Talbot v. Douglas County, 249 Neb. 620, 544 N.W.2d 839 (1996).

Under the provisions of subsection (2) of this section, the performance or nonperformance of a discretionary function cannot be the basis of liability. Whether the undisputed facts demonstrate that liability is precluded by the discretionary function exemption is a question of law. As the discretionary function exemption is expressed in nearly identical language in section 81-8,219(1)(a) of the State Tort Claims Act and subsection (2) of this section of the Political Subdivisions Tort Claims Act, cases construing the state exemption apply as well to the

exemption given political subdivisions. The county health department's reporting and investigating a reported case of bacterial meningitis fall within the discretionary function precluding liability under the Political Subdivisions Tort Claims Act. Jasa v. Douglas County, 244 Neb. 944, 510 N.W.2d 281 (1994).

Pursuant to subsection (2) of this section, whether undisputed facts demonstrate that liability is precluded by the discretionary function exemption of the Political Subdivisions Tort Claims Act is a question of law. Lemke v. Metropolitan Utilities Dist., 243 Neb. 633, 502 N.W.2d 80 (1993).

The discretionary function or duty exemption in the Political Subdivisions Tort Claims Act extends only to the basic policy decisions made in governmental activity, and not to ministerial activities implementing such policy decisions. In other words, the political subdivision is liable for the negligence of its employees at the operational level, where there is no room for policy judgment. Hamilton v. City of Omaha, 243 Neb. 253, 498 N.W.2d 555 (1993).

Where a county legislative body delegates duties to a county official, and gives that official discretion in performing those duties within broad overall guidelines, actions of that county official in issuing permits are discretionary functions within the meaning of subsection (2) of this section. Allen v. County of Lancaster, 218 Neb. 163, 352 N.W.2d 883 (1984).

Decisions on selection of a foster home for a dependent child are not policy decisions or discretionary functions contemplated as exceptions within this section of the Political Subdivisions Tort Claims Act. Koepf v. County of York, 198 Neb. 67, 251 N.W.2d 866 (1977).

The decision by a government employee as to the manner of operation of a snowblower is the type of discretion exercised at an everyday operational level such that the discretionary function exemption does not apply. Conditions caused by the operation of a snowblower were the underlying cause of the accident, separate and independent from the wind and snow in the area at the time of the accident, and the operation of the snowblower was a proximate cause of the accident and injuries. Thus, the State was not immune from suit under subsection (10) of this section. Stinson v. City of Lincoln, 9 Neb. App. 642, 617 N.W.2d 456 (2000).

The performance or nonperformance of a discretionary function cannot be the basis of liability under the Political Subdivisions Tort Claims Act. The discretionary function exemption under the Political Subdivisions Tort Claims Act extends only to basic policy decisions and not to the exercise of discretionary acts at an operational level. A simple decision whether to dispatch an officer to the scene of a crime or to investigate a crime, without more, does not involve a basic policy decision by a high-level executive which would render the decisionmaker immune from suit. Whether the undisputed facts demonstrate that liability is precluded by the discretionary function exemption of the Political Subdivisions Tort Claims Act is a question of law. Stinson v. City of Lincoln, 9 Neb. App. 642, 617 N.W.2d 456 (2000).

2. Due care

In order for the due care exception under subsection (1) of this section to apply, an adequate factual record must exist. Doe v. Omaha Pub. Sch. Dist., 273 Neb. 79, 727 N.W.2d 447 (2007).

A police officer's failure to ''safely'' keep a seized vehicle can give rise to liability under the Political Subdivisions Tort Claims Act. Section 29-818 requires a police officer to exercise reasonable care and diligence for the safekeeping of property within his custody. Nash v. City of North Platte, 205 Neb. 480, 288 N.W.2d 51 (1980).

3. Intentional torts

All claims arising out of an assault are exempted from the waiver of sovereign immunity; the waiver is not limited to only those claims arising out of assaults committed by governmental employees. Edwards v. Douglas County, 308 Neb. 259, 953 N.W.2d 744 (2021).

When a tort claim against the government seeks to recover damages for personal injury or death stemming from an assault, the claim necessarily ''arises out of the assault'' and is barred by the intentional tort exception to the waiver of sovereign immunity. Edwards v. Douglas County, 308 Neb. 259, 953 N.W.2d 744 (2021).

This section sets forth specific claims that are exempt from the waiver of sovereign immunity, including any claim arising out of assault, battery, false arrest, false imprisonment, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights. This is sometimes referred to as the ''intentional torts exception.'' Rutledge v. City of Kimball, 304 Neb. 593, 935 N.W.2d 746 (2019).

When conduct arises out of a battery, it falls within subdivision (7) of this section, and the political subdivision is not liable for damages resulting from the battery, even when the pleaded conduct is characterized or framed as negligence. Rutledge v. City of Kimball, 304 Neb. 593, 935 N.W.2d 746 (2019).

In deciding whether conduct falls within the battery exception to the Political Subdivisions Tort Claims Act, it is only necessary to determine whether the conduct arises out of a battery; no determination has to be made as to whether the actor ultimately could be held liable for any damage resulting from the battery, based on the presence or absence of affirmative defenses. Britton v. City of Crawford, 282 Neb. 374, 803 N.W.2d 508 (2011).

When the gravamen of the complaint is negligent performance of operational tasks rather than misrepresentation, a political subdivision cannot rely upon the misrepresentation exception in subdivision (7) of this section of the Political Subdivisions Tort Claims Act. Stonacek v. City of Lincoln, 279 Neb. 869, 782 N.W.2d 900 (2010).

The intentional tort exception under subsection (7) of this section does not apply to bar negligence claims against a defendant alleging a breach of an independent duty, unrelated to any possible employment relationship between the assailant and the defendant, to take reasonable steps to prevent an intentional tort. Doe v. Omaha Pub. Sch. Dist., 273 Neb. 79, 727 N.W.2d 447 (2007).

4. Governmental immunity

The Political Subdivisions Tort Claims Act provides a list of claims for which sovereign immunity is not waived. McKenna v. Julian, 277 Neb. 522, 763 N.W.2d 384 (2009).

The exceptions set forth in this section are affirmative sovereign immunity defenses to claims brought pursuant to the Political Subdivisions Tort Claims Act. If a political subdivision proves that a plaintiff's claim comes within an exception pursuant to this section, then the claim fails based on sovereign immunity, and the political subdivision is not liable. Harris v. Omaha Housing Auth., 269 Neb. 981, 698 N.W.2d 58 (2005).

The common law rule of governmental immunity has not been completely abrogated in Nebraska, and an action for damages for misrepresentation and deceit is not permitted. Hall v. Abel Inv. Co., 192 Neb. 256, 219 N.W.2d 760 (1974).

The common law rule of governmental immunity has not been completely abrogated in this state and actions at law for false arrest, false imprisonment, and libel and slander remain subject thereto. Webber v. Andersen, 187 Neb. 9, 187 N.W.2d 290 (1971).

5. Miscellaneous

''[O]ther public place'' under subdivision (10) of this section included a sidewalk leading from a community center to a parking lot. Stick v. City of Omaha, 289 Neb. 752, 857 N.W.2d 561 (2015).

As used in subdivision (9) of this section, the term ''malfunction'' does not mean lack of efficacy. Blaser v. County of Madison, 288 Neb. 306, 847 N.W.2d 293 (2014).

Political subdivisions are not liable under subsection (4) of this section for actions based upon the revocation of a license or permit. Rohde v. City of Ogallala, 273 Neb. 689, 731 N.W.2d 898 (2007).

A claim alleging that an employee acting within the course and scope of his employment caused a motor vehicle accident

by failing to stop on a rain-slicked street is a claim within and subject to the provisions of the Political Subdivisions Tort Claims Act. Wise v. Omaha Public Schools, 271 Neb. 635, 714 N.W.2d 19 (2006).

Acts undertaken to assist in the assessment and collection of taxes are immune from liability under subsection (5) of this section. Butler Cty. Sch. Dist. No. 502 v. Meysenburg, 268 Neb. 347, 683 N.W.2d 367 (2004).

The question whether a city is immune from liability depends upon whether the city had reasonable notice of any hazard or whether its failure to inspect or its negligent inspection constituted a reckless disregard for public health or safety. Mondelli v. Kendel Homes Corp., 262 Neb. 263, 631 N.W.2d 846 (2001).

Pursuant to subsection (10) of this section, the snow and ice exemption is not applicable to a plaintiff injured after slipping on snow when the petition alleged negligence in a college's failure to maintain safe ingress and egress to, from, and across property and a failure to monitor and remove hazardously parked vehicles. McDonald v. DeCamp Legal Servs., P.C., 260 Neb. 729, 619 N.W.2d 583 (2000).

Subsection (10) of this section does not exempt a claim arising out of events occurring under darkness because mere darkness is not a temporary condition due to weather. Drake v. Drake, 260 Neb. 530, 618 N.W.2d 650 (2000).

The Political Subdivisions Tort Claims Act eliminates the need for the doctrine by which a claimant is required to prove that the negligent act was committed by the municipal employee in furtherance of a private duty owed to the claimant. Maple v. City of Omaha, 222 Neb. 293, 384 N.W.2d 254 (1986).

When a governmental entity has actual or constructive notice of a dangerous condition or hazard caused by or under the control of the governmental entity and the dangerous condition or hazard is not readily apparent to persons who are likely to be injured by the dangerous condition or hazard, the governmental entity has a nondiscretionary duty to warn of the danger or take other protective measures that may prevent injury as the result of the dangerous condition or hazard. Stinson v. City of Lincoln, 9 Neb. App. 642, 617 N.W.2d 456 (2000).

13-911 Vehicular pursuit by law enforcement officer; liability to third parties; reimbursement.

(1) In case of death, injury, or property damage to any innocent third party proximately caused by the action of a law enforcement officer employed by a political subdivision during vehicular pursuit, damages shall be paid to such third party by the political subdivision employing the officer.

(2) Upon payment by a political subdivision of those damages sustained by an innocent third party, whether upon voluntary settlement or in satisfaction of a judgment, the political subdivision shall be entitled to reimbursement of the amount of damages paid by the political subdivision from each and all of the following sources:

(a) The driver of the fleeing vehicle;

(b) Any organization, including a sole proprietorship, partnership, limited liability company, or corporation, liable for the conduct of the driver of the fleeing vehicle;

(c) Every insurer or self-insurance surety of either the driver of the fleeing vehicle or any organization, including a sole proprietorship, partnership, limited liability company, or corporation, liable for the conduct of the driver of the fleeing vehicle, except that no such insurer or self-insurance surety shall be required to pay in excess of the liability limit of its applicable policies or bonds;

(d) Any uninsured or underinsured motorist insurer or self-insurance surety legally liable to the innocent third party, except that the sum recoverable from such insurer or self-insurance surety shall not exceed the highest limit of liability determined in accord with the Uninsured and Underinsured Motorist Insurance Coverage Act;

(e) The state employing law enforcement officers whose actions contributed to the proximate cause of death, injury, or property damage sustained by the innocent third party, except that the liability of the state shall not exceed the damages sustained by the innocent third party apportioned equally among all political subdivisions employing law enforcement officers whose actions contributed to the proximate cause of the death, injury, or property damage sustained by the innocent third party and the state; and

(f) Any political subdivision employing law enforcement officers whose actions contributed to the proximate cause of death, injury, or property damage sustained by the innocent third party, except that the liability of the political

subdivision shall not exceed the lesser of (i) its maximum statutory liability pursuant to the Political Subdivisions Tort Claims Act or (ii) damages sustained by the innocent third party apportioned equally among all political subdivisions and the state employing law enforcement officers whose actions contributed to the proximate cause of the death, injury, or property damage sustained by the innocent third party.

(3) This section shall not relieve any public or private source required statutorily or contractually to pay benefits for disability or loss of earned income or medical expenses of the duty to pay such benefits when due. No such source of payment shall have any right of subrogation or contribution against the political subdivision.

(4) This section shall be considered part of the Political Subdivisions Tort Claims Act and all provisions of the act apply.

(5) For purposes of this section, vehicular pursuit means an active attempt by a law enforcement officer operating a motor vehicle to apprehend one or more occupants of another motor vehicle, when the driver of the fleeing vehicle is or should be aware of such attempt and is resisting apprehension by maintaining or increasing his or her speed, ignoring the officer, or attempting to elude the officer while driving at speeds in excess of those reasonable and proper under the conditions.

Source: Laws 1981, LB 273, § 31; R.S.Supp.,1982, § 25-21,183; Laws 1984, LB 590, § 2; R.S.Supp.,1986, § 23-2410.01; Laws 1996, LB 952, § 1.

Cross References

Motor vehicle pursuit, law enforcement policy, see section 29-211.
Uninsured and Underinsured Motorist Insurance Coverage Act, see section 44-6401.

1. Innocent third party
2. Proximate cause
3. Vehicular pursuit
4. Miscellaneous

1. Innocent third party

If during a vehicular pursuit a passenger takes some action that makes him or her become a person sought to be apprehended, the passenger does not remain an innocent third party by virtue of the fact that law enforcement began the pursuit to apprehend the driver only. Fales v. County of Stanton, 297 Neb. 41, 898 N.W.2d 352 (2017).

Under subsection (1) of this section, a political subdivision is strictly liable for injuries to an ''innocent third party'' during a vehicular pursuit, regardless of whether the law enforcement officer's actions were otherwise proper or even necessary. An ''innocent third party'' is one who has not promoted, provoked, or persuaded the driver to engage in flight from law enforcement personnel and one who is not sought to be apprehended in the fleeing vehicle. Werner v. County of Platte, 284 Neb. 899, 824 N.W.2d 38 (2012).

An ''innocent third party'' is one who has not promoted, provoked, or persuaded the driver to engage in flight from law enforcement personnel and one who is not sought to be apprehended in the fleeing vehicle. Henery v. City of Omaha, 263 Neb. 700, 641 N.W.2d 644 (2002).

A passenger in a fleeing vehicle is not an innocent third party if such passenger either (1) promoted, provoked, or persuaded the driver to engage in flight from law enforcement personnel or (2) is one who is sought to be apprehended in the fleeing vehicle. Jura v. City of Omaha, 15 Neb. App. 390, 727 N.W.2d 735 (2007).

A police officer's grounds for seeking to apprehend occupants in a vehicular chase situation must have a reasonable basis in the law and facts. Jura v. City of Omaha, 15 Neb. App. 390, 727 N.W.2d 735 (2007).

Apprehension can mean to arrest, catch, or detain. Jura v. City of Omaha, 15 Neb. App. 390, 727 N.W.2d 735 (2007).

A passenger is not an innocent third party if the passenger either (1) has promoted, provoked, or persuaded the driver to engage in flight from law enforcement personnel or (2) is sought to be apprehended in the fleeing vehicle. Reed v. City of Omaha, 15 Neb. App. 234, 724 N.W.2d 834 (2006).

2. Proximate cause

A law enforcement officer's decision and action to terminate a vehicular pursuit do not instantaneously eliminate the danger to innocent third parties contemplated in this section. That danger continues until the motorist reasonably perceives that the pursuit has ended and has had an opportunity to discontinue the hazardous, evasive driving behaviors contemplated in this section. Staley v. City of Omaha, 271 Neb. 543, 713 N.W.2d 457 (2006).

Whether an injury to an innocent third party is ''proximately caused by the action of a law enforcement officer . . . during vehicular pursuit'' is a question of fact which must necessarily be determined on a case-by-case basis. Staley v. City of Omaha, 271 Neb. 543, 713 N.W.2d 457 (2006).

In order for a city to be liable for injuries under this section, the first requirement is that the act of the police in pursuing a fleeing motorist must be such that without it the injury would not have occurred, commonly known as the ''but for'' rule, and the second requirement is that the injury must be the natural

and probable result of that act and without an efficient intervening cause. Mid Century Ins. Co. v. City of Omaha, 242 Neb. 126, 494 N.W.2d 320 (1992).

3. Vehicular pursuit

The trial court's finding that prior to a collision, the police officers activated the cruiser's overhead lights and the cruiser was increasing its speed supported the court's conclusion that the officers were making an active attempt to apprehend. Williams v. City of Omaha, 291 Neb. 403, 865 N.W.2d 779 (2015).

This section does not apply where there is no active attempt to apprehend the vehicle. Lalley v. City of Omaha, 266 Neb. 893, 670 N.W.2d 327 (2003).

Pursuant to subsection (5) of this section, an officer's merely following a vehicle in order to provide information to other officers as to the vehicle's location does not constitute a vehicular pursuit. Perez v. City of Omaha, 15 Neb. App. 502, 731 N.W.2d 604 (2007).

4. Miscellaneous

This section has created strict liability on the part of a political subdivision when (1) a claimant suffers death, injury, or property damage; (2) such death, injury, or property damage is proximately caused by the actions of a pursuing law enforcement officer employed by the political subdivision; and (3) the claimant is an innocent third party. Stewart v. City of Omaha, 242 Neb. 240, 494 N.W.2d 130 (1993).

13-912 Defective bridge or highway; damages; liability; limitation.

If any person suffers personal injury or loss of life, or damage to his or her property by means of insufficiency or want of repair of a highway or bridge or other public thoroughfare, which a political subdivision is liable to keep in repair, the person sustaining the loss or damage, or his or her personal representative, may recover in an action against the political subdivision, and if damages accrue in consequence of the insufficiency or want of repair of a road or bridge or other public thoroughfare, erected and maintained by two or more political subdivisions, the action can be brought against all of the political subdivisions liable for the repairs of the same; and damages and costs shall be paid by the political subdivisions in proportion as they are liable for the repairs. The procedure for filing such claims and bringing suit shall be the same for claims under this section as for other claims under the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610. No political subdivision shall be liable for damages occasioned by defects in state highways and bridges thereon which the Department of Transportation is required to maintain, but the political subdivision shall not be relieved of liability until the state has actually undertaken construction or maintenance of such highways. It is the intent of the Legislature that minimum maintenance highways and roads shall not be deemed to be insufficient or in want of repair when they meet the minimum standards for such highways and roads pursuant to section 39-2109.

Source: Laws 1889, c. 7, § 4, p. 78; R.S.1913, § 2995; C.S.1922, § 2746; Laws 1929, c. 171, § 1, p. 585; C.S.1929, § 39-832; R.S.1943, § 39-834; Laws 1959, c. 167, § 2, p. 609; R.R.S.1943, § 39-834; Laws 1969, c. 138, § 10, p. 630; Laws 1983, LB 10, § 1; R.S. 1943, (1983), § 23-2410; Laws 1996, LB 900, § 1026; Laws 2017, LB339, § 74.

1. Time of bringing action
2. Duty
3. Liability
4. Miscellaneous

1. Time of bringing action

Limitation of time within which to bring action applies to all persons without regard to any kind of disability. Gorgen v. County of Nemaha, 174 Neb. 588, 118 N.W.2d 758 (1962).

Action for death from county road contractor's negligence is not barred by thirty-day limitation under this section. Pratt v. Western Bridge & Constr. Co., 116 Neb. 553, 218 N.W. 397 (1928).

Limitation of time for bringing action is thirty days from date of injury. Swaney v. Gage County, 64 Neb. 627, 90 N.W. 542 (1902).

2. Duty

A county is not an insurer, but it must use reasonable and ordinary care in the construction and maintenance of highways and bridges such that a traveler using them with ordinary and reasonable caution will be reasonably safe. Hume v. Otoe County, 212 Neb. 616, 324 N.W.2d 810 (1982).

Duty of county is fulfilled if a width sufficient for travel is kept in a proper condition. Farmers Coop. Co. v. County of Dodge, 181 Neb. 432, 148 N.W.2d 922 (1967).

In order to recover against county for defect in highway on county line, it is necessary to show that the road was both

constructed and maintained by county. Stitzel v. Hitchcock County, 139 Neb. 700, 298 N.W. 555 (1941).

County is not insurer, but must use reasonable, ordinary care to keep highway safe for traveler using ordinary care. Frickel v. Lancaster County, 115 Neb. 506, 213 N.W. 826 (1927); Johnson County v. Carmen, 71 Neb. 682, 99 N.W. 502 (1904).

3. Liability

Even assuming the city had a general duty to use ordinary care in treating its streets for icy conditions, dismissal of the plaintiff's petition was affirmed where the evidence of the city's negligence was insufficient. Hendrickson v. City of Kearney, 210 Neb. 8, 312 N.W.2d 677 (1981).

County held liable for damages caused by insufficiency or want of repair of a bridge when a twenty-four ton truck collapsed a county bridge. Hansmann v. County of Gosper, 207 Neb. 659, 300 N.W.2d 807 (1981).

Defendant village is not liable for injuries suffered by plaintiff when she tripped and fell on a slight irregularity in the sidewalk, where there was no evidence that the village had received any complaint or notice of the condition of the sidewalk, and where the defect was clearly visible to the plaintiff. Doht v. Village of Walthill, 207 Neb. 377, 299 N.W.2d 177 (1980).

The liability of all political subdivisions based on the alleged insufficiency or want of repair of any public thoroughfare is to be determined by the provisions of sections 23-2410 and 23-2411, R.R.S.1943, and judicial interpretations governing the liability of counties under the statute in effect prior to the enactment of the Political Subdivisions Tort Claims Act. Christensen v. City of Tekamah, 201 Neb. 344, 268 N.W.2d 93 (1978).

County was not liable for damages allegedly due to defective stop sign. McKinney v. County of Cass, 180 Neb. 685, 144 N.W.2d 416 (1966).

The liability of a county for defective highways and bridges is statutory. Stevens v. County of Dawson, 172 Neb. 585, 111 N.W.2d 220 (1961).

County is not required to warn of dangers which arise from unusual and extraordinary occurrences. Clouse v. County of Dawson, 161 Neb. 544, 74 N.W.2d 67 (1955).

To impose liability on county, its negligence must be a proximate cause of injury. Shields v. County of Buffalo, 161 Neb. 34, 71 N.W.2d 701 (1955).

This section applies to liability of county to individuals, and not to action by county for injury to bridge. Central Neb. P. P. & I. Dist. v. Boettcher, 154 Neb. 815, 49 N.W.2d 690 (1951).

County is not liable on account of latent defects in bridge. Wittwer v. County of Richardson, 153 Neb. 200, 43 N.W.2d 505 (1950).

''Insufficiency'' of highway is defined. Dickenson v. County of Cheyenne, 146 Neb. 36, 18 N.W.2d 559 (1945).

County is not liable for damages to a person injured by reason of want of repair of a highway where whole duty of maintaining and repairing such highway rested on Department of Roads and Irrigation and not on county. Porter v. Lancaster County, 130 Neb. 705, 266 N.W. 584 (1936).

Counties under township organization are liable for defects in highway which county either by statute or contract is under a duty to maintain and keep in repair. Franek v. Butler County, 127 Neb. 852, 257 N.W. 235 (1934), reversing on rehearing, 126 Neb. 797, 254 N.W. 489 (1934).

County is liable although repair of highway delegated to another. Frickel v. Lancaster County, 115 Neb. 506, 213 N.W. 826 (1927); Sharp v. Chicago, B. & Q. R. R. Co., 110 Neb. 34, 193 N.W. 150 (1923).

Prior to 1929 amendment, county was liable although injuries occurred on state highway. Saltzgaber v. Morrill County, 111 Neb. 392, 196 N.W. 627 (1923).

County is liable although not actually notified of defective condition of bridge, and notwithstanding mode of travel had changed since original construction. Higgins v. Garfield County, 107 Neb. 482, 186 N.W. 347 (1922).

Where road is on line between two counties, each is jointly and severally liable. Ewh v. Otoe County, 98 Neb. 469, 153 N.W. 509 (1915).

Contributory negligence of driver will not prevent recovery when injured person had no control over him. Loso v. Lancaster County, 77 Neb. 466, 109 N.W. 752 (1906).

Liability of county for damages resulting from defective culvert is discussed. Nielsen v. Cedar County, 70 Neb. 637, 97 N.W. 826 (1903).

County is liable for damages resulting from defective culvert. Goes v. Gage County, 67 Neb. 616, 93 N.W. 923 (1903).

Where there is no contributory negligence, county is liable. Hollingsworth v. Saunders County, 36 Neb. 141, 54 N.W. 79 (1893).

4. Miscellaneous

Negligence cannot be predicated on curve in highway or location of bridge. Olson v. County of Wayne, 157 Neb. 213, 59 N.W.2d 400 (1953).

Action for death for county's negligence under this section must be brought by administrator. Swift v. Sarpy County, 102 Neb. 378, 167 N.W. 458 (1918).

Requirements of bridge should be to provide for proper accommodation of public at large. O'Chander v. Dakota County, 90 Neb. 3, 132 N.W. 722 (1911); Kovarik v. Saline County, 86 Neb. 440, 125 N.W. 1082 (1910); Seyfer v. Otoe County, 66 Neb. 566, 92 N.W. 756 (1902).

In action for damages, petition must be specific as to the unsafe condition of bridge. Johnson County v. Carmen, 71 Neb. 682, 99 N.W. 502 (1904).

Act of which this section is part is constitutional. Bryant v. Dakota County, 53 Neb. 755, 74 N.W. 313 (1898).

13-913 Defective bridge or highway; legislative intent.

In enacting section 13-912, it is the intent of the Legislature that the liability of all political subdivisions based on the alleged insufficiency or want of repair of any highway or bridge or other public thoroughfare shall be the same liability that previously has been imposed upon counties pursuant to section 13-912. The Legislature further declares that judicial interpretations of section 13-912 governing the liability of counties on January 1, 1970, also shall be controlling on the liability of all political subdivisions for the alleged insufficiency or want of repair of any highway or bridge or other public thoroughfare. Notwithstanding other provisions of the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610, sections 13-912 to 13-914 shall be the only sections governing determination of liability of political

subdivisions for the alleged insufficiency or want of repair of highways, or bridges or other public thoroughfares. As used in sections 13-912 and 13-913, public thoroughfares shall include all streets, alleys, and roads designed, intended, and primarily used for the movement of vehicular traffic and dedicated to public use.

Source: Laws 1969, c. 138, § 11, p. 631; Laws 1983, LB 10, § 2; R.S.1943, (1983), § 23-2411; Laws 1996, LB 900, § 1027.

County held liable for damages caused by insufficient bridge railing. Millman v. County of Butler, 244 Neb. 125, 504 N.W.2d 820 (1993).

Even assuming the city had a general duty to use ordinary care in treating its streets for icy conditions, dismissal of the plaintiff's petition was affirmed where the evidence of the city's negligence was insufficient. Hendrickson v. City of Kearney, 210 Neb. 8, 312 N.W.2d 677 (1981).

The duty to use reasonable and ordinary care in the construction, maintenance, and repair of highways and bridges so that they will be reasonably safe for the traveler using them while in the exercise of reasonable and ordinary prudence has now been imposed under both the State Tort Claims Act and the Political Subdivisions Tort Claims Act. Hendrickson v. City of Kearney, 210 Neb. 8, 312 N.W.2d 677 (1981).

The liability of all political subdivisions based on the alleged insufficiency or want of repair of any public thoroughfare is to be determined by the provisions of sections 23-2410 and 23-2411, R.R.S.1943, and judicial interpretations governing the liability of counties under the statute in effect prior to the enactment of the Political Subdivisions Tort Claims Act. Christensen v. City of Tekamah, 201 Neb. 344, 268 N.W.2d 93 (1978).

13-914 Defective bridge or highway; compliance with standards; effect.

For purposes of sections 13-912 and 13-913, no minimum maintenance road or highway shall be deemed to be in want of repair or insufficient if it complies with the standards and level of minimum maintenance developed pursuant to section 39-2113.

Source: Laws 1983, LB 10, § 7; R.S.1943, (1983), § 23-2411.01.

13-915 Suit for alleged defect in construction or maintenance; defense.

In any suit brought pursuant to the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610 and based upon an alleged defect in the construction or maintenance of a sidewalk, public building, or other public facility, an affirmative showing that the claimant had actual knowledge of the alleged defect at the time of the occurrence of the injury, and that an alternate safe route was available and known to the claimant, shall constitute a defense to the suit.

Source: Laws 1969, c. 138, § 12, p. 631; R.S.1943, (1983), § 23-2412; Laws 1996, LB 900, § 1028.

This section provides an affirmative defense to defendant and must be both pled and proved by defendant. Hill v. City of Lincoln, 249 Neb. 88, 541 N.W.2d 655 (1996).

Defendant village is not liable for injuries suffered by plaintiff when she tripped and fell on a slight irregularity in the sidewalk, where there was no evidence that the village had received any complaint or notice of the condition of the sidewalk, and where the defect was clearly visible to the plaintiff. Doht v. Village of Walthill, 207 Neb. 377, 299 N.W.2d 177 (1980).

13-916 Liability insurance; effect.

The governing body of any political subdivision, including any school district, educational service unit, or community college, may purchase a policy of liability insurance insuring against all or any part of the liability which might be incurred under the Political Subdivisions Tort Claims Act and also may purchase insurance covering those claims specifically excepted from the coverage of the act by section 13-910. Any independent or autonomous board or commission in the political subdivision having authority to disburse funds for a particular purpose of the subdivision without approval of the governing body also may procure liability insurance within the field of its operation. The procurement of insurance shall constitute a waiver of the defense of govern-

mental immunity as to those exceptions listed in section 13-910 to the extent and only to the extent stated in such policy. The existence or lack of insurance shall not be material in the trial of any suit except to the extent necessary to establish any such waiver. Whenever a claim or suit against a political subdivision is covered by liability insurance or by group self-insurance provided by a risk management pool, the provisions of the insurance policy on defense and settlement or the provisions of the agreement forming the risk management pool and related documents providing for defense and settlement of claims covered under such group self-insurance shall be applicable notwithstanding any inconsistent provisions of the act.

Source: Laws 1969, c. 138, § 13, p. 631; Laws 1972, LB 1177, § 1; Laws 1987, LB 398, § 40; R.S.Supp.,1987, § 23-2413; Laws 1991, LB 15, § 7.

Cross References

Risk management pool, defined, see section 44-4303.

Where a county's liability insurance policy did not cover the underlying event, there was no waiver of sovereign immunity regardless of the retained insurance limit. City of Lincoln v. County of Lancaster, 297 Neb. 256, 898 N.W.2d 374 (2017).

Exception provided in this section does not, and was not intended to, bar actions based upon negligent destruction, injury, or loss of goods in possession of a political subdivision. Nash v. City of North Platte, 198 Neb. 623, 255 N.W.2d 52 (1977).

13-917 Award; acceptance; effect.

Any award made pursuant to the authority granted by section 13-904 and accepted by the claimant and any final judgment in any suit brought pursuant to the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall be final and conclusive on all officers of the political subdivision, except when procured by means of fraud. The acceptance by the claimant of such award shall be final and conclusive on the claimant and shall constitute a complete release by the claimant of any claim against the political subdivision and against the employee whose act or omission gave rise to the claim, by reason of the same subject matter.

Source: Laws 1969, c. 138, § 14, p. 632; R.S.1943, (1983), § 23-2414; Laws 1996, LB 900, § 1029.

13-918 Awards; judgments; payment.

Any awards or judgments pursuant to the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall be paid in the same manner as other claims against the political subdivision. If insufficient funds are available to pay such awards or judgments the governing body shall include sufficient funds in the budget for the next fiscal year or biennial period. If constitutional or statutory provisions prevent any political subdivision from budgeting sufficient funds to pay any judgment in its entirety, the governing body shall pay that portion that can be paid under the constitution and laws and then shall make application to the State Treasurer for the loan of sufficient funds to pay the judgment in full. When application is made for such a loan, the State Treasurer shall make such investigation as he or she deems necessary to determine the validity of the judgment and the inability of the political subdivision to make full payment on the judgment, and the period of time during which the political subdivision will be able to repay the loan. After determining that such loan will be proper, the State Treasurer shall make the loan from funds available for investment in the state treasury, which loan shall carry an interest rate of one-half of one percent per annum. The State Treasurer shall

determine the schedule for repayment, and the governing body of the political subdivision shall annually budget and levy a sufficient amount to meet this schedule until the loan, with interest, has been repaid in full.

Source: Laws 1969, c. 138, § 15, p. 632; R.S.1943, (1983), § 23-2415; Laws 1996, LB 900, § 1030; Laws 2000, LB 1116, § 9.

13-919 Claims; limitation of action.

(1) Every claim against a political subdivision permitted under the Political Subdivisions Tort Claims Act shall be forever barred unless within one year after such claim accrued the claim is made in writing to the governing body. Except as otherwise provided in this section, all suits permitted by the act shall be forever barred unless begun within two years after such claim accrued. The time to begin a suit shall be extended for a period of six months from the date of mailing of notice to the claimant by the governing body as to the final disposition of the claim or from the date of withdrawal of the claim from the governing body under section 13-906 if the time to begin suit would otherwise expire before the end of such period.

(2) If a claim is made or filed under any other law of this state and a determination is made by a political subdivision or court that the act provides the exclusive remedy for the claim, the time to make a claim and to begin suit under the act shall be extended for a period of six months from the date of the court order making such determination or the date of mailing of notice to the claimant of such determination by the political subdivision if the time to make the claim and to begin suit under the act would otherwise expire before the end of such period. The time to begin suit may be further extended as provided in subsection (1) of this section.

(3) If a claim is made or a suit is begun under the act and a determination is made by the political subdivision or by the court that the claim or suit is not permitted under the act for any other reason than lapse of time, the time to make a claim or to begin a suit under any other applicable law of this state shall be extended for a period of six months from the date of the court order making such determination or the date of mailing of notice to the claimant of such determination by the political subdivision if the time to make the claim or begin the suit under such other law would otherwise expire before the end of such period.

(4) If a claim is brought under the Nebraska Hospital-Medical Liability Act, the filing of a request for review under section 44-2840 shall extend the time to begin suit under the Political Subdivisions Tort Claims Act an additional ninety days following the issuance of the opinion by the medical review panel if the time to begin suit under the Political Subdivisions Tort Claims Act would otherwise expire before the end of such ninety-day period.

(5) This section and section 25-213 shall be the only statutes of limitations applicable to tort claims as defined in the act.

Source: Laws 1969, c. 138, § 16, p. 633; Laws 1974, LB 949, § 1; Laws 1984, LB 692, § 1; R.S.Supp.,1986, § 23-2416; Laws 1991, LB 15, § 8.

Cross References

Nebraska Hospital-Medical Liability Act, see section 44-2855.

1. Statute of limitations

2. Cause of action
3. Notice
4. Miscellaneous

1. Statute of limitations

A claimant under the Political Subdivisions Tort Claims Act must bring a claim before the governing board of a political subdivision prior to filing suit, and suits must be filed within 2 years of the date the claim accrued. There are only two exceptions to extend this 2-year limitation by 6 months: (1) where the governmental subdivision takes some action on the claim before the 2 years have expired but at a time when less than 6 months remain for filing suit and (2) if the claimant withdraws the claim within the 2-year period but at a time when less than 6 months to file suit remain. Patterson v. Metropolitan Util. Dist., 302 Neb. 442, 923 N.W.2d 717 (2019).

An amended tort claim was time barred where the initial tort claim was timely filed but was not filed with the individual statutorily designated to receive tort claims and the amended tort claim was filed with the proper individual but was not filed within 1 year after the claim accrued. Brothers v. Kimball Cty. Hosp., 289 Neb. 879, 857 N.W.2d 789 (2015).

The evident purpose of the 6-month extension of the filing deadline set forth in subsection (2) of this section is to provide claimants who filed timely claims, but filed those claims with the wrong tribunal or pursuant to the wrong statute, enough time to present their claims to the proper political subdivision. This requires, however, that those claimants still act promptly in order to satisfy the public purpose reflected in the notice requirements. A claim ''made or filed under any other law of this state,'' within the meaning of subsection (2) of this section, must still be filed within the 1-year time limit imposed by the appropriate notice provision of either subsection (1) of this section or subsection (1) of section 13-920. Keller v. Tavarone, 265 Neb. 236, 655 N.W.2d 899 (2003).

Pursuant to subsection (1) of this section, the filing of a workers' compensation claim does not toll the limitation period set forth in this subsection. For purposes of subsection (1) of this section, a cause of action accrues, thereby starting the period of limitations, when a potential plaintiff discovers, or in the exercise of reasonable diligence should discover, the political subdivision's negligence. Polinski v. Omaha Pub. Power Dist., 251 Neb. 14, 554 N.W.2d 636 (1996).

Under subsection (1) of this section, the filing or presentment provision bars a plaintiff's action and precludes a remedy only if the claim is not filed or presented within the statutorily specified time. Millman v. County of Butler, 235 Neb. 915, 458 N.W.2d 207 (1990).

Subject to the exception described in section 25-213, the statute of limitations on filing a claim or suit for a political subdivision's tortious conduct is exclusively prescribed by this section. Chicago Lumber Co. v. School Dist. No. 71, 227 Neb. 355, 417 N.W.2d 757 (1988).

In order for the extended period of limitations section of the Political Subdivisions Tort Claims Act to apply, one of two positive acts must occur: the governmental subdivision must act on the claim, or the claimant must withdraw the claim. Absent the occurrence of either one of those affirmative steps, the statute of limitations runs at the end of two years from and after the time the claim accrued, and the action is barred. Ragland v. Norris P.P. Dist., 208 Neb. 492, 304 N.W.2d 55 (1981).

Subsection (3) of this section of the Political Subdivisions Tort Claims Act, permitting 6-month extensions brought ''under any other applicable law of the state'' against a political subdivision after it is determined that a claim is not permitted under the act, does not extend the time for filing a claim under the act against a different or additional political subdivision after one political subdivision denies the claim. Mace-Main v. City of Omaha, 17 Neb. App. 857, 773 N.W.2d 152 (2009).

The discovery rule is applicable to the statute of limitations provisions applicable to prefiling notice requirements under the Political Subdivisions Tort Claims Act. Mace-Main v. City of Omaha, 17 Neb. App. 857, 773 N.W.2d 152 (2009).

2. Cause of action

For the purposes of subsection (1) of this section, a cause of action accrues, and the period of limitations begins to run, when a potential plaintiff discovers, or in the exercise of reasonable diligence should discover, the political subdivision's negligent act or omission. Hutmacher v. City of Mead, 230 Neb. 78, 430 N.W.2d 276 (1988).

A cause of action accrues and the statute of limitations begins to run when the aggrieved party has the right to institute and maintain suit, even though such plaintiff may be ignorant of the existence of the cause of action. Ward v. City of Alliance, 227 Neb. 306, 417 N.W.2d 327 (1988).

A cause of action accrues, thereby starting the period of limitations, when a potential plaintiff discovers, or in the exercise of reasonable diligence should discover, the political subdivision's negligence. Gard v. City of Omaha, 18 Neb. App. 504, 786 N.W.2d 688 (2010).

For purposes of the Political Subdivisions Tort Claims Act, the relevant question is when the cause of action accrued, not when the last injury occurred. Gard v. City of Omaha, 18 Neb. App. 504, 786 N.W.2d 688 (2010).

3. Notice

The primary purpose of notice provisions in connection with actions against political subdivisions is to afford municipal authorities prompt notice of the accident and injury in order that an investigation may be made while the occurrence is still fresh and the municipal authorities are in a position to intelligently consider the claim and to allow it if deemed just or, in the alternative, to adequately protect and defend the public interest. Keller v. Tavarone, 265 Neb. 236, 655 N.W.2d 899 (2003).

The notice of claim requirements of the Nebraska Political Subdivisions Tort Claims Act is a condition precedent to the institution of suit against a political subdivision. The failure to allege in the petition that the condition precedent had been met is a fatal defect. Utsumi v. City of Grand Island, 221 Neb. 783, 381 N.W.2d 102 (1986).

4. Miscellaneous

The operation of the Nebraska Hospital-Medical Liability Act, section 44-2840, does not excuse a plaintiff from compliance with the requirement under the Political Subdivisions Tort Claims Act that the claim be presented to the political subdivision prior to filing suit. Keller v. Tavarone, 262 Neb. 2, 628 N.W.2d 222 (2001).

Political Subdivisions Tort Claims Act including one-year notice of claim requirements and two-year limitation for bringing action held constitutional. Campbell v. City of Lincoln, 195 Neb. 703, 240 N.W.2d 339 (1976).

Because compliance with statutory time limits such as that set forth in this section can be determined with precision, the doctrine of substantial compliance generally has no application. Gard v. City of Omaha, 18 Neb. App. 504, 786 N.W.2d 688 (2010).

A negligence lawsuit brought against an employee of a political subdivision is not a ''tort claim'' against a ''political subdivision'' and is not controlled by the 2-year provision of subsection (1) of this section as applied via subsection (5). Gatewood v. Powell, 1 Neb. App. 749, 511 N.W.2d 159 (1993).

Claim for indemnification and contribution from political subdivision of state does not have to be filed pursuant to the Nebraska Political Subdivisions Tort Claims Act, and its one-year statute of limitations does not apply. Waldinger Co. v. P & Z Co., Inc., 414 F.Supp. 59 (D. Neb. 1976).

13-920 Suit against employee; act occurring after May 13, 1987; limitation of action.

(1) No suit shall be commenced against any employee of a political subdivision for money on account of damage to or loss of property or personal injury to or the death of any person caused by any negligent or wrongful act or omission of the employee while acting in the scope of his or her office or employment occurring after May 13, 1987, unless a claim has been submitted in writing to the governing body of the political subdivision within one year after such claim accrued in accordance with section 13-905.

(2) No suit shall be permitted on a claim filed pursuant to this section unless the governing body of the political subdivision has made final disposition of the claim, except that if the governing body does not make final disposition of the claim within six months after the claim is filed, the claimant may, by notice in writing, withdraw the claim from consideration of the governing body and begin suit.

(3) Except as provided in section 13-919, any suit commenced on any claim filed pursuant to this section shall be forever barred unless begun within two years after the claim accrued. The time to begin suit under this section shall be extended for a period of six months (a) from the date of mailing of notice to the claimant by the governing body as to the final disposition of the claim or (b) from the date of withdrawal of the claim from the governing body under this section, if the time to begin suit would otherwise expire before the end of such period.

Source: Laws 1987, LB 258, § 1; R.S.Supp.,1987, § 23-2416.01.

1. Employee status
2. Procedure
3. Miscellaneous

1. Employee status

A claim alleging that an employee acting within the course and scope of his employment caused a motor vehicle accident by failing to stop on a rain-slicked street is a claim within and subject to the provisions of the Political Subdivisions Tort Claims Act. Wise v. Omaha Public Schools, 271 Neb. 635, 714 N.W.2d 19 (2006).

Employment agreements between a political subdivision hospital and a physician and a surgeon described employer-employee relationships, for the purposes of determining whether the physician and the surgeon were employees of the hospital, and therefore, whether medical malpractice suit by the special administrator of the patient's estate was subject to a 1-year presentment requirement as a condition precedent to suit under the Political Subdivisions Tort Claims Act, where, under agreements, the hospital controlled numerous aspects of job performance, including billing and patient records, salaries and deductions required by law, benefits, and means and methods of the defendants' services; agreements provided that the physician and the surgeon were required to comply with medical staff bylaws, rules, and regulations and the hospital's administrative policies, and that all space, facilities, supplies, and equipment furnished by the hospital had to be used exclusively for discharge of duties ''as an employee.'' Jacobson v. Shresta, 21 Neb. App. 102, 838 N.W.2d 19 (2013).

The physician who treated the patient who presented to the emergency room with coughing after eating meat was acting in the course of employment with the political subdivision hospital at the time of the alleged medically negligent treatment, and thus, the claim for wrongful death premised upon medical malpractice was subject to a 1-year presentment requirement as a condition precedent to suit under the Political Subdivisions Tort Claims Act; the employment agreement was between the hospital and the physician, and under the agreement, the physician was required to perform medical services at the hospital's clinics and area hospitals and to be on-call to provide emergency services, and she was providing medical services to the patient at the hospital pursuant to the agreement. Jacobson v. Shresta, 21 Neb. App. 102, 838 N.W.2d 19 (2013).

The political subdivision hospital, the physician, and the surgeon believed they were creating an employer-employee relationship, and not an agency relationship, by executing agreements for the physician and the surgeon to work at the hospital, for the purposes of determining whether the physician and the surgeon were employees of the hospital, and therefore, whether the medical malpractice by the special administrator of the patient's estate was subject to a 1-year presentment requirement as a condition precedent to suit under the Political Subdivisions Tort Claims Act; the surgeon, who was an alien working at the hospital under a work visa, believed he was an employee of the hospital, as required under the terms of the visa, and a former chief executive officer of the hospital testified that the physician and the surgeon were employees of the hospital. Jacobson v. Shresta, 21 Neb. App. 102, 838 N.W.2d 19 (2013).

The treating physician and the surgeon were ''employees'' of the political subdivision hospital, and thus, the wrongful death suit premised on the alleged medical malpractice of the admitting physician and the surgeon was subject to a 1-year presentment requirement as a condition precedent to suit under the Political Subdivisions Tort Claims Act. Neither the physician nor the surgeon offered services outside the hospital; both of the defendants were under the supervision of the hospital's chief executive officer and the chief of the medical staff; the hospital provided the defendants with all the facilities and supplies to perform their services; it controlled compensation, mandatory withholdings, and benefits; and the provision of medical services was part of the hospital's regular business. Jacobson v. Shresta, 21 Neb. App. 102, 838 N.W.2d 19 (2013).

2. Procedure

The evident purpose of the 6-month extension of the filing deadline set forth in subsection (2) of section 13-919 is to provide claimants who filed timely claims, but filed those claims with the wrong tribunal or pursuant to the wrong statute,

enough time to present their claims to the proper political subdivision. This requires, however, that those claimants still act promptly in order to satisfy the public purpose reflected in the notice requirements. A claim ''made or filed under any other law of this state,'' within the meaning of subsection (2) of section 13-919, must still be filed within the 1-year time limit imposed by the appropriate notice provision of either subsection (1) of section 13-919 or subsection (1) of this section. Keller v. Tavarone, 265 Neb. 236, 655 N.W.2d 899 (2003).

The primary purpose of notice provisions in connection with actions against political subdivisions is to afford municipal authorities prompt notice of the accident and injury in order that an investigation may be made while the occurrence is still fresh and the municipal authorities are in a position to intelligently consider the claim and to allow it if deemed just or, in the alternative, to adequately protect and defend the public interest. Keller v. Tavarone, 265 Neb. 236, 655 N.W.2d 899 (2003).

While not a jurisdictional prerequisite, the filing or presentment of a claim to the appropriate political subdivision is a condition precedent to commencement of a suit under the Political Subdivisions Tort Claims Act. Jacobson v. Shresta, 21 Neb. App. 102, 838 N.W.2d 19 (2013).

The filing of a notice of claim under the Political Subdivisions Tort Claims Act is a condition precedent to the institution of a suit to which the act applies. The partial payment of an insurance claim by a political subdivision's insurer standing alone is insufficient to create a question of fact precluding summary judgment as to whether the political subdivision is equitably estopped to assert the 1-year filing requirement. Keene v. Teten, 8 Neb. App. 819, 602 N.W.2d 29 (1999).

Written notice of the withdrawal of a claim from the consideration of the governing body is not mandatory, but is permissive or discretionary. Notice of withdrawal of a claim is not a requirement for commencing suit and applies only if the plaintiff wishes to extend the time period for filing suit under section 13-919(1). Keating v. Wiese, 1 Neb. App. 865, 510 N.W.2d 433 (1993).

3. Miscellaneous

The election by the treating physician and the surgeon, who were employees of the political subdivision hospital, for coverage under the Nebraska Hospital-Medical Liability Act did not excuse the special administrator of the patient's estate from compliance with the 1-year presentment requirement as a condition precedent to suit for wrongful death premised on the medical malpractice under the Political Subdivisions Tort Claims Act. Jacobson v. Shresta, 21 Neb. App. 102, 838 N.W.2d 19 (2013).

The operation of the Nebraska Hospital-Medical Liability Act does not excuse a plaintiff from compliance with the requirement under the Political Subdivisions Tort Claims Act that the claim be presented to the political subdivision prior to filing suit. Jacobson v. Shresta, 21 Neb. App. 102, 838 N.W.2d 19 (2013).

13-921 Suit against employee; act or omission occurring prior to May 13, 1987; limitation of action.

After January 1, 1988, all suits against any employee of a political subdivision for money on account of damage to or loss of property or personal injury to or the death of any person caused by any negligent or wrongful act or omission of the employee while acting within the scope of his or her office or employment and occurring prior to May 13, 1987, shall be forever barred unless the party seeking recovery had, within one year after such claim accrued, submitted a claim in writing to the governing body of the political subdivision in accordance with section 13-905.

Source: Laws 1987, LB 258, § 2; R.S.Supp.,1987, § 23-2416.02.

A negligence cause of action arising from acts of an employee of a political subdivision which occurred prior to May 13, 1987, is controlled by this section, for which no explicit statute of limitations is provided. Gatewood v. Powell, 1 Neb. App. 749, 511 N.W.2d 159 (1993).

13-922 Suit against employee; recovery; limitation.

The total amount recoverable against any employee for claims filed pursuant to section 13-920 or 13-921 arising out of an occurrence after May 13, 1987, shall be limited to: (1) One million dollars for any person for any number of claims arising out of a single occurrence; and (2) five million dollars for all claims arising out of a single occurrence.

Source: Laws 1987, LB 258, § 3; R.S.Supp.,1987, § 23-2416.03.

13-923 Remedies; exclusive.

From and after January 1, 1970, the authority of any political subdivision to sue or be sued in its own name shall not be construed to authorize suits against such political subdivision on tort claims except as authorized in the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610. The remedies provided by such act and sections in such cases shall be exclusive.

Source: Laws 1969, c. 138, § 17, p. 634; Laws 1978, LB 819, § 1; R.S.1943, (1983), § 23-2417; Laws 1996, LB 900, § 1031.

13-924 Act; applicability.

Nothing contained in the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall be deemed to repeal or restrict any provision of law authorizing any political subdivision to consider, ascertain, adjust, compromise, settle, determine, allow, or pay any claim other than a tort claim as defined in such act and sections.

Source: Laws 1969, c. 138, § 18, p. 634; R.S.1943, (1983), § 23-2418; Laws 1996, LB 900, § 1032.

13-925 Employee; action against; when.

Nothing in the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall be construed to prevent a political subdivision from bringing an action for recovery from an employee of the political subdivision when the political subdivision has made payment of an award or settlement growing out of the employee's act or omission under such act and sections.

Source: Laws 1969, c. 138, § 19, p. 634; R.S.1943, (1983), § 23-2419; Laws 1996, LB 900, § 1033.

13-926 Recovery under act; limitation; additional sources for recovery.

The total amount recoverable under the Political Subdivisions Tort Claims Act for claims arising out of an occurrence after November 16, 1985, shall be limited to:

(1) One million dollars for any person for any number of claims arising out of a single occurrence; and

(2) Five million dollars for all claims arising out of a single occurrence.

If the damages sustained by an innocent third party pursuant to section 13-911 are not fully recoverable from one or more political subdivisions due to the limitations in this section, additional sources for recovery shall be as follows: First, any offsetting payments specified in subsection (3) of section 13-911 shall be reduced to the extent necessary to fully compensate the innocent third party; and second, if such reduction is insufficient to fully compensate the innocent third party, the right of reimbursement granted to the political subdivision in subsection (2) of section 13-911 shall be reduced to the extent necessary to fully compensate the innocent third party.

Source: Laws 1985, Second Spec. Sess., LB 14, § 2; R.S.Supp.,1986, § 23-2419.01; Laws 1996, LB 952, § 2.

When the damages suffered by an ''innocent third party'' are not fully recoverable because of the damages cap in this section, a political subdivision's right to reimbursement must be reduced ''to the extent necessary to fully compensate'' the party. Werner v. County of Platte, 284 Neb. 899, 824 N.W.2d 38 (2012).

Parents of an injured minor have one damage cap, and the minor has a separate damage cap. Connelly v. City of Omaha, 284 Neb. 131, 816 N.W.2d 742 (2012).

The damage cap applies to each person having a claim arising from a single occurrence. Connelly v. City of Omaha, 284 Neb. 131, 816 N.W.2d 742 (2012).

The Legislature had a rational basis for enacting the damage cap in this section, and the cap does not violate an injured party's right to substantive due process. Connelly v. City of Omaha, 284 Neb. 131, 816 N.W.2d 742 (2012).

The damage cap embodied in this section applies to all political subdivisions of the State of Nebraska, which together create a single class of tort-feasors to which the Legislature has chosen to apply uniform rules and procedures governing tort liability. By limiting the tort liability exposure of all political subdivisions in exactly the same manner, the Legislature has enacted a general law which does not contravene the constitutional prohibition of special legislation. Staley v. City of Omaha, 271 Neb. 543, 713 N.W.2d 457 (2006).

The fact that an insurer provided liability insurance coverage for that portion of a county's potential liability for a single occurrence which exceeded its legal liability to a single claimant cannot be viewed as creating any rights on the part of injured persons to recover more from the insurer than its insured was legally obligated to pay. Molina v. American Alternative Ins. Corp., 270 Neb. 218, 699 N.W.2d 415 (2005).

When a county's ''legal obligation'' to an injured party has been paid by the county and its underlying insurer, the county's ''legal obligation to pay'' has been fully satisfied under subsection (1) of this section, and an insurer providing the county with a commercial umbrella policy could have no contractual liability to an injured party for that portion of his or her proven damages which exceeded the statutory cap. Molina v. American Alternative Ins. Corp., 270 Neb. 218, 699 N.W.2d 415 (2005).

13-927 Skatepark and bicycle motocross park; sign required; warning notice.

(1) A political subdivision shall post and maintain a sign at each skatepark and bicycle motocross park sponsored by the political subdivision containing the following warning notice: Under Nebraska law, a political subdivision is not liable for an injury to or the death of a participant in recreational activities resulting from the inherent risks of the recreational activities pursuant to section 13-910.

(2) The absence of a sign shall not give rise to liability on the part of the political subdivision.

Source: Laws 2007, LB564, § 3.

13-928 Political subdivision; state highway use for special event; applicability of act.

The Political Subdivisions Tort Claims Act shall apply to any claim arising during the time specified in a notice provided by a political subdivision pursuant to subsection (3) of section 39-1359.

Source: Laws 2011, LB589, § 3.

ARTICLE 10

INTERSTATE CONSERVATION AND RECREATIONAL AREAS

Section
13-1001. Plans authorized; when; contents.
13-1002. Cooperation with other states.
13-1003. Improvement districts.
13-1004. Management of districts.
13-1005. Acquisition of property.
13-1006. Reversion of property.

13-1001 Plans authorized; when; contents.

Whenever in the opinion of any of the governing bodies of any city, town, village or county, acting severally or jointly, it is found desirable in order to properly use, improve and develop a conservation or recreational area which is situated partly within the corporate limits or within the jurisdiction or supervision of any city, town, village or county, and when to properly develop and improve and use said area it is deemed advisable and necessary to correlate said project with the use, development and improvement of an adjacent or contiguous area in an adjoining state or states, the proper governing body or bodies having jurisdiction thereof may have a plan prepared, showing the area or areas under consideration, and the use, development and improvement contemplated, and the relation thereof to the area or areas outside of Nebraska, adjoining or contiguous thereto.

Source: Laws 1935, c. 39, § 1, p. 155; C.S.Supp.,1941, § 18-1701; R.S. 1943, (1983), § 18-901.

13-1002 Cooperation with other states.

After the preparation of the plan as designated in section 13-1001, the governing body or bodies having jurisdiction thereof are hereby given power and authority to confer and cooperate with the proper authorities of the other state or states involved and to modify or adjust said plan if necessary in order to correlate the use, development and improvement of the entire area involved.

Source: Laws 1935, c. 39, § 2, p. 155; C.S.Supp.,1941, § 18-1702; R.S. 1943, (1983), § 18-902.

13-1003 Improvement districts.

The proper governing body or governing bodies, having jurisdiction thereof, after making all arrangements above provided, may adopt a final plan, the area included in which shall constitute an interstate conservation or recreational improvement district.

Source: Laws 1935, c. 39, § 3, p. 155; C.S.Supp.,1941, § 18-1703; R.S. 1943, (1983), § 18-903.

13-1004 Management of districts.

After the interstate conservation improvement or recreational district plan is adopted by the proper authorities having jurisdiction thereof, the proper governing body or bodies may agree with the proper authorities of the other state or states involved as to the organization for management or supervision, development, maintenance, and use of the said area or areas and may exercise the same powers and perform the same duties in connection with the district or districts that are established as is now authorized for such conservation or recreational area located entirely within the state.

Source: Laws 1935, c. 39, § 4, p. 155; C.S.Supp.,1941, § 18-1704; R.S. 1943, (1983), § 18-904.

13-1005 Acquisition of property.

Such interstate control body as is or may be created by virtue of section 13-1004 shall have the right to acquire or receive, solely as trustees for the use and benefit of such conservation or recreational improvement district, real and personal property by deed, gift, purchase or otherwise to be used exclusively for the purposes defined in section 13-1001.

Source: Laws 1935, c. 39, § 5, p. 156; C.S.Supp.,1941, § 18-1705; R.S. 1943, (1983), § 18-905.

13-1006 Reversion of property.

In the event that such district or districts as are created under section 13-1003 in relation to one or more states, shall for any reason cease to exist, then all real and personal property acquired by deed, gift, purchase or otherwise shall, in its proportionate share as such territory in one state may bear to the other state, revert to the state or the district or districts having jurisdiction thereof.

Source: Laws 1935, c. 39, § 6, p. 156; C.S.Supp.,1941, § 18-1706; R.S. 1943, (1983), § 18-906.

ARTICLE 11
INDUSTRIAL DEVELOPMENT

(a) INDUSTRIAL DEVELOPMENT BONDS

Section
13-1101. Terms, defined.
13-1102. Governing body; powers.
13-1103. Bonds; restrictions; issuance; sale.
13-1104. Bonds; security; agreements; default; payment; foreclosure.
13-1105. Leasing or financing of project; governing body; powers and duties; hearing.
13-1106. Refunding bonds; issuance; amount; rights of holders.
13-1107. Bonds; proceeds from sale; disposition.
13-1108. Projects; taxation; distress warrant; limitation.
13-1109. Powers; cumulative; presumption regarding bonds and agreements.
13-1110. Department of Economic Development; furnish advice and information.

(b) INDUSTRIAL AREAS

13-1111. Terms, defined; application for designation; exceptions.
13-1112. Municipal bodies; notification of filing; approval; failure to reply; effect.
13-1113. Hearing; notice.
13-1114. Designation; procedure.
13-1115. Designation; use; inclusion within municipality; when.
13-1116. Jurisdiction of county board.
13-1117. Utility services; fire and police protection.
13-1118. Change of boundaries; inclusion of tracts.
13-1119. Change of boundaries; exclusion of tracts.
13-1120. Termination of designation.
13-1121. Designation; review by county board; notice; hearing; burden of proof; removal of designation.

(a) INDUSTRIAL DEVELOPMENT BONDS

13-1101 Terms, defined.

As used in sections 13-1101 to 13-1110, unless the context otherwise requires:

(1) Municipality means any incorporated city or village in the state, including cities operating under home rule charters and entities created by interlocal agreements among cities, villages, and counties;

(2) Nonprofit enterprise means any activity, venture, undertaking, trade, or business conducted or to be conducted by a nonprofit organization incorporated or authorized to do business in this state as permitted under its governing documents and the applicable laws of its jurisdiction of organization;

(3) Project means (a) any land, building, or equipment or other improvement, and all real and personal properties deemed necessary in connection therewith, which shall be suitable for use for manufacturing or industrial enterprises, (b) any land, building, or equipment or other improvement, and all real and personal properties deemed necessary in connection therewith, which shall be suitable for use as a nonprofit enterprise or the refinancing of outstanding debt of a nonprofit enterprise incurred to finance such land, building, equipment, improvement, or other properties, except that a project under this subdivision shall not include any portion of such land, building, equipment, improvement, or other properties or the refinancing thereof to the extent used for sectarian instruction or study or devotional activities or religious worship, or (c) any land, building, or improvements located in a blighted area located within a city of the metropolitan, primary, first, or second class, and all real and personal properties deemed necessary in connection therewith, which shall be suitable

for any enterprise, including, but not limited to, profit or nonprofit commercial, business, governmental, or multifamily housing enterprises;

(4) Governing body means the board or body in which the general legislative powers of the municipality or county are vested;

(5) Mortgage means a mortgage or a mortgage and deed of trust, or other security device; and

(6) Blighted area means an area within a municipality (a) which by reason of the presence of a substantial number of deteriorated or deteriorating structures, existence of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations, or constitutes an economic or social liability and is detrimental to the public health, safety, morals, or welfare in its present condition and use, and (b) in which there is at least one of the following conditions: (i) Unemployment in the designated area is at least one hundred twenty percent of the state or national average; (ii) the average age of the residential or commercial units in the area is at least forty years; (iii) more than half of the plotted and subdivided property in an area is unimproved land that has been within the municipality for forty years and has remained unimproved during that time; (iv) the per capita income of the area is lower than the average per capita income of the municipality in which the area is designated; or (v) the area has had either stable or decreasing population based on the last two decennial censuses. In no event shall a city of the metropolitan, primary, or first class designate more than thirty-five percent of the city as blighted, a city of the second class shall not designate an area larger than fifty percent of the city as blighted, and a village shall not designate an area larger than one hundred percent of the village as blighted.

Source: Laws 1961, c. 54, § 1, p. 200; Laws 1983, LB 451, § 1; Laws 1984, LB 1084, § 1; R.S.Supp.,1986, § 18-1614; Laws 2011, LB159, § 1.

The authority of a municipality or county to use public funds to own, acquire, develop, lease, and sell real and personal property for industrial development is measured by the provisions of Article XIII, section 2, of the Nebraska Constitution, and the enabling statutes lawfully enacted by the Legislature. Chase v. County of Douglas, 195 Neb. 838, 241 N.W.2d 334 (1976).

Constitution was amended to authorize Industrial Development Act. Engelmeyer v. Murphy, 180 Neb. 295, 142 N.W.2d 342 (1966).

Industrial Development Act of 1961 was in major part sustained as constitutional. State ex rel. Meyer v. County of Lancaster, 173 Neb. 195, 113 N.W.2d 63 (1962).

13-1102 Governing body; powers.

(1) In addition to any other powers which it may have, each municipality and each county shall have without any other authority the following powers:

(a) To acquire, whether by construction, purchase, devise, gift, or lease, or any one or more of such methods, one or more projects, which shall be located within this state, and may be located within, without, partially within, or partially without the municipality or county;

(b) To lease to others any or all of its projects for such rentals and upon such terms and conditions as the governing body may deem advisable and as shall not conflict with sections 13-1101 to 13-1110;

(c) To finance the acquisition, construction, rehabilitation, or purchase of projects in blighted areas. The power to finance such projects in blighted areas means and includes the power to enter into any type of agreement, including a loan agreement, when the other party to the agreement agrees (i) to use the proceeds of money provided under the agreement to pay the costs of such acquisition, construction, rehabilitation, or purchase and any costs incident to the issuance of the related bonds and the funding of any reserve funds, (ii) to be bound by the terms of the Age Discrimination in Employment Act, the Nebraska Fair Employment Practice Act, and sections 48-1219 to 48-1227, regardless of the number of employees, and (iii) to make payments to the municipality or county sufficient to enable it to pay on a timely basis all principal, redemption premiums, and interest on the related revenue bonds issued to provide such financing, and any amounts necessary to repay such municipality or county for any and all costs incurred by it that are incidental to such financing. Title to any such project in a blighted area need not be in the name of the municipality or county, but may be in the name of a private party;

(d) To acquire, own, develop, lease, or finance or refinance the acquisition, construction, rehabilitation, or purchase of one or more projects for use as a nonprofit enterprise, regardless of whether such project or projects are within a blighted area. Such projects shall be located within this state and may be located within, without, partially within, or partially without the municipality or county; *Provided,* for any project located without the municipality or county, such municipality or county shall find that a reasonable relationship exists between such municipality or county and the project, borrower, or other party or parties to the financing agreement, as applicable. The power to finance such projects means and includes the power to enter into any type of agreement, including a loan agreement, when the other party to the agreement agrees (i) to use the proceeds of money provided under the agreement to pay the costs of such acquisition, construction, rehabilitation, or purchase and any costs incident to the issuance of the related bonds and the funding of any reserve funds and (ii) to make payments to the municipality or county sufficient to enable it to pay on a timely basis all principal, redemption premiums, and interest on the related revenue bonds issued to provide such financing and any amounts necessary to repay such municipality or county for any and all costs incurred by it that are incidental to such financing. Title to any such project need not be in the name of the municipality or county but may be in the name of a private party;

(e) To issue revenue bonds for the purpose of defraying the cost of acquiring, improving, or financing any project or projects, including the cost of any real estate previously purchased and used for such project or projects, or the cost of any option in connection with acquiring such property, and to secure the payment of such bonds as provided in sections 13-1101 to 13-1110, which revenue bonds may be issued in two or more series or issues where deemed advisable, and each such series or issue may contain different maturity dates, interest rates, priorities on revenue available for payment of such bonds and priorities on securities available for guaranteeing payment thereof, and such other differing terms and conditions as are deemed necessary and are not in conflict with sections 13-1101 to 13-1110; and

(f) To sell and convey any real or personal property acquired as provided by subdivision (1)(a) of this section and make such order respecting the same as may be deemed conducive to the best interest of the municipality or county,

except that such sale or conveyance shall be subject to the terms of any lease but shall be free and clear of any other encumbrance.

(2) No municipality or county shall have the power to (a) operate any project, referred to in this section, as a business or in any manner except as the lessor thereof, (b) lease any project acquired under powers conferred by this section for use principally for commercial feeding of livestock, (c) issue bonds under this section principally for the purpose of financing the construction or acquisition of commercial feeding facilities for livestock, or (d) acquire any project or any part thereof by condemnation.

Source: Laws 1961, c. 54, § 2, p. 201; Laws 1967, c. 86, § 1, p. 271; Laws 1972, LB 1261, § 2; Laws 1983, LB 451, § 2; R.S.1943, (1983), § 18-1615; Laws 2007, LB265, § 1; Laws 2011, LB159, § 2.

Cross References

Age Discrimination in Employment Act, see section 48-1001.
Nebraska Fair Employment Practice Act, see section 48-1125.

Power to sell property was within scope of title to act. State ex rel. Meyer v. County of Lancaster, 173 Neb. 195, 113 N.W.2d 63 (1962).

13-1103 Bonds; restrictions; issuance; sale.

(1) All bonds issued by a municipality or county under the authority of sections 13-1101 to 13-1110 shall be limited obligations of the municipality or county. Bonds and interest coupons, issued under the authority of sections 13-1101 to 13-1110, shall not constitute nor give rise to a pecuniary liability of the municipality or county or a charge against its general credit or taxing powers. Such limitation shall be plainly stated upon the face of each of such bonds.

(2) Such bonds may (a) be executed and delivered at any time and from time to time, (b) be in such form and denominations, (c) be of such tenor, (d) be in registered or bearer form either as to principal or interest or both, (e) be payable in such installments and at such time or times not exceeding thirty years from their date, (f) be payable at such place or places, (g) bear interest at such rate or rates, payable at such place or places, and evidenced in such manner, (h) be redeemable prior to maturity, with or without premium, and (i) contain such provisions not inconsistent with sections 13-1101 to 13-1110, as shall be deemed for the best interest of the municipality or county and provided for in the proceedings of the governing body under which the bonds shall be authorized to be issued.

(3) The authorization, terms, issuance, execution, or delivery of such bonds shall not be subject to sections 10-101 to 10-126.

(4) Such bonds may be sold at public or private sale in such manner and at such time or times as may be determined by the governing body to be most advantageous. The municipality or county may pay all expenses, premiums, and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale, and issuance thereof from the proceeds of the sale of the bonds or from the revenue of the projects.

(5) Such bonds and all interest coupons applicable thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

Source: Laws 1961, c. 54, § 3, p. 202; R.S.1943, (1983), § 18-1616; Laws 2001, LB 420, § 15.

13-1104 Bonds; security; agreements; default; payment; foreclosure.

(1) The principal of and interest on any bonds issued under the authority of sections 13-1101 to 13-1110 (a) shall be secured by a pledge of the revenue out of which such bonds shall be made payable, (b) may be secured by a mortgage covering all or any part of the project, (c) may be secured by a pledge of the lease of such project or by any related financing agreement, or (d) may be secured by such other security device as may be deemed most advantageous by the issuing authority and other parties to the transaction.

(2) The proceedings under which the bonds are authorized to be issued under sections 13-1101 to 13-1110 and any mortgage given to secure the same may contain any agreements and provisions customarily contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting (a) the fixing and collection of rents for any project covered by such proceedings or mortgage, (b) the terms to be incorporated in the lease or financing of such project, (c) the maintenance and insurance of such project, (d) the creation and maintenance of special funds from the revenue of such project, and (e) the rights and remedies available in the event of a default to the bondholders or to the trustee under a mortgage, all as the governing body shall deem advisable and as shall not be in conflict with sections 13-1101 to 13-1110. In making any such agreements or provisions, a municipality or county shall not have the power to obligate itself, except with respect to the project and the application of the revenue therefrom, and shall not have the power to incur a pecuniary liability or a charge upon its general credit or against its taxing powers.

(3) The proceedings authorizing any bonds under sections 13-1101 to 13-1110 and any mortgage securing such bonds may provide that, in the event of a default in the payment of the principal of or the interest on such bonds or in the performance of any agreement contained in such proceedings or mortgage, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents and to apply the revenue from the project in accordance with such proceedings or the provisions of such mortgage.

(4) Any mortgage made under sections 13-1101 to 13-1110 to secure bonds issued thereunder may also provide that, in the event of a default in the payment thereof or the violation of any agreement contained in the mortgage, the mortgage may be foreclosed and sold under proceedings in equity or in any other manner now or hereafter permitted by law. Such mortgage may also provide that any trustee under such mortgage or the holder of any of the bonds secured thereby may become the purchaser at any foreclosure sale if it is the highest bidder therefor. No breach of any such agreement shall impose any pecuniary liability upon a municipality or county or any charge upon their general credit or against their taxing powers.

Source: Laws 1961, c. 54, § 4, p. 203; Laws 1983, LB 451, § 3; R.S.1943, (1983), § 18-1617; Laws 2011, LB159, § 3.

13-1105 Leasing or financing of project; governing body; powers and duties; hearing.

(1) Prior to the leasing or financing of any project, the governing body must determine and find the following: The amount necessary to pay the principal of and the interest on the bonds proposed to be issued to finance such project; the

amount necessary to be paid into any reserve funds which the governing body may deem it advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project including taxes; and, with respect to leases, unless the terms under which the project is to be leased provide that the lessee shall maintain the project and carry all proper insurance with respect thereto, the estimated cost of maintaining the project in good repair and keeping it properly insured.

(2) The determinations and findings of the governing body, required to be made by subsection (1) of this section, shall be set forth in the proceedings under which the proposed bonds are to be issued. Prior to the issuance of the bonds authorized by sections 13-1101 to 13-1110, the municipality or county shall (a) lease the project to a lessee or lessees under an agreement conditioned upon completion of the project and providing for payment to the municipality or county of such rentals as, upon the basis of such determinations and findings, will be sufficient (i) to pay the principal of and interest on the bonds issued to finance the project, (ii) to pay the taxes on the project, (iii) to build up and maintain any reserves deemed by the governing body to be advisable in connection therewith, and (iv) unless the agreement of lease obligates the lessees to pay for the maintenance and insurance of the project, to pay the costs of maintaining the project in good repair and keeping it properly insured or (b) enter into a financing agreement pursuant to subdivision (1)(c) or (d) of section 13-1102. Subject to the limitations of sections 13-1101 to 13-1110, the lease or financing agreement or extensions or modifications thereof may contain such other terms and conditions as may be mutually acceptable to the parties. Notwithstanding any other provisions of law relating to the sale of property owned by municipalities and counties, any such lease may contain an option for the lessees to purchase the project on such terms and conditions as may be mutually acceptable to the parties.

(3) At a public hearing or at the adjournment of such hearing, the governing body of the city in which the proposed project is located shall determine whether the location of the proposed project is within a blighted area and whether the proposed project is within the development plan or plans for the area. Notice of the time and place of the hearing shall be published at least two times not less than seven days prior to the hearing in a legal newspaper having a general circulation within the boundaries of the city. Upon a favorable resolution by the governing body of the city where the proposed project is located, the governing body of the city or county may proceed to issue bonds.

(4) The requirements for notice and public hearing as set forth in subsection (3) of this section shall not apply to projects for manufacturing or industrial enterprises or for nonprofit enterprises as described in subdivision (3)(a) or (b) of section 13-1101 or refunding bonds authorized under section 13-1106.

Source: Laws 1961, c. 54, § 5, p. 204; Laws 1983, LB 451, § 4; R.S.1943, (1983), § 18-1618; Laws 2011, LB159, § 4.

13-1106 Refunding bonds; issuance; amount; rights of holders.

Any bonds issued under the provisions of sections 13-1101 to 13-1110 and at any time outstanding may at any time and from time to time be refunded by a municipality or county by the issuance of its refunding bonds in such amount as the governing body may deem necessary but not exceeding an amount sufficient to refund the principal of the bonds to be so refunded, together with any unpaid

interest thereon and any premiums and commission necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the payment of the bonds to be refunded thereby, or by exchange of the refunding bonds for the bonds to be refunded thereby; *Provided,* that the holders of any bonds to be so refunded shall not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable by maturity date, option to redeem, or otherwise or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption by option or otherwise. Any refunding bonds issued under the authority of sections 13-1101 to 13-1110 shall be subject to the provisions contained in section 13-1103 and may be secured in accordance with the provisions of section 13-1104.

Source: Laws 1961, c. 54, § 6, p. 205; Laws 1963, c. 77, § 3, p. 283; R.S.1943, (1983), § 18-1619.

13-1107 Bonds; proceeds from sale; disposition.

The proceeds from the sale of any bonds issued under authority of sections 13-1101 to 13-1110 shall be applied only for the purpose for which the bonds were issued; *Provided,* that any accrued interest and premium received in any such sale shall be applied to the payment of the principal of or the interest on the bonds sold; *and provided further,* that if for any reason any portion of such proceeds shall not be needed for the purpose for which the bonds were issued, then such unneeded portion of said proceeds shall be applied to the payment of the principal of or the interest on said bonds. The cost of acquiring or improving any project shall be deemed to include the following: The actual cost of acquiring or improving real estate for any project; the actual cost of construction of all or any part of a project which may be constructed, including architects' and engineers' fees, all expenses in connection with the authorization, sale and issuance of the bonds to finance such acquisition or improvement; and the interest on such bonds for a reasonable time prior to construction, during construction, and for not exceeding six months after completion of construction.

Source: Laws 1961, c. 54, § 7, p. 206; R.S.1943, (1983), § 18-1620.

13-1108 Projects; taxation; distress warrant; limitation.

Notwithstanding that title to a project may be in a municipality or county, such projects shall be subject to taxation to the same extent, in the same manner, and under the same procedures as privately owned property in similar circumstances, if such projects are leased to or held by private interests; *Provided,* that where personal property owned by a municipality or county is taxed under this section and such personal property taxes are delinquent, levy by distress warrant for collection of such delinquent taxes may only be made on personal property against which such taxes were levied.

Source: Laws 1961, c. 54, § 8, p. 207; R.S.1943, (1983), § 18-1621.

Portion of this section was unconstitutional as granting greater exemption than was authorized by constitutional amendment permitting tax. State ex rel. Meyer v. County of Lancaster, 173 Neb. 195, 113 N.W.2d 63 (1962).

13-1109 Powers; cumulative; presumption regarding bonds and agreements.

(1) Sections 13-1101 to 13-1110 shall not be construed as a restriction or limitation upon any powers which a municipality or county might otherwise have under any laws of this state but shall be construed as cumulative.

(2) Sections 13-1101 to 13-1110 shall be full authority for the exercise of the powers described in such sections by a municipality or county, and no action, proceeding, or election shall be required prior to the exercise of such powers under such sections or to authorize the exercise of any of the powers granted in such sections, except as specifically provided in such sections, any provision of law applicable to a municipality or county to the contrary notwithstanding. No proceedings for the issuance of bonds of a municipality or county shall be required other than those required by sections 13-1101 to 13-1110, and the provisions of all other laws and charters of any municipality or county, if any, relative to the terms and conditions for the acquisition, leasing, financing construction, rehabilitation, or purchase of projects as provided in such sections and the issuance, payment, redemption, registration, sale, or delivery of bonds by a municipality or county shall not be applicable to bonds issued by a municipality or county pursuant to such sections. No municipality, county, or governing body or officer thereof shall be subject to the Securities Act of Nebraska with respect to any revenue bonds issued under sections 13-1101 to 13-1110. Insofar as sections 13-1101 to 13-1110 are inconsistent with the provisions of any other law or of any law otherwise applicable to a municipality or county, if any, sections 13-1101 to 13-1110 shall be controlling.

(3) In any suit, action, or proceeding involving the validity or enforceability of any bond of a municipality or county or the security therefor brought after the lapse of thirty days after the issuance of such bonds has been authorized, any such bond reciting in substance that it has been authorized by the municipality or county to aid in financing a project shall be conclusively deemed to have been authorized for such purpose and such project shall be conclusively deemed to have been planned, located, and carried out in accordance with sections 13-1101 to 13-1110.

(4) In any suit, action, or proceeding involving the validity or enforceability of any agreement of a municipality or county brought after the lapse of thirty days after the agreement has been formally entered into, any such agreement reciting in substance that it has been entered into by the municipality or county to provide financing for a project shall be conclusively deemed to have been entered into for such purpose and such project shall be conclusively deemed to have been planned, located, and carried out in accordance with sections 13-1101 to 13-1110.

Source: Laws 1961, c. 54, § 9, p. 207; R.S.1943, (1983), § 18-1622; Laws 2011, LB159, § 5.

Cross References

Securities Act of Nebraska, see section 8-1123.

13-1110 Department of Economic Development; furnish advice and information.

The Department of Economic Development shall furnish advice and information in connection with a project when requested to do so by a county or municipality.

Source: Laws 1961, c. 54, § 10, p. 207; Laws 1969, c. 104, § 1, p. 479; R.S.1943, (1983), § 18-1623.

(b) INDUSTRIAL AREAS

13-1111 Terms, defined; application for designation; exceptions.

As used in sections 13-1111 to 13-1120, unless the context otherwise requires: (1) Industrial area shall mean a tract of land used or reserved for the location of industry, except that such land may be used for agricultural purposes until the use is converted for the location of industry as set forth in sections 13-1111 to 13-1120; and (2) industry shall mean (a) any enterprise whose primary function is to manufacture, process, assemble, or blend any agricultural, manufactured, mineral, or chemical products; (b) any enterprise that has as its primary function that of storing, warehousing, or distributing, and specifically excluding those operations whose primary function is to directly sell to the general public or store personal property; or (c) any enterprise whose primary function is research in connection with any of the foregoing, or primarily exists for the purpose of developing new products or new processes, or improving existing products or known processes. The owner or owners of any contiguous tract of real estate containing twenty acres or more, no part of which is within the boundaries of any incorporated city or village, except cities of the metropolitan or primary class, may file or cause to be filed with the county clerk of the county in which the greater portion of such real estate is situated if situated in more than one county, an application requesting the county board of such county to designate such contiguous tract as an industrial area.

Source: Laws 1957, c. 51, § 1, p. 240; Laws 1963, c. 86, § 2, p. 295; Laws 1965, c. 84, § 1, p. 324; Laws 1979, LB 217, § 1; R.S.1943, (1983), § 19-2501; Laws 2022, LB983, § 1.
Effective date July 21, 2022.

Property involved was designated an industrial area. Lund v. Orr, 181 Neb. 361, 148 N.W.2d 309 (1967).

Right of county board to create industrial areas was superior to right of city to zone under Suburban Development Act. City of Grand Island v. Ehlers, 180 Neb. 331, 142 N.W.2d 770 (1966).

13-1112 Municipal bodies; notification of filing; approval; failure to reply; effect.

Upon filing the petition under the provisions of section 13-1111, the county clerk, or if the real estate is situated in more than one county, the county clerk of the county having the greater portion of such real estate, shall notify such municipal legislative bodies in whose area of zoning jurisdiction an industrial tract is located in whole or in part as shall have developed a comprehensive development plan and shall be exercising zoning jurisdiction in the area concerned. Such notification shall request approval or disapproval by the municipal legislative body of the designation of such tract within thirty days after receipt of such notification, which approval may be conditioned upon terms agreed to between the city and county. The designation of any tract as an industrial area shall be in compliance with the zoning ordinances, subdivision regulations, and appropriate ordinances and regulations of such city or village. If formal reply to the notification of the county board's intention to designate such tract as an industrial area is not received within thirty days, the county board shall construe such inaction as approval of such designation.

Source: Laws 1967, c. 99, § 1, p. 299; Laws 1979, LB 217, § 2; R.S.1943, (1983), § 19-2501.01.

13-1113 Hearing; notice.

Upon filing the petition, the county clerk, or, if the real estate is situated in more than one county, the county clerk of the county having the greater portion of such real estate, shall designate and endorse thereon a day for the hearing and determination of the petition by the county board of such county which date shall not be less than thirty days nor more than ninety days subsequent to the filing of said petition. The county clerk shall publish a notice once each week three successive weeks in some newspaper published and of general circulation in the county or counties in which the real estate is located and, if no newspaper is published in the county or counties, such notice shall be published in some newspaper having a general circulation therein. The notice shall state the time and place of hearing and the land affected thereby.

Source: Laws 1957, c. 51, § 2, p. 240; Laws 1965, c. 84, § 2, p. 324; R.S.1943, (1983), § 19-2502.

13-1114 Designation; procedure.

At the time fixed in the notice or on any adjourned day thereafter, any person interested may appear and be heard at a public hearing before the county board of the county in which the petition is filed. After such hearing, if the county board shall find from the evidence produced that (1) such tract is suitable for use as an industrial area, (2) it will be generally beneficial to the community, and (3) the owners of all the land embraced therein have consented to such designation, such board shall designate such tract as an industrial area and cause a certified copy of such order to be filed and recorded in the offices of the county assessor and the register of deeds of the county or counties in which the real estate is situated. If such tract is located in whole or in part within an unincorporated area over which any city or village exercises zoning control, the designation of such tract as an industrial area must first be approved by the municipal legislative body.

Source: Laws 1957, c. 51, § 3, p. 241; Laws 1965, c. 84, § 3, p. 324; Laws 1967, c. 99, § 2, p. 300; Laws 1979, LB 217, § 3; R.S.1943, (1983), § 19-2503.

County board has jurisdiction to designate an industrial area. City of Grand Island v. Ehlers, 180 Neb. 331, 142 N.W.2d 770 (1966).

13-1115 Designation; use; inclusion within municipality; when.

Upon designation of such tract as an industrial area by the county board of the county in which the petition is filed, such designated area shall thereupon be used or reserved for the location of industry. Such land may be used for agricultural purposes until the use is converted for the location of industry as set forth in sections 13-1111 to 13-1120. If such tract has a taxable valuation of more than two hundred eighty-six thousand dollars, it shall not be subject to inclusion within the boundaries of any incorporated city of the first or second class or village, except that such tract regardless of taxable valuation may be annexed if (1) it is located in a county with a population in excess of one hundred thousand persons and the city or village did not approve the original designation of such tract as an industrial area pursuant to section 13-1112, (2) the annexation is stipulated in the terms and conditions agreed upon between the county and the city or village in any agreement entered into pursuant to section 13-1112, or (3) the owners of a majority in value of the property in such tract as shown upon the last preceding county assessment roll consent to such

inclusion in writing or petition the city council or village board to annex such area.

Source: Laws 1957, c. 51, § 4, p. 241; Laws 1963, c. 86, § 3, p. 295; Laws 1965, c. 84, § 4, p. 325; Laws 1967, c. 99, § 3, p. 300; Laws 1979, LB 217, § 4; Laws 1979, LB 187, § 84; Laws 1980, LB 599, § 8; R.S.1943, (1983), § 19-2504; Laws 1991, LB 76, § 1; Laws 1992, LB 719A, § 31.

Industrial area was not subject to inclusion within boundaries of city. City of Grand Island v. Ehlers, 180 Neb. 331, 142 N.W.2d 770 (1966).

13-1116 Jurisdiction of county board.

During the period any area is designated as an industrial area as provided by sections 13-1111 to 13-1120, the county board in which the greater area of real estate is located shall have exclusive jurisdiction for zoning and otherwise regulating the use of the industrial area in such a way as to confer upon the owners and users thereof the benefits of a designated tract to be held and reserved for industrial purposes only; *Provided,* such authority shall not be granted to the county board if the zoning of such designated area is within the jurisdiction of any city or village.

Source: Laws 1957, c. 51, § 5, p. 241; Laws 1965, c. 84, § 5, p. 325; Laws 1979, LB 217, § 5; R.S.1943, (1983), § 19-2505.

County board has authority to designate industrial areas for zoning. City of Grand Island v. Ehlers, 180 Neb. 331, 142 N.W.2d 770 (1966).

13-1117 Utility services; fire and police protection.

During the time any tract is designated as an industrial area, as provided by sections 13-1111 to 13-1120, the owners of such designated area shall provide at their expense for water, electricity, sewer, and fire and police protection.

Source: Laws 1957, c. 51, § 7, p. 242; Laws 1979, LB 217, § 7; R.S.1943, (1983), § 19-2507.

During time a tract is designated as an industrial area, owners of property provide at their own expense for water, electricity, sewer, and fire protection. City of Grand Island v. Ehlers, 180 Neb. 331, 142 N.W.2d 770 (1966).

13-1118 Change of boundaries; inclusion of tracts.

The boundaries of the designated industrial area may be changed to include other tracts of real estate containing not less than ten acres when contiguous to the area designated as an industrial area by filing a petition, publishing a notice thereof, and having a hearing on the petition in the same manner as when an original petition to designate a contiguous tract as an industrial area is filed. The county board of the county in which the petition was filed shall designate such additional tract in the industrial area to which the tract is to be attached if the board shall find that the conditions of the provisions of section 13-1114 are complied with. After such designation by such county board, such tract that is designated as part of the industrial area shall be governed by the provisions of sections 13-1111 to 13-1120 as though it was part of the original designated tract as an industrial area.

Source: Laws 1957, c. 51, § 6, p. 241; Laws 1965, c. 84, § 6, p. 325; Laws 1979, LB 217, § 6; R.S.1943, (1983), § 19-2506.

13-1119 Change of boundaries; exclusion of tracts.

The boundaries of a designated industrial area may be changed to exclude one or more tracts, or parts of tracts, of real estate within the area upon the request of the owner or owners of the tracts, or parts of tracts, proposed to be excluded, and by the owners filing a petition, publishing a notice thereof, and having a hearing on the petition in the same manner as when an original petition to designate a contiguous tract as an industrial area is filed. The county clerk of the county in which the tract proposed to be excluded is situated shall cause a copy of the published notice to be mailed by certified mail, within five days after the first publication of the notice, to each of the owners of record and other persons, if any, in possession of the real estate not proposed to be excluded from the industrial area, whose addresses are known to the county clerk. After the hearing, if the county board shall find that the best interests of the community and the industrial area will be served by the exclusion of the tracts, the county board shall enter an order excluding the tracts, or parts of tracts, requested to be excluded. When a certified copy of such order is filed with the register of deeds and county assessor of the county or counties in which the real estate excluded is located, such tracts, or parts of tracts, shall no longer be an industrial area.

Source: Laws 1975, LB 151, § 1; R.S.1943, (1983), § 19-2509.

13-1120 Termination of designation.

When the owner or owners of all of the contiguous tracts of real estate designated as an industrial area as provided by sections 13-1111 to 13-1118, shall file with the county board of the county in which such real estate is located, or the greater portion of such real estate, a petition requesting that the designation of the whole of the real estate as an industrial area be terminated, the county board shall enter an order determining that such real estate shall no longer be an industrial area. When a certified copy of such order is filed with the register of deeds and county assessor of the county or counties in which the real estate is located, such real estate shall no longer be an industrial area.

Source: Laws 1975, LB 151, § 2; R.S.1943, (1983), § 19-2510.

13-1121 Designation; review by county board; notice; hearing; burden of proof; removal of designation.

Beginning in 1980 and every even-numbered year thereafter during the month of March, the appropriate county board may, of its own volition or shall, at the request of the municipal governing body having zoning jurisdiction over the designated industrial tract, review any or all industrial areas in its jurisdiction. When the review is at the request of the municipal governing body having zoning jurisdiction over the designated industrial tract, the county board shall give notice of a hearing by registered or certified mail to the municipal governing body and the owners of the tract, if such owners are known, within ninety days prior to the hearing, and if the owners are not known or cannot be located, then by publishing a notice three successive weeks in some newspaper published and of general circulation in the county or counties in which the real estate is located, and if no newspaper is published in the county, such notice shall be published in some newspaper having a general circulation in such county. The burden of proving that the tract continues to be used for industry as defined in section 13-1111 shall be on the owners of the tract. If the owners

of the tract do not attend the hearing, the county board shall remove the designation of the industrial area from such tract. If after the hearing the county board finds that the industrial area or a portion thereof is no longer suitable for industrial purposes, or is being used for nonindustrial enterprises, or has had no improvements or industrial buildings thereon within seven years from the date of original industrial designation, or is not in compliance with the zoning ordinances of any city or village exercising zoning control of it, or is not platted in accordance with such zoning ordinances or is no longer in compliance with the definition of industry as set forth in section 13-1111, such county board shall remove the designation of industrial area from such tract or portion of such tract. Any tract or portion of such tract used or reserved for industry prior to August 24, 1979, shall not be removed from the industrial area designation against the wishes of its owners as long as the use of such tract or portion continues to be in compliance with the definition of industry as set forth in section 13-1111. A certified copy of such order shall be filed with the register of deeds and the county assessor of the county or counties in which the real estate is located.

Source: Laws 1979, LB 217, § 8; R.S.1943, (1983), § 19-2511; Laws 2022, LB983, § 2.
Effective date July 21, 2022.

ARTICLE 12

NEBRASKA PUBLIC TRANSPORTATION ACT

Section
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13-1214. Intercity bus system assistance program; department; certify funding.

13-1201 Act, how cited.

Sections 13-1201 to 13-1214 shall be known and may be cited as the Nebraska Public Transportation Act.

Source: Laws 1975, LB 443, § 5; R.S.1943, (1983), § 19-3901; Laws 1993, LB 158, § 1; Laws 1993, LB 575, § 1.

13-1202 Legislative findings.

The Legislature finds that: (1) Transportation is a critical need of the elderly, handicapped, and others without access to the private automobile; (2) public transportation is a viable alternative to help meet the transportation needs in urban and rural areas; (3) transportation which promotes fuel conservation and reduces traffic congestion should be encouraged; (4) public transportation in the rural and small urban areas of the state is lacking; (5) public transportation in many instances is no longer a profitable undertaking for private enterprise acting alone; (6) public subsidy of public transportation, whether privately or publicly operated, is often necessary to provide needed transportation services; (7) the variety of federal, state, and local activities in providing public transportation services require maximum coordination for maximum benefit from public resources; (8) providers of public transportation may require technical assistance in addressing their public transportation needs; and (9) it is in the public interest of the people of the state to develop programs which provide for the concerns enumerated in this section and which insure the health, safety, and welfare of Nebraska citizens in both urban and rural areas.

Source: Laws 1975, LB 443, § 6; Laws 1981, LB 144, § 1; R.S.1943, (1983), § 19-3902.

13-1203 Terms, defined.

For purposes of the Nebraska Public Transportation Act, unless the context otherwise requires:

(1) Public transportation shall mean the transport of passengers on a regular and continuing basis by motor carrier for hire, whether over regular or irregular routes, over any public road in this state, including city bus systems, intercity bus systems, special public transportation systems to include portal-to-portal escorted service for the elderly or handicapped, taxi, subscription, dial-a-ride, or other demand-responsive systems, and those motor carriers for hire which may carry elderly or handicapped individuals for a set fare, a donation, or at no cost to such individuals. Public transportation shall not include motor carriers for hire when engaged in the transportation of school children and teachers to and from school and school-related activities and shall not include private car pools;

(2) Department shall mean the Department of Transportation;

(3) Director shall mean the Director-State Engineer;

(4) Elderly shall mean any person sixty-two years of age or older who is drawing social security and every person sixty-five years of age and older;

(5) Handicapped shall mean any individual who is unable without special facilities or special planning or design to utilize public transportation facilities and services;

(6) Municipality shall mean any village or incorporated city, except cities of the metropolitan class operating under home rule charter;

(7) Qualified public-purpose organization shall mean an incorporated private not-for-profit group or agency which:

(a) Has operated or proposes to operate only motor vehicles having a seating capacity of twenty or less for the transportation of passengers in the state;

(b) Has been approved as capable of providing public transportation services by the appropriate city or county governing body; and

(c) Operates or proposes to operate a public transportation service in an area which the department has identified as not being adequately served by existing public or private transportation services pursuant to section 13-1205; and

(8) Intercity bus system shall mean a system of regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more communities or areas not in close proximity which support public transportation service. At least one terminus of the intercity bus system shall be in an area that makes meaningful connections with intercity service to more distant points.

Source: Laws 1975, LB 443, § 7; Laws 1977, LB 374, § 1; Laws 1981, LB 144, § 2; R.S.1943, (1983), § 19-3903; Laws 1993, LB 158, § 2; Laws 2017, LB339, § 75.

13-1204 Department; coordinating and technical assistance agency; contracts authorized.

The department shall be the principal state agency responsible for coordinating public transportation activities in the state and, when requested, shall provide technical assistance to improve Nebraska's public transportation system. The department may contract pursuant to the Nebraska Public Transportation Act to assist state agencies, political subdivisions, and public and qualified public-purpose organizations to provide public transportation services as specified in the act.

Source: Laws 1975, LB 443, § 8; Laws 1981, LB 144, § 3; R.S.1943, (1983), § 19-3904; Laws 1993, LB 158, § 3.

13-1205 Department; powers, duties, and responsibilities; enumerated.

The department shall have the following powers, duties, and responsibilities:

(1) To collect and maintain data on the level of public transportation services and needs in the state and identify areas not being adequately served by existing public or private transportation services;

(2) To assess the regional and statewide effect of changes, improvement, and route abandonments in the state's public transportation system;

(3) To develop a six-year statewide transit plan and programs for public transportation in coordination with local plans and programs developed by municipalities, counties, transit authorities, and regional metropolitan transit authorities;

(4) To provide planning and technical assistance to agencies of the state, political subdivisions, or groups seeking to improve public transportation;

(5) To advise, consult, and cooperate with agencies of the state, the federal government, and other states, interstate agencies, political subdivisions, and groups concerned with public transportation;

(6) To cooperate with the Public Service Commission by providing periodic assessments to the commission when determining the effect of proposed regulatory decisions on public transportation;

(7) To administer federal and state programs providing financial assistance to public transportation, except those federal and state programs in which a municipality, county, transit authority, regional metropolitan transit authority, or other state agency is designated as the administrator; and

(8) To exercise all other powers necessary and proper for the discharge of its duties, including the adoption and promulgation of reasonable rules and regulations to carry out the Nebraska Public Transportation Act.

Source: Laws 1975, LB 443, § 9; Laws 1979, LB 322, § 4; Laws 1981, LB 545, § 4; Laws 1981, LB 144, § 4; R.S.1943, (1983), § 19-3905; Laws 1993, LB 158, § 4; Laws 2012, LB782, § 16; Laws 2013, LB222, § 3; Laws 2019, LB492, § 28.

13-1206 Department; receive gifts, grants, loans, contributions, and other funds; conditions.

The department may receive, contract for, or apply for and receive gifts, grants, loans, contributions, and other funds from the federal or state government or from any public or private sources for the purpose of carrying out the Nebraska Public Transportation Act. Any contract between the department and the federal government entered into pursuant to this section may include all reasonable and appropriate conditions imposed by federal law or regulation which are not inconsistent with the purposes of the act.

Source: Laws 1975, LB 443, § 10; R.S.1943, (1983), § 19-3906; Laws 1993, LB 158, § 5.

13-1207 Department of Health and Human Services; review rules and regulations and the awarding of funds.

Prior to the promulgation of rules and regulations pursuant to section 13-1212, and prior to the awarding of federal or state funds under any program administered by the department or any other state agency which affects the transportation of the elderly, such rules and regulations and the awarding of such funds shall be reviewed by the Department of Health and Human Services.

Source: Laws 1975, LB 443, § 11; Laws 1984, LB 635, § 1; R.S.Supp.,1986, § 19-3907; Laws 1996, LB 1044, § 53; Laws 2007, LB296, § 23.

13-1208 Municipality, county, or qualified public-purpose organization; powers; municipality or county; contract with school district; conditions.

(1) Any municipality, county, or qualified public-purpose organization may lease, purchase, construct, own, maintain, operate, or contract for the operation of public transportation, including special transportation for the elderly or handicapped, and apply for and accept advances, loans, grants, contributions, and any other form of assistance from the federal government, the state, or any public or private sources for the purpose of providing a public transportation system.

Any special transportation system for the elderly or handicapped shall include transportation of necessary personal escorts of such elderly or handicapped riders.

(2) Any municipality or county in providing public transportation for the elderly under subsection (1) of this section may contract with the school board or board of education of a public school district for the use of a school bus at times other than during the normal school day or on days when school is not in session if all costs incurred by such municipality or county are paid for with

money generated from passenger fees or federal or state funds. The contract shall provide that such municipality or county shall be liable for costs of maintenance, operation, insurance, and other reasonable expenses incurred in the use of such bus. No district shall be liable for any damages to any person riding in a school bus under a contract entered into pursuant to this subsection unless such damage is proximately caused by the gross negligence of the district. No district shall be required to modify or alter any school bus because of a contract entered into pursuant to this subsection. Any municipality or county when using a school bus upon a highway under a contract entered into pursuant to this subsection shall cover or conceal all school bus markings on such bus as required by section 60-6,175.

(3) Any municipality or county may contract with the school board or board of education of any public school district for the use of school buses for emergency evacuation of members of the public by qualified law enforcement personnel during emergency or crisis situations that pose a threat to the health, safety, or well-being of the individuals to be evacuated. The contract shall provide that such municipality or county shall be liable for the costs of maintenance, operation, insurance, and other reasonable expenses incurred in the use of such buses. No district shall be liable for any damages to any person riding in a school bus under a contract entered into pursuant to this subsection unless such damage is proximately caused by the gross negligence of the district. No district shall be required to modify or alter any school bus because of a contract entered into pursuant to this subsection.

Source: Laws 1975, LB 443, § 12; Laws 1981, LB 85, § 1; Laws 1981, LB 144, § 5; R.S.1943, (1983), § 19-3908; Laws 1990, LB 1086, § 1; Laws 1993, LB 370, § 3.

13-1209 Assistance program; established; state financial assistance; limitation.

(1) A public transportation assistance program is hereby established to provide state assistance for the capital acquisition and operating costs of public transportation systems.

(2) Any municipality, county, transit authority, regional metropolitan transit authority, or qualified public-purpose organization shall be eligible to receive financial assistance for the eligible capital acquisition and operating costs of a public transportation system, whether the applicant directly operates such system or contracts for its operation. A qualified public-purpose organization shall not be eligible for financial assistance under the Nebraska Public Transportation Act if such organization is currently receiving state funds for a program which includes transportation services and such funding and services would be duplicated by the act. Eligible operating costs include those expenses incurred in the operation of a public transportation system which exceed the amount of operating revenue and which are not otherwise eligible for reimbursement from any available federal programs other than those administered by the United States Department of the Treasury. Eligible capital acquisition costs include investments in the purchase, replacement, and rebuilding of buses and other vehicles used for public transportation.

(3) The state grant to an applicant shall not exceed fifty percent of the eligible capital acquisition or operating costs of the public transportation system as provided for in subsection (2) of this section. The amount of state funds shall be

matched by an equal amount of local funds in support of capital acquisition or operating costs.

Source: Laws 1975, LB 443, § 13; Laws 1981, LB 144, § 6; R.S.1943, (1983), § 19-3909; Laws 1993, LB 158, § 6; Laws 2016, LB977, § 1; Laws 2019, LB492, § 29.

13-1210 Assistance program; department; certify funding; report.

(1) The department shall annually certify the amount of capital acquisition and operating costs eligible for funding under the public transportation assistance program established under section 13-1209.

(2) The department shall submit an annual report to the chairperson of the Appropriations Committee of the Legislature on or before December 1 of each year regarding funds requested by each applicant for eligible capital acquisition and operating costs in the current fiscal year pursuant to subsection (2) of section 13-1209 and the total amount of state grants projected to be awarded in the current fiscal year pursuant to the public transportation assistance program. The report submitted to the committee shall be submitted electronically. The report shall separate into two categories the requests and grants awarded for handicapped vans, otherwise known as paratransit vehicles, and requests and grants awarded for handicapped-accessible fixed-route bus systems.

Source: Laws 1980, LB 722, § 12; Laws 1986, LB 599, § 3; R.S.Supp.,1986, § 19-3909.01; Laws 2004, LB 1144, § 1; Laws 2008, LB1068, § 1; Laws 2012, LB782, § 17; Laws 2016, LB977, § 2; Laws 2017, LB339, § 76.

13-1211 City bus system receiving state funds; reduced fares for elderly or handicapped persons.

The fares charged elderly or handicapped persons shall not exceed one-half of the rates generally applicable to other persons at peak hours for each one-way trip for any city bus system operating over regularly scheduled routes and receiving state funds pursuant to the Nebraska Public Transportation Act. The recipient of state funds under the act may designate certain peak hours during which this section shall not apply.

Source: Laws 1975, LB 443, § 14; Laws 1982, LB 942, § 2; R.S.1943, (1983), § 19-3910; Laws 1993, LB 158, § 7.

13-1211.01 City bus system receiving state funds; reduced fares for low-income persons.

Recipients of state funds under the Nebraska Public Transportation Act for any city bus system operating over regularly scheduled routes in cities of the primary and metropolitan classes may provide or designate that fares charged low-income persons may be discounted up to one-half of the rates generally applicable to other persons at peak hours for each one-way trip. Such recipient of state funds under the act may designate certain peak hours during which this section shall not apply. For purposes of this section, low-income persons shall mean persons whose income is at or below one hundred fifty percent of the current amount determined and published periodically by the federal government as the national poverty income level without regard to other resources.

Source: Laws 1993, LB 575, § 2.

13-1212 Department; rules and regulations; duties; public-purpose organization; denied financial assistance; petition; hearing.

(1) The department shall administer sections 13-1209 to 13-1212, and shall adopt and promulgate such rules and regulations pursuant to the Administrative Procedure Act as are necessary, including but not limited to defining eligible capital acquisition and operating costs, establishing contractual and other requirements including standardized accounting and reporting requirements, which shall include the applicant's proposed service area, the type of service proposed, all routes and schedules, and any further information needed for recipients to ensure the maximum feasible coordination and use of state funds, establishing application procedures, and developing a policy for apportioning funds made available for this program should they be insufficient to cover all eligible projects. Priority on the allocation of all funds shall be given to those proposed projects best suited to serve the needs of the elderly and handicapped and to proposed projects with federal funding participation.

(2) Any public-purpose organization proposing to provide public transportation denied financial assistance as a result of a determination by the department that an area is adequately served by existing transportation services may submit a petition to the department requesting the department to reclassify the proposed service area as not being adequately served by existing public transportation services. The petition submitted to the department by the public-purpose organization shall bear the signatures of at least fifty registered voters residing in the proposed service area. Upon receipt of the petition the department shall hold a public hearing in the proposed service area and after such hearing shall determine whether the proposed service area is already adequately served. In carrying out its duties under this section the department shall comply with the provisions of the Administrative Procedure Act. The department shall not be required to conduct a reevaluation hearing for an area more frequently than once a year.

Source: Laws 1975, LB 443, § 15; Laws 1981, LB 144, § 7; R.S.1943, (1983), § 19-3911; Laws 2016, LB977, § 3; Laws 2017, LB339, § 77.

Cross References

Administrative Procedure Act, see section 84-920.

13-1213 Intercity bus system assistance program; established; financial assistance available; selection; contracts authorized.

(1) An intercity bus system assistance program is hereby established to provide state assistance for the operation of intercity bus systems.

(2) Any municipality, county, transit authority, regional metropolitan transit authority, or qualified public-purpose organization shall be eligible to receive (a) financial assistance for the eligible operating costs of such system, whether the applicant directly operates the system or contracts for its operation, and (b) financial assistance to match federal funds available for the purchase of vehicles and equipment for the start of an intercity bus system or the replacement of vehicles used in the operation of an intercity bus system. The vehicles shall be titled to such municipality, county, transit authority, regional metropolitan transit authority, or qualified public-purpose organization.

(3) The department may contract for an intercity bus system with either a publicly owned provider or a provider owned by a qualified public-purpose organization.

(4) Any intercity bus system to be funded under this section shall be selected based on criteria established by the department.

Source: Laws 1993, LB 158, § 8; Laws 1996, LB 383, § 1; Laws 2019, LB492, § 30.

13-1214 Intercity bus system assistance program; department; certify funding.

The department shall certify biennially the amount of intercity bus system assistance eligible for funding under section 13-1213.

Source: Laws 1993, LB 158, § 9; Laws 2004, LB 1144, § 2.

ARTICLE 13

PUBLIC BUILDING COMMISSION

Section
13-1301. Declaration of purpose.
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13-1304. Commission; powers and duties.
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13-1306. Bonds; notes; issuance; refunding; interest; payment.
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13-1301 Declaration of purpose.

The trend of population growth in the state in recent decades has been to the larger cities and the areas adjacent thereto to the degree that some of such cities contain over one-half the population of the respective counties in which such cities are located. Such growth has given rise to the need for buildings, structures, and facilities to be used jointly by such cities and the respective counties in which they are located, thereby effecting economies of operation and adding to the effectiveness of such cities and counties, aiding in the use by the inhabitants of such cities and counties, and alleviating the inconvenience of separate buildings, structures, and facilities caused by such growth to such inhabitants. The purpose of sections 13-1301 to 13-1312 is to provide a means whereby buildings, structures, and facilities can be acquired, constructed, remodeled, or renovated and financed for use jointly by such cities and the respective counties in which they are located.

Source: Laws 1971, LB 1003, § 1; R.S.1943, (1983), § 23-2601; Laws 1990, LB 1098, § 1.

This and succeeding sections do not violate the Nebraska Constitution. Dwyer v. Omaha-Douglas Public Building Commission, 188 Neb. 30, 195 N.W.2d 236 (1972).

13-1302 Terms, defined.

For purposes of sections 13-1301 to 13-1312, unless the context otherwise requires:

(1) Bonds means bonds issued by the commission pursuant to such sections;

(2) City means a city of the metropolitan class as defined in section 14-101 or a city of the primary class as defined in section 15-101, the population of which according to the most recent federal census or the most recent revised certified count by the United States Bureau of the Census was more than one-half in number of the total population, according to such census or revised count, of the county in which such city is located;

(3) Commission means a public building commission created by and activated pursuant to sections 13-1301 to 13-1312;

(4) County means a county in which a city of the metropolitan class or primary class is located;

(5) Governing body means the city council in the case of the city and the county board in the case of the county;

(6) Other governmental units means a city, other than a city as defined in this section, village, district, authority, public agency, board, commission, or other public corporation, political subdivision, or public instrumentality located in whole or in part in the county; and

(7) Project means any building, structure, or facility for public purposes to be used jointly by the city and the county, including the site thereof, all machinery, equipment, and apparatus of or pertaining thereto, including fixtures and furnishings if agreed to by the city and the county, and all other real or personal property necessary or incidental thereto.

Source: Laws 1971, LB 1003, § 2; R.S.1943, (1983), § 23-2602; Laws 1990, LB 1098, § 2; Laws 2011, LB480, § 1; Laws 2019, LB67, § 2.

13-1303 Commission; created; membership; expenses; quorum; corporate existence.

There is hereby created and established in each county a commission to be known and designated as (name of city) (name of county) public building commission, except that sections 13-1301 to 13-1312 shall not become operative in any county unless and until the governing body of the county by resolution shall activate the commission for such county. A copy of such resolution certified by the county clerk shall be filed with and recorded by the Secretary of State and also filed with the city clerk. Each such commission shall be a body politic and corporate and an instrumentality of the state.

Each commission shall be governed by a board of commissioners of five members, two of whom shall be appointed by the governing body of the county from among the members of such governing body, two of whom shall be appointed by the mayor of the city with the approval of the governing body of the city from among the members of such governing body, and the fifth of whom shall be appointed by the other four members. The fifth member shall be a resident of the county in which the commission is established. In the event the four members appointed by the county and the city cannot appoint the fifth member by a majority, the Governor, upon request of such four members, the city, or the county, shall appoint the fifth member. The term of office of each member of the board, except for the initial members, shall be four years or until a successor is appointed and takes office. Any vacancy on the board shall be filled (1) by the governing body of the county if the person whose membership

was vacated was appointed by the governing body of the county, (2) by the mayor of the city with the approval of the governing body of the city if the person whose membership was vacated was appointed by the mayor, and (3) by the remaining four members if the person whose membership was vacated was appointed by the members of the board. The members of the board shall not be entitled to compensation for their services but shall be entitled to reimbursement of expenses paid or incurred in the performance of the duties imposed upon them by sections 13-1301 to 13-1312 with reimbursement for mileage to be made at the rate provided in section 81-1176. A majority of the total number of members of the board shall constitute a quorum, and all action taken by the board shall be taken by a majority of such total number. The board may delegate to one or more of the members or to its officers, agents, and employees such powers and duties as it deems proper. Any member of the board may be removed from office for incompetence, neglect of duty, or malfeasance in office. An action for the removal of a member of the board may be brought in the district court of the county upon resolution of the governing body of the city or the county.

The terms of office of the two persons initially appointed to the board by the governing body of the county shall be for one and four years, and such governing body shall designate which person shall serve for one year and which person shall serve for four years. The terms of office of the two persons initially appointed to the board by the mayor with the approval of the governing body of the city shall be for two and three years, and such governing body shall designate which person shall serve for two years and which person shall serve for three years. The term of office of the person initially appointed by the other members of the board shall be for four years. Terms of office on the board shall expire on the same day of the year, and the governing body of the county in making the first appointments to the board shall designate such expiration date.

The commission and its corporate existence shall continue until all its liabilities have been met and its bonds have been paid in full or such liabilities and bonds have otherwise been discharged and the governing bodies of the city and county jointly determine that the commission is no longer needed. Upon the commission's ceasing to exist all rights or properties of the commission shall pass to and be vested in the city and county.

Source: Laws 1971, LB 1003, § 3; Laws 1981, LB 204, § 32; R.S.1943, (1983), § 23-2603; Laws 1990, LB 1043, § 1; Laws 1996, LB 1011, § 4; Laws 2007, LB233, § 1.

13-1304 Commission; powers and duties.

Any commission established under sections 13-1301 to 13-1312 shall have power to:

(1) Sue and be sued;

(2) Have a seal and alter the seal;

(3) Acquire, hold, and dispose of personal property for its corporate purposes;

(4) Acquire in the name of the city and county, by gift, grant, bequest, purchase, or condemnation, real property or rights and easements thereon necessary or convenient for its corporate purposes and use such property or rights and easements so long as its corporate existence continues;

(5) Make bylaws for the management and regulation of its affairs and make rules and regulations for the use of its projects;

(6) With the consent of the city or the county, as the case may be, use the services of agents, employees, and facilities of the city or county, for which the commission may reimburse the city or the county its proper proportion of the compensation or cost thereof, and use the services of the city attorney as legal advisor to the commission;

(7) Appoint officers, agents, and employees and fix their compensation, except that the county treasurer shall be the ex officio treasurer of the commission;

(8) Design, acquire, construct, maintain, operate, improve, remodel, remove, and reconstruct, so long as its corporate existence continues, such projects for the use both by the city and county as are approved by the city and the county and all facilities necessary or convenient in connection with any such projects;

(9) Enter into agreements with the city or county, or both, as to the operation, maintenance, repair, and use of its projects. Such agreements may provide that the city or county, or both, has responsibility for a certain area within any building, structure, or facility, including the maintenance, repair, use, furnishing, or management of such area;

(10) With the approval of both the city and the county, enter into agreements with the United States of America, the State of Nebraska, any body, board, agency, corporation, or other governmental entity of either of them, or other governmental units for use by them of any projects to the extent that such use is not required by the city or the county;

(11) Make all other contracts, leases, and instruments necessary or convenient to the carrying out of the corporate purposes or powers of the commission;

(12) Annually levy, assess, and certify to the governing body of the county the amount of tax to be levied for the purposes of the commission subject to section 77-3443, not to exceed one and seven-tenths cents on each one hundred dollars upon the taxable valuation of all the taxable property in the county. The governing body of the county shall collect the tax so certified at the same time and in the same manner as other county taxes are levied and collected, and the proceeds of such taxes when due and as collected shall be set aside and deposited in the special account or accounts in which other revenue of the commission is deposited;

(13) Accept grants, loans, or contributions from the United States of America, the State of Nebraska, any agency or instrumentality of either of them, the city, the county, any other governmental unit, or any private person, firm, or corporation and expend the proceeds thereof for any corporate purposes;

(14) Incur debt, issue bonds and notes and provide for the rights of the holders thereof, and pledge and apply to the payment of such bonds and notes the taxes and other receipts, income, revenue, profits, and money of the commission;

(15) Enter on any lands, waters, and premises for the purpose of making surveys, findings, and examinations; and

(16) Do all things necessary or convenient to carry out the powers specially conferred on the commission by sections 13-1301 to 13-1312.

Source: Laws 1971, LB 1003, § 4; Laws 1979, LB 187, § 126; R.S.1943, (1983), § 23-2604; Laws 1992, LB 719A, § 32; Laws 1996, LB 1114, § 26; Laws 2011, LB480, § 2.

Statutory condemnation power in public building commissions exists whether exercised or not. City of Omaha v. Matthews, 197 Neb. 323, 248 N.W.2d 761 (1977).

The provision in this section for expenditure for corporate purposes does not contravene Article XIII, section 2, Nebraska Constitution, as authorizing donations to works of internal improvement. Dwyer v. Omaha-Douglas Public Building Commission, 188 Neb. 30, 195 N.W.2d 236 (1972).

13-1305 Funds; county treasurer; disposition.

All taxes or other receipts, income, revenue, profits, and money of a commission from whatever source derived shall be paid to the treasurer of the county in which such commission is established as ex officio treasurer of the commission, who shall not commingle such money with any other money under his or her control. Such money shall be deposited in a separate bank, capital stock financial institution, or qualifying mutual financial institution account or accounts and shall be withdrawn only by check, draft, or order signed by the treasurer on requisition of the chairperson of the board of the commission or of such other person or persons as the commission may authorize to make such requisition, approved by the board. The chief auditing officer of the county and his or her legally authorized representatives are hereby authorized and empowered from time to time to examine the accounts and books of such commission, including its receipts, disbursements, contracts, leases, sinking funds, and investments and any other matters relating to its financial standing. Notwithstanding the provisions of this section, the board may contract with the holders of any of its bonds as to the collection, custody, securing, investment, and payment of any money of the commission or money held in trust or otherwise for the payment of bonds or in any way to secure bonds. The board may carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. All banks, capital stock financial institutions, qualifying mutual financial institutions, and trust companies are hereby authorized to give security for such deposits of money of the commission pursuant to the Public Funds Deposit Security Act. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1971, LB 1003, § 5; R.S.1943, (1983), § 23-2605; Laws 1989, LB 33, § 7; Laws 1999, LB 396, § 18; Laws 2001, LB 362, § 8.

Cross References

Public Funds Deposit Security Act, see section 77-2386.

13-1306 Bonds; notes; issuance; refunding; interest; payment.

With the prior approval of both the city and the county for which the commission was created, the commission shall have the power and is hereby authorized from time to time to issue its bonds for any corporate purpose in such amounts as may be required to carry out and fully perform the purposes for which such commission is established. The commission shall have power from time to time and when refunding is deemed expedient to issue bonds in amounts sufficient to refund any bonds, including any premiums payable upon

the redemption of the bonds to be refunded and interest to their redemption date upon the bonds to be refunded, by the issuance of new bonds, whether the bonds to be refunded have or have not matured. It may issue bonds partly to refund bonds then outstanding and partly for any other corporate purpose. The refunding bonds may be exchanged for the bonds to be refunded with such cash adjustment as may be agreed or may be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded. All bonds shall be general obligations of the commission issuing the same and shall be payable out of the tax and other receipts, revenue, income receipts, profits, or other money of the commission.

A commission shall have power from time to time to issue bond anticipation notes referred to as notes in this section and from time to time to issue renewal notes, such notes in any case to mature not later than thirty months from the date of incurring the indebtedness represented thereby in an amount not exceeding in the aggregate at any time outstanding the amount of bonds then or theretofore authorized. Such notes shall be general obligations of the commission. Payment of such notes shall be made from any money or revenue which the commission may have available for such purpose or from the proceeds of the sale of bonds of the commission or such notes may be exchanged for a like amount of such bonds.

All such bonds and notes shall be authorized by a resolution or resolutions of the board and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such exchange privileges, be executed in such manner, be payable in such medium of payment at such place or places within or without the State of Nebraska and be subject to such terms of redemption and at such redemption premiums, as such resolution or resolutions may provide and the provisions of section 10-126, shall not be applicable to such bonds or notes. The bonds and notes may be sold at public or private sale for such price or prices as the commission shall determine. No proceedings for the issuance of bonds or notes of a commission shall be required other than those required by the provisions of sections 13-1301 to 13-1312 and the provisions of all other laws and city charters, if any, relative to the terms and conditions for the issuance, payment, redemption, registration, sale or delivery of bonds of public bodies, corporations or political subdivisions of this state shall not be applicable to bonds and notes issued by commissions pursuant to sections 13-1301 to 13-1312.

The full faith and credit of the commission shall be pledged to the payment and security of the bonds and notes issued by it, whether or not such pledge shall be set forth in the bonds or notes. So long as any of its bonds or notes are outstanding, the commission shall have the power and be obligated to levy taxes within the limitation as provided in section 13-1304 to the extent required, together with any other money available to the commission therefor to pay the principal of and interest and premium, if any, on such bonds and notes as the same become due and payable.

All bonds and notes issued pursuant to the provisions of sections 13-1301 to 13-1312 shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code subject only to any provisions contained in such bonds and notes for the registration of the principal thereof.

A commission shall have power to purchase bonds or notes of the commission out of any money available therefor. Any bonds so purchased shall be canceled by the commission.

Source: Laws 1971, LB 1003, § 6; R.S.1943, (1983), § 23-2606.

13-1307 Bonds; notes; legal investment.

The bonds and notes of a commission are hereby made securities in which all public officers, boards, agencies and bodies of the state, its counties, political subdivisions, public corporations, and municipalities and the officers, boards, agencies or bodies of any of them, all insurance companies and associations and other persons carrying on an insurance business, all banks, trust companies, savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are now or who may hereafter be authorized to invest in notes, bonds or other obligations of this state, may properly and legally invest funds, including capital in their control or belonging to them. Notwithstanding any other provision of law the bonds are also hereby made securities which may be deposited with and shall be received by all public officers, boards, agencies, and bodies of this state, its counties, political subdivisions, public corporations and municipalities and the officers, boards, agencies or bodies of any of them for any purpose for which the deposit of notes, bonds or obligations of the state is now or may be hereafter authorized.

Source: Laws 1971, LB 1003, § 7; R.S.1943, (1983), § 23-2607.

13-1308 Bonds; notes; exempt from taxation.

The bonds and notes of a commission, the interest thereon and the income therefrom, shall at all times be exempt from taxation by this state, or any political subdivision of this state.

Source: Laws 1971, LB 1003, § 8; R.S.1943, (1983), § 23-2608.

13-1309 Commission; property; exempt from taxation.

The commission, its income, revenue and other receipts and all properties or rights and interest therein shall be exempt from all taxation in this state.

Source: Laws 1971, LB 1003, § 9; R.S.1943, (1983), § 23-2609.

13-1310 Commission; obligations; state, county, or city; not liable.

The bonds, notes, obligations or liabilities of a commission shall not be a debt of the State of Nebraska or of the city or county for which the commission is established and neither the state, city, nor the county shall be liable thereon or therefor, nor shall such bonds, notes, obligations or liabilities be payable out of any money other than the money of the commission issuing or incurring the same.

Source: Laws 1971, LB 1003, § 10; R.S.1943, (1983), § 23-2610.

13-1311 City; county; powers.

With respect to the commission created for the city and county and its projects, the city and the county may each:

(1) Operate and maintain any project of the commission;

(2) Appropriate funds for any cost incurred by the commission in acquiring, constructing, reconstructing, improving, extending, equipping, remodeling, renovating, furnishing, operating, or maintaining any project;

(3) Convey or transfer to the commission any property of the city or the county for use in connection with a project, including real and personal property owned or leased by the city or the county and used or useful in connection therewith. In case of real property so conveyed, the title thereto shall remain in the city or the county as the case may be but the commission shall have the use and occupancy thereof so long as its corporate existence continues. In the case of personal property so conveyed, the title shall pass to the commission;

(4) Acquire, by purchase or condemnation, real property in the name of the city or the county as the case may be for the projects of the commission, for the widening of existing roads, streets, parkways, avenues, or highways, for new roads, streets, parkways, avenues, or highways to a project, or partly for such purposes and partly for other city or county purposes, in the manner provided by law for acquisition. The city or the county may also close any roads, streets, parkways, avenues, or highways as may be necessary or convenient to facilitate the construction of any project of the commission;

(5) Enter into an agreement with the commission for the use by the city and the county of the project. The agreement shall set forth the respective obligations of the parties thereto as to the operation, maintenance, repair, and replacement of the project; the amount of space in any joint facility to be utilized by the city and county; the method or formula of determining the respective duties and obligations of the city and the county for cost of operation, maintenance, repair, and replacement of the project; and the method or formula for determining the payments to be made by the city to the commission as being applicable to the principal of and interest and premium on the bonds of the commission issued to finance the project. The city shall have the power to levy a tax on all the taxable property in the city sufficient to make the payments to the commission applicable to the principal of and interest and premium on the bonds of the commission issued for the project, which tax shall be in addition to all other taxes now or hereafter authorized by statute or charter. If the city is subject to a limitation by statute or charter on the amount of taxes which may be imposed by the city for its operating expenses, the maximum which may be levied in excess of such limitation pursuant to the authorization of this subdivision shall not exceed one and seven-tenths cents on each one hundred dollars of taxable valuation of all taxable property; and

(6) Enter into agreements with each other and with the commission necessary, desirable, or useful in carrying out the purposes of sections 13-1301 to 13-1312 upon such terms and conditions as determined by the governing body.

If at any time space not for the use and services of any project acquired or constructed or to be acquired or constructed by the commission is in excess of the needs of the city or the county for which the commission was created, the commission with the approval of the city or the county may enter into agreements with the United States of America, the state, or any other governmental unit providing for the use by the United States of America, the State of Nebraska, or such other governmental unit of the project, and such other governmental units shall possess the same powers with respect to the commis-

sion and its projects as are possessed by the city and county under the provisions of this section. Any agreement entered into by the state shall be subject to all the terms, provisions, and conditions of sections 72-1401 to 72-1412 with the same effect as though the commission were named as a municipality under such sections.

Source: Laws 1971, LB 1003, § 11; Laws 1979, LB 187, § 127; R.S.1943, (1983), § 23-2611; Laws 1992, LB 719A, § 33.

In view of the history recited in this opinion and the provisions of the act itself, it cannot be said the act is beyond a reasonable doubt unconstitutional. Dwyer v. Omaha-Douglas Public Building Commission, 188 Neb. 30, 195 N.W.2d 236 (1972).

The provision in this section for transfer of any property to the commission does not violate Article XIII, section 2, Constitution of Nebraska. Dwyer v. Omaha-Douglas Public Building Commission, 188 Neb. 30, 195 N.W.2d 236 (1972).

13-1312 Sections, how construed.

Sections 13-1301 to 13-1312 are supplemental to existing statutes and shall not be construed as repealing or amending existing statutes but shall be construed harmoniously and implemented compatibly with them.

Source: Laws 1971, LB 1003, § 12; R.S.1943, (1983), § 23-2612.

ARTICLE 14
BOARDS OF PUBLIC DOCKS

Section
13-1401. Authorization to establish; members; powers.
13-1402. City or village not more than ten miles from Missouri River; board; authorized; powers; duties.
13-1403. Members; terms; organization; records; removal; vacancies, how filled.
13-1404. Harbor, waterfront, dock, and terminal facilities; construction; improvement; plan.
13-1405. Property; purchase; condemnation; procedure.
13-1406. Property; control; powers.
13-1407. Streets; alleys; public grounds; jurisdiction.
13-1408. Harbor; waterfront; jurisdiction.
13-1409. Structures, erections, and artificial constructions; building, repair, and operation; rules and regulations.
13-1410. Harbors, ports, and facilities; improvement; promotion of commerce.
13-1411. Tolls, fees, and other charges; conditions; procedure for adoption.
13-1412. Rules and regulations; violation; penalty.
13-1413. Officers and employees; employment.
13-1414. Docks; terminal facilities; construction; plans; bids; contracts.
13-1415. Annual report; expenses; appropriation.
13-1416. Revenue bonds; issuance; payment; dock fund.
13-1417. Funds; deposit; disbursement; books and records.

13-1401 Authorization to establish; members; powers.

The county board or the governing body of any incorporated city or village in the State of Nebraska may, and is hereby authorized and empowered, when in its judgment it is deemed expedient, to establish a board of public docks to be known as Dock Board of . . . . . (here insert name of county or municipality establishing such board) which shall be a body corporate and politic, and possess all the usual powers of a corporation for public purposes, and in its name may sue and be sued, purchase, hold, and sell personal property and real estate. Such board shall consist of seven members to be known as commissioners of public docks.

Source: Laws 1937, c. 37, § 1, p. 166; C.S.Supp.,1941, § 18-2001; R.S. 1943, § 18-701; Laws 1951, c. 20, § 1, p. 102; Laws 1967, c. 84, § 1, p. 260; R.S.1943, (1983), § 18-701.

Dock board of city of Omaha is a governmental subdivision of the State of Nebraska. Property under its control, under facts in this case, is not taxable. Sioux City & New Orleans Barge Lines, Inc. v. Board of Equalization, 186 Neb. 690, 185 N.W.2d 866 (1971).

13-1402 City or village not more than ten miles from Missouri River; board; authorized; powers; duties.

The governing body of any incorporated city or village in the State of Nebraska, the nearest boundary of which city or village is not more than ten miles from the Nebraska bank of the Missouri River, may, and is hereby authorized and empowered, when in its judgment it is deemed expedient, to establish a board of public docks to be known as Dock Board of ..... (here insert name of municipality establishing such board), which shall be a body corporate and politic and possess all the usual powers of a corporation for public purposes, and in its name may sue and be sued, purchase, hold, and sell personal property and real estate, and shall have all powers, authority and duties now granted under the laws of Nebraska for the establishment of such boards of public docks by incorporated cities or villages in the State of Nebraska whose boundaries abut upon the Nebraska bank of the Missouri River.

Source: Laws 1967, c. 81, § 1, p. 257; R.S.1943, (1983), § 18-701.01.

13-1403 Members; terms; organization; records; removal; vacancies, how filled.

When it has been determined by the county board or the governing body of any such municipality that it is expedient to establish such board of public docks the county board or the governing body of such municipality shall appoint as members of the dock board, seven such commissioners who shall have been residents of the county or municipality, as the case may be, in which they are appointed for a period of not less than five years and shall be prominently identified with the commercial and business interests of the county or municipality, as the case may be, and who shall not at the time of their appointment or during their term of office be interested in or be employed by any common carrier; and such board shall act without compensation. Of the commissioners initially appointed, three shall serve for a term of one year, three for a term of two years, and one for a term of three years. As the term of office of each commissioner expires, his successor shall be appointed by the county board or the governing body, and the term of office of such commissioner shall be three years. The commissioners shall qualify by taking oath for the faithful performance of their duties. Within ten days after their appointment the commissioners shall meet and organize such board by the election from among their number of a president, a vice president, and a treasurer of the board, and shall elect a secretary who need not be a member of the board. Any two of the offices except president and vice president may be held by one commissioner. The board shall from time to time adopt rules and regulations, consistent with the provisions of sections 13-1401 to 13-1417, for the government of the board and its proceedings, which shall be adopted by resolution and shall be recorded in a book kept by the board and known as the book of rules and regulations. The rules and regulations shall be in force after one publication in some legal newspaper published in or circulating in the municipality. The board shall maintain an office and keep a record of all its proceedings and acts, and books of accounts shall at all times be open to public inspection. If any commissioner shall at any time during his incumbency cease to have the qualifications

required by this section for his appointment or shall willfully violate any of his duties under the law, such commissioner shall be removed by the county board or the governing body after written charges have been preferred against him and a due hearing of such charges shall have been had by the county board or the governing body upon reasonable notice to such commissioner. Vacancies occurring in the board through resignation or otherwise shall be filled by the county board or the governing body for the unexpired term.

Source: Laws 1937, c. 37, § 2, p. 167; C.S.Supp.,1941, § 18-2002; R.S. 1943, § 18-702; Laws 1951, c. 20, § 2, p. 103; Laws 1967, c. 84, § 2, p. 260; R.S.1943, (1983), § 18-702.

13-1404 Harbor, waterfront, dock, and terminal facilities; construction; improvement; plan.

The dock board shall have power and it shall be its duty for and in behalf of any such municipality to prepare or cause to be prepared a comprehensive general plan for the construction and improvement of its harbor, water front, dock, and terminal facilities as it may deem necessary, to promote commerce and for the convenient and economical accommodation and handling of water-craft of all kinds and of freight and passengers, and the free interchange, receipt, and delivery of traffic between water and land transportation agencies. Such plan shall be filed in the office of the board and be open to public inspection, and may from time to time be changed, altered or amended by the board, as the requirements of shipping and commerce and the advance of knowledge and information on the subject may suggest. The board shall procure or construct such harbor, water front, dock, and terminal facilities in accord with such plan.

Source: Laws 1937, c. 37, § 3, p. 168; C.S.Supp.,1941, § 18-2003; R.S. 1943, (1983), § 18-703.

13-1405 Property; purchase; condemnation; procedure.

The dock board shall have power to purchase or acquire by any lawful means, such personal property and lands or rights or interests therein, including easements and leaseholds, as may be necessary for use in the provision and in the construction of any publicly owned harbor and terminal facilities and appurtenances as provided for in such plan as may be adopted by the board. If the board shall deem it proper and expedient that the county or municipality shall acquire possession or ownership of such property and lands or rights or interests therein, including easements and leaseholds, and no price can be agreed upon by the board and the owner or owners thereof, the board may cause legal proceedings to be taken to acquire same for the county or municipality by the exercise of the right of eminent domain hereby conferred. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724. The title of all lands, property, and rights acquired by the board shall vest in the county or the municipality.

Source: Laws 1937, c. 37, § 3, p. 169; C.S.Supp.,1941, § 18-2003; R.S. 1943, § 18-704; Laws 1951, c. 101, § 64, p. 476; Laws 1967, c. 84, § 3, p. 262; R.S.1943, (1983), § 18-704.

13-1406 Property; control; powers.

The county or municipality may turn over any property owned by it to the dock board to be controlled by it; and the board shall have exclusive charge and control of all such property turned over to it and all harbor and water terminal structures, facilities, and appurtenances connected therewith, and which the county or municipality or board may acquire under the provisions hereof or otherwise. The board shall have the exclusive charge and control of the building, rebuilding, alteration, repairing, operation and leasing of said property, and every part thereof, and of the cleaning, grading, paving, sewering, dredging and deepening necessary in and about the same.

Source: Laws 1937, c. 37, § 3, p. 169; C.S.Supp.,1941, § 18-2003; R.S. 1943, § 18-705; Laws 1967, c. 84, § 4, p. 262; R.S.1943, (1983), § 18-705.

Dock board of city of Omaha is a governmental subdivision of the State of Nebraska. Property under its control, under facts in this case, is not taxable. Sioux City & New Orleans Barge Lines, Inc. v. Board of Equalization, 186 Neb. 690, 185 N.W.2d 866 (1971).

13-1407 Streets; alleys; public grounds; jurisdiction.

The dock board is hereby vested with jurisdiction and authority over that part of any street and alley and public grounds of the county or municipality which may abut upon or intersect its navigable waters, lying between the harbor line and the first intersecting street measuring backward from high watermark, to the extent only that may be necessary or requisite in carrying out the powers vested in it by sections 13-1401 to 13-1417. It is hereby declared that such jurisdiction and authority shall include the right to build retaining or quay walls, docks, levees, wharves, piers, warehouses or other constructions, including belt railways and railway switches, across and upon such streets and alleys and public grounds and all other property owned or acquired by it or by the county or municipality for such purposes, and to grade, fill, and pave the same to conform to the general level of the wharf, or for suitable approaches thereto; *Provided*, that such improvements shall be paid out of funds in the hands of the board and not by assessment against abutting property.

Source: Laws 1937, c. 37, § 3, p. 169; C.S.Supp.,1941, § 18-2003; R.S. 1943, § 18-706; Laws 1967, c. 84, § 5, p. 263; R.S.1943, (1983), § 18-706.

13-1408 Harbor; waterfront; jurisdiction.

The dock board is also vested with exclusive regulation and control of the harbor and the waterfront within or abutting upon the territorial limits of such county or municipality, consistent with the laws of the United States governing navigation, and may make reasonable rules and regulations governing the traffic and use thereof, and to promote the sanitary condition of said harbor and waterfront and to prevent the pollution of the waters within said harbor and governing the use and improvement of riparian land, and structures thereon, within and abutting upon the territorial limits of such county or municipality.

Source: Laws 1937, c. 37, § 3, p. 169; C.S.Supp.,1941, § 18-2003; R.S. 1943, § 18-707; Laws 1967, c. 84, § 6, p. 263; R.S.1943, (1983), § 18-707.

13-1409 Structures, erections, and artificial constructions; building, repair, and operation; rules and regulations.

The dock board shall have power to make general rules and regulations for the carrying out of the plans prepared and adopted by it for the building, rebuilding, repairing, alteration, maintaining, and operation of all structures, erections or artificial constructions upon or adjacent to the waterfront of the county or municipality, whether the same shall be done by the board or by others; and except as provided by the general rules of the board, no new structures or repairs upon or along said waterfront shall be undertaken, except upon application to the board and under permit by it and in accordance with the general plans of the board and in pursuance of specifications submitted to the board and approved by it upon such application. Said general rules and regulations shall be adopted by resolution and shall be recorded in the board's book of rules and regulations. Certified copies of said general rules and regulations, whenever adopted by the board, shall, forthwith upon their passage, be transmitted to the county clerk or the clerk of the municipality who shall cause the same to be transcribed at length in a book kept for that purpose. Upon filing any such certified copy of any such rules and regulations, the said clerk shall forthwith cause the same to be once published in some legal newspaper of general circulation published in the county or municipality, as the case may be, or if none is there published, then in the next nearest legal newspaper published in this state; and the said rules and regulations shall be in force and effect from and after the date of said publication.

Source: Laws 1937, c. 37, § 3, p. 170; C.S.Supp.,1941, § 18-2003; R.S. 1943, § 18-708; Laws 1967, c. 84, § 7, p. 264; R.S.1943, (1983), § 18-708.

13-1410 Harbors, ports, and facilities; improvement; promotion of commerce.

The dock board shall have authority, either alone or jointly with any similar body, to petition any interstate commerce commission, railway commission, or any like body or any federal, municipal, state or local authority, administrative, executive, judicial or legislative, having jurisdiction in the premises, for any relief, rates, charges, regulations or action which in the opinion of said body may be designed to improve or better the handling of commerce in and through the said harbor or port, or improve terminal or transportation facilities therein. It may intervene before any such body in any proceeding affecting the commerce of said harbor or port and in any such matters, the board shall be considered, along with other interested persons, one of the official representatives of the district in which said harbor or port is situated. The board shall have the authority to promote maritime and commercial interests of the harbor or port by the proper advertisement of its advantages and by the solicitation of business, through agencies established within or without said harbor or port within the United States or in foreign countries; and it shall endeavor to bring to the attention of the people of Nebraska, and of other states which may be properly served by the harbor or port, the economical advantages to be derived from the use of the harbor or port and its facilities.

Source: Laws 1937, c. 37, § 3, p. 171; C.S.Supp.,1941, § 18-2003; R.S. 1943, (1983), § 18-709.

13-1411 Tolls, fees, and other charges; conditions; procedure for adoption.

The dock board shall have the power to fix and regulate and from time to time to alter the tolls, fees, and other charges for all facilities under its management and control and for the use thereof, which charges shall be collectible by the board and shall be reasonable and with the view of defraying the capital expenditures, interest charges, maintenance and operating expenses, and indebtedness of the board in constructing and operating the improvements and works herein authorized. The charges shall be adopted by resolution and shall be recorded in the board's book of rules and regulations. A schedule of such charges shall be enacted by the board, and a certified copy thereof shall be transmitted to the county clerk or clerk of the municipality, as the case may be, in like manner as other rules and regulations of the board, and the clerk shall forthwith cause the same to be published in the same manner as other rules and regulations of the board, and such charges shall be in force and effect from and after the date of publication.

Source: Laws 1937, c. 37, § 3, p. 171; C.S.Supp.,1941, § 18-2003; R.S. 1943, § 18-710; Laws 1967, c. 84, § 8, p. 264; R.S.1943, (1983), § 18-710.

13-1412 Rules and regulations; violation; penalty.

Obedience to the rules and regulations of the dock board may be enforced in the name of the county or municipality, as the case may be, by a fine not exceeding one hundred dollars or by imprisonment not exceeding thirty days; *Provided,* the county board shall first adopt the same by regulation or governing body of such municipality shall first adopt the same in ordinance form, as ordinances of the municipality.

Source: Laws 1937, c. 37, § 3, p. 171; C.S.Supp.,1941, § 18-2003; R.S. 1943, § 18-711; Laws 1967, c. 84, § 9, p. 265; R.S.1943, (1983), § 18-711.

13-1413 Officers and employees; employment.

The dock board shall have power to employ such harbor masters, managers, assistants, attorneys, engineers, employees, clerks, workmen, and laborers as may be necessary in the efficient and economical performance of the work authorized by sections 13-1401 to 13-1417. All officers, places, and employment in the permanent service of the board shall be provided for by resolution duly passed by the board and recorded in the board's book of rules and regulations, and a certified copy thereof shall be transmitted to the county clerk or clerk of the municipality, as the case may be, as provided for other rules and regulations of the board.

Source: Laws 1937, c. 37, § 3, p. 171; C.S.Supp.,1941, § 18-2003; R.S. 1943, § 18-712; Laws 1967, c. 84, § 10, p. 265; R.S.1943, (1983), § 18-712.

13-1414 Docks; terminal facilities; construction; plans; bids; contracts.

In the construction of docks, levees, wharves, and their appurtenances, or in contracting for the construction of any work or structures authorized by sections 13-1401 to 13-1417, the dock board shall proceed only after full and complete plans, approved by the board, and specifications for said work, have been prepared and submitted and filed with the board by its engineer for public inspection, and after public notice asking for bids for the construction of such

work, based upon such plans and specifications, has been published in some legal newspaper of general circulation published within the county or municipality, as the case may be, or if none is so published, then in the nearest legal newspaper published in this state. Such publications shall be made at least thirty days before the time fixed for the opening of said bids and contracting for such work. A contract may then be made with the lowest responsible bidder therefor, unless the board deems the bids excessive or unsuitable, in which event it may proceed to readvertise for bids, or the board may do the work directly, purchasing such materials and contracting for such labor as may be necessary without further notice or proposal for bids; except that it shall make no purchase of materials in amounts exceeding five hundred dollars except by public letting upon ten days' notice, published as aforesaid, specifying the materials proposed to be purchased; *Provided,* that said public letting shall not be required in case no satisfactory bids are received, or in case of an emergency where the delay of advertising and public letting might cause serious loss or injury to the work. The board shall, in all cases, have the right to reject any and all bids, and may either readvertise therefor, contract with others at a figure not exceeding that of the lowest bidder without further advertising, or do the work directly as hereinbefore provided.

Source: Laws 1937, c. 37, § 3, p. 172; C.S.Supp.,1941, § 18-2003; R.S. 1943, § 18-713; Laws 1967, c. 84, § 11, p. 265; R.S.1943, (1983), § 18-713.

13-1415 Annual report; expenses; appropriation.

The dock board shall annually make to the county board or the governing body of the municipality, as the case may be, a full and complete report of its activities, including a statement of the commerce passing through the port and a report of the receipts and disbursements made by or on account of said board. The board may, at such times as it may deem necessary, file with the county board or governing body, as the case may be, an estimate of the amounts necessary to be appropriated by the county board or the governing body to defray the expense of the board. The county board or the governing body of such municipality is hereby authorized and empowered, in its discretion, to appropriate from its general fund and to place at the disposal of the board an amount sufficient to defray such expense.

Source: Laws 1937, c. 37, § 3, p. 172; C.S.Supp.,1941, § 18-2003; R.S. 1943, § 18-714; Laws 1967, c. 84, § 12, p. 266; R.S.1943, (1983), § 18-714.

13-1416 Revenue bonds; issuance; payment; dock fund.

Whenever the dock board shall deem it necessary or advisable to issue bonds for the purpose of constructing any of the works or improvements herein authorized, or purchasing property for said purpose or maintaining or operating the same, the board shall petition the county board or the governing body of such municipality, as the case may be, to issue such bonds stating the purpose for which the bonds are requested. Thereupon the county board or the governing body may, in its discretion, issue revenue bonds of such county or municipality, the principal and interest of which shall be payable solely out of revenue to be derived from tolls and other charges and receipts from the use and operation of the docks and other property. The county or city shall incur no

indebtedness of any kind or nature upon the issuance of such bonds, and they shall so recite, and to support the use and operation of the docks and other property the county or city shall not pledge its credit nor its taxing power nor any part thereof. The proceeds of the bonds when issued shall be paid to the treasurer of such county or municipality, as the case may be, and credited to the dock fund.

Source: Laws 1937, c. 37, § 3, p. 173; C.S.Supp.,1941, § 18-2003; R.S. 1943, § 18-715; Laws 1967, c. 84, § 13, p. 267; R.S.1943, (1983), § 18-715.

13-1417 Funds; deposit; disbursement; books and records.

All funds collected by the dock board, or appropriated by the county or municipality for dock purposes from the proceeds of bonds or otherwise, shall be deposited with the treasurer of the county or municipality, as the case may be, and disbursed by him only upon warrants or orders duly executed as provided by law for the execution of warrants or orders of such county or municipality and which shall state distinctly the purpose for which the same are drawn; and a permanent record shall be kept by the board of all warrants or orders so drawn, showing the date, amount, consideration, and to whom payable. When paid, the same shall be canceled and kept on file by the treasurer of the county or municipality, as the case may be. The books of the board shall from time to time be audited upon the order of the county board or governing body of the municipality, as the case may be, in such manner as it may direct, and all such books and records of the board shall at all times be open to public inspection.

Source: Laws 1937, c. 37, § 3, p. 173; C.S.Supp.,1941, § 18-2003; R.S. 1943, § 18-716; Laws 1967, c. 84, § 14, p. 267; R.S.1943, (1983), § 18-716.

ARTICLE 15

STATE-TRIBAL COOPERATIVE AGREEMENTS

Section
13-1501. Act, how cited.
13-1502. Terms, defined.
13-1503. Public agencies; powers; agreements.
13-1504. Agreement; contents.
13-1505. Agreement; filing.
13-1506. Agreement; revocation.
13-1507. Public agency; appropriate funds; provide personnel.
13-1508. Agreements; prohibited provisions.
13-1509. Existing agreements; validity.

13-1501 Act, how cited.

Sections 13-1501 to 13-1509 shall be known and may be cited as the State-Tribal Cooperative Agreements Act.

Source: Laws 1989, LB 508, § 1.

13-1502 Terms, defined.

For purposes of the State-Tribal Cooperative Agreements Act:

(1) Agreement shall mean an agreement authorized under section 13-1503;

(2) Public agency shall mean any political subdivision, including any municipality, county, school district, or agency or department of the state; and

(3) Tribal government shall mean the officially recognized government of any Indian tribe, nation, or other organized group or community located in the state exercising self-government powers and recognized as eligible for services provided by the United States to Indians because of their status as Indians or any Indian tribe located in the state and recognized as an Indian tribe by the state.

Source: Laws 1989, LB 508, § 2.

13-1503 Public agencies; powers; agreements.

Any one or more public agencies may enter into an agreement with any one or more tribal governments to perform any administrative service, activity, or undertaking that any of the public agencies or tribal governments entering into the contract is authorized by law to perform. The agreement shall be authorized and approved by the governing body of each party to the agreement. The agreement shall fully set forth the powers, rights, obligations, and responsibilities of the parties to the agreement.

Source: Laws 1989, LB 508, § 3.

13-1504 Agreement; contents.

An agreement shall specify:

(1) Its duration;

(2) The precise organization, composition, and nature of any separate legal entity created;

(3) Its purpose;

(4) The manner of financing the agreement and establishing and maintaining a budget;

(5) The method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination, if any;

(6) Provisions for administering the agreement, which may include, but not be limited to, the creation of a joint board responsible for such administration;

(7) The manner of acquiring, holding, and disposing of real and personal property used in the agreement;

(8) When an agreement involves law enforcement:

(a) The minimum training standards and qualifications of law enforcement personnel;

(b) The respective liability of each public agency and tribal government for the actions of law enforcement officers when acting under the provisions of an agreement;

(c) The minimum insurance required of both the public agency and the tribal government; and

(d) The exact chain of command to be followed by law enforcement officers acting under the agreement; and

(9) Any other necessary and proper matters.

Source: Laws 1989, LB 508, § 4.

13-1505 Agreement; filing.

Within ten days after being signed by the parties, a copy of the agreement shall be filed with:

(1) The area office of the Bureau of Indian Affairs of the United States Department of the Interior having trust responsibility for each tribe the governing body of which is a party to the agreement or its successor agency;

(2) The county clerk of each county where one of the parties to the agreement is located, except that a copy shall not be required to be filed in Lancaster County if an agency or department of the state is a party to the agreement unless another party is located in such county;

(3) The Secretary of State; and

(4) Any affected tribal government.

Source: Laws 1989, LB 508, § 5.

13-1506 Agreement; revocation.

An agreement shall be subject to revocation by any party to the agreement upon six months' notice to the other unless a different period of time is provided for the agreement. No agreement may provide for a notice period for revocation in excess of five years.

Source: Laws 1989, LB 508, § 6.

13-1507 Public agency; appropriate funds; provide personnel.

Any public agency entering into an agreement may appropriate funds for, and may sell, lease, or otherwise give or supply material to, any entity created for the purpose of performance of the agreement and may provide such personnel or services as are within its legal power to furnish.

Source: Laws 1989, LB 508, § 7.

13-1508 Agreements; prohibited provisions.

Nothing in the State-Tribal Cooperative Agreements Act shall be construed to authorize an agreement that:

(1) Is not permitted by federal law. The parties to an agreement should deal with substantive matters and enforcement matters that can be mutually agreed upon, but no agreement shall affect the underlying jurisdictional authority of any party unless expressly authorized by Congress;

(2) Authorizes a public agency or tribal government, either separately or pursuant to agreement, to expand or diminish the jurisdiction presently exercised by the government of the United States to make criminal laws for or enforce criminal laws in Indian country; or

(3) Authorizes a public agency or tribal government to enter into an agreement except as authorized by their own organizational documents or enabling laws.

Source: Laws 1989, LB 508, § 8.

13-1509 Existing agreements; validity.

The State-Tribal Cooperative Agreements Act shall not affect the validity of any agreement entered into between a tribal government and a public agency prior to August 25, 1989.

Source: Laws 1989, LB 508, § 9.

ARTICLE 16
SELF-FUNDING BENEFITS

Section
13-1601. Act, how cited.
13-1602. Purpose of act.
13-1603. Definitions, where found.
13-1604. Accruals, defined.
13-1605. Covered dependent, defined.
13-1606. Covered employee, defined.
13-1607. Employee benefit plan, defined.
13-1608. Excess insurance, defined.
13-1609. Independent actuary, defined.
13-1610. Insurer, defined.
13-1611. Plan sponsor, defined.
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13-1613. Self-funding or self-funded, defined.
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13-1615. Plan sponsor; use of self-funding; exemption from other laws.
13-1616. Act; applicability.
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13-1619. Plan sponsor; accruals, reserves, and disbursements; requirements.
13-1620. Governing body; annual report.
13-1621. Plan sponsor; contributions; when.
13-1622. Plan sponsor; obtain excess insurance; when.
13-1623. Self-funded portion of employee benefit plan; claim procedure; requirements.
13-1624. Employee benefit plans; continuation of coverage; compliance with other laws; school district covered employees; rights.
13-1625. Civil action to require compliance; attorney's fees; when.
13-1626. Compliance with act; when required.

13-1601 Act, how cited.

Sections 13-1601 to 13-1626 shall be known and may be cited as the Political Subdivisions Self-Funding Benefits Act.

Source: Laws 1991, LB 167, § 1.

13-1602 Purpose of act.

The purpose of the Political Subdivisions Self-Funding Benefits Act is to permit political subdivisions to provide employee benefits to employees and their dependents through self-funding by establishing, participating in, and administering employee benefit plans. It is also the purpose of the act to require political subdivisions using self-funding for employee benefit plans to meet certain requirements to protect the benefits of covered employees and covered dependents.

Source: Laws 1991, LB 167, § 2.

13-1603 Definitions, where found.

For purposes of the Political Subdivisions Self-Funding Benefits Act, the definitions found in sections 13-1604 to 13-1613 shall be used.

Source: Laws 1991, LB 167, § 3.

13-1604 Accruals, defined.

Accruals shall mean funds to cover all expected claims, reserves, and expenses to operate the self-funded portion of the employee benefit plan for a plan year.

Source: Laws 1991, LB 167, § 4.

13-1605 Covered dependent, defined.

Covered dependent shall mean a dependent who is enrolled in an employee benefit plan.

Source: Laws 1991, LB 167, § 5.

13-1606 Covered employee, defined.

Covered employee shall mean an employee who is enrolled in an employee benefit plan.

Source: Laws 1991, LB 167, § 6.

13-1607 Employee benefit plan, defined.

Employee benefit plan shall mean a plan provided pursuant to section 13-1614 for covered employees and covered dependents.

Source: Laws 1991, LB 167, § 7.

13-1608 Excess insurance, defined.

Excess insurance shall mean (1) aggregate insurance, (2) specific insurance, or (3) insurance in excess of a deductible, of which the plan sponsor assumes some or all of the risk for the deductible, purchased from an insurer.

Source: Laws 1991, LB 167, § 8.

13-1609 Independent actuary, defined.

Independent actuary shall mean a member in good standing of the Society of Actuaries or the American Academy of Actuaries who is not an employee of the plan sponsor. Selection of an independent actuary by a plan sponsor shall comply with the conflict of interest provisions of the Nebraska Political Accountability and Disclosure Act.

Source: Laws 1991, LB 167, § 9.

Cross References

Nebraska Political Accountability and Disclosure Act, see section 49-1401.

13-1610 Insurer, defined.

Insurer shall mean an insurer as defined in section 44-103 which holds a certificate of authority to transact the business of insurance in this state.

Source: Laws 1991, LB 167, § 10.

13-1611 Plan sponsor, defined.

Plan sponsor shall mean any political subdivision providing an employee benefit plan.

Source: Laws 1991, LB 167, § 11.

13-1612 Political subdivision, defined.

Political subdivision shall include villages, cities, counties, school districts, public power districts, community colleges, natural resources districts, and all other units of local government.

Source: Laws 1991, LB 167, § 12.

13-1613 Self-funding or self-funded, defined.

Self-funding or self-funded shall mean assumption of primary liability or responsibility for certain risks or benefits rather than transferring the liability or responsibility to some other entity and may include the deductible portion when a plan sponsor assumes some or all of the risk for the deductible of an insured plan.

Source: Laws 1991, LB 167, § 13.

13-1614 Political subdivision; employee benefit plans; requirements.

Any political subdivision may establish, participate in, and administer employee benefit plans for its employees or its employees and their dependents which will provide hospitalization, medical, surgical, dental, disability, and sickness and accident coverage or any one or more of such coverages. Such coverages shall be provided through self-funding in combination with excess insurance or through self-funding without excess insurance pursuant to subsection (4) of section 13-1622. Such coverages may include employee and dependent deductibles and copayments.

Source: Laws 1991, LB 167, § 14; Laws 1999, LB 506, § 1.

A county is not required to establish benefit plans for its employees which will provide medical coverage. Christiansen v. County of Douglas, 288 Neb. 564, 849 N.W.2d 493 (2014).

13-1615 Plan sponsor; use of self-funding; exemption from other laws.

(1) A plan sponsor shall not be considered an insurer under the laws of this state. The use of any self-funding by a plan sponsor shall not constitute transacting the business of insurance and shall not be subject to regulation by the Department of Insurance.

(2) A plan sponsor shall not be a member of the Nebraska Property and Liability Insurance Guaranty Association or the Nebraska Life and Health Insurance Guaranty Association. The Nebraska Property and Liability Insurance Guaranty Association Act and the Nebraska Life and Health Insurance Guaranty Association Act shall not be applicable to the self-funded portion of an employee benefit plan.

Source: Laws 1991, LB 167, § 15.

Cross References

Nebraska Life and Health Insurance Guaranty Association Act, see section 44-2720.
Nebraska Property and Liability Insurance Guaranty Association Act, see section 44-2418.

13-1616 Act; applicability.

The Political Subdivisions Self-Funding Benefits Act shall not apply to coverage for workers' compensation.

Source: Laws 1991, LB 167, § 16.

Cross References

Nebraska Workers' Compensation Act, see section 48-1,110.

13-1617 Governing body; self-funded portion of employee benefit plan; requirements; confidentiality; violations; penalty.

(1) The governing body of the plan sponsor shall approve the use of any self-funding for its employee benefit plan.

(2) The self-funded portion of an employee benefit plan shall comply with the Political Subdivisions Self-Funding Benefits Act. The self-funded portion of the employee benefit plan shall be solely for the benefit of the employees and dependents of the plan sponsor and shall not be pooled with the self-funded portion of an employee benefit plan of another plan sponsor.

(3) Each plan sponsor shall be liable for payment of valid claims under its employee benefit plan.

(4) The governing body of the plan sponsor shall annually review the self-funded portion of the employee benefit plan for compliance with section 13-1619.

(5) The plan sponsor shall keep confidential employee benefit plan information held by it which personally identifies employees and their dependents and the nature of any claims submitted by employees and their dependents. Any agent of the plan sponsor shall not use or disclose any such information to any person except to the extent necessary to administer claims or as otherwise authorized by law. No information regarding claims submitted by employees and their dependents and held by the plan sponsor shall be used directly or indirectly to alter the terms and conditions of employment of the employees. Any plan sponsor, member of its governing body, officer, employee, or agent who knowingly or willfully violates this subsection shall be guilty of a Class III misdemeanor.

Source: Laws 1991, LB 167, § 17.

13-1618 Plan sponsor; summary; contents.

A plan sponsor shall provide each covered employee with a copy of a summary of the self-funded portion of the employee benefit plan. The summary shall contain a written description of the major provisions of the self-funded portion of the plan, including (1) a table of contents, (2) a description of benefits, (3) the funding arrangement, and (4) the claims and appeals procedures required by section 13-1623.

Source: Laws 1991, LB 167, § 18.

13-1619 Plan sponsor; accruals, reserves, and disbursements; requirements.

(1) A plan sponsor shall establish accruals at a satisfactory level to provide funds to cover one hundred percent of expected claims, reserves as required in subsection (2) of this section, and expenses to operate the self-funded portion of the employee benefit plan. Accruals shall be reevaluated for adequacy at least annually. Accruals shall be funded through contributions by the plan sponsor or

through a combination of contributions by the plan sponsor and employee. Accruals which become available during a month when claims are less than projected for that month shall be maintained and available for a month when claims exceed those projected for that month.

(2) A plan sponsor shall establish reserves for claims which have been incurred by covered employees and covered dependents under the self-funded portion of the employee benefit plan but which have not yet been presented for payment. The appropriate amount of the reserves shall be on an actuarially sound basis as determined by (a) an independent actuary or (b) an insurer.

(3) A plan sponsor shall establish a restricted and segregated fund exclusively for the deposit of monthly accruals and other assets pertaining to the self-funded portion of the employee benefit plan. As long as the self-funded portion of an employee benefit plan is in effect, all contributions shall be deposited as collected in the restricted and segregated fund.

(4) Disbursements from the restricted and segregated fund established pursuant to subsection (3) of this section may be made only for the following specified employee benefit plan expenses: (a) Payment of claims; (b) cost of insurance coverage; (c) payment of service fees applicable to employee benefit plan design, payment of claims, materials explaining benefits, actuarial assistance, legal assistance, and accounting assistance; (d) costs of employee wellness programs; and (e) other expenses directly related to the operation of the employee benefit plan. If the plan sponsor is a city of the metropolitan class and if such plan sponsor has a surplus in its restricted and segregated fund at the end of any fiscal year, such surplus may be treated and used as surplus funds in accordance with and pursuant to the city's home rule charter.

(5) If an employee benefit plan is discontinued, the plan sponsor shall maintain the restricted and segregated fund established pursuant to subsection (3) of this section for a period of one year from the date of discontinuation for payment of any claims which have not been filed. At the end of the one-year period, the funds shall no longer be restricted and segregated and may be returned to operational funds of the plan sponsor.

Source: Laws 1991, LB 167, § 19; Laws 1995, LB 86, § 1.

13-1620 Governing body; annual report.

The governing body of a plan sponsor shall approve an annual report showing the beginning and ending balance of the fund established pursuant to section 13-1619, deposits of monthly accruals and other assets of the fund, and a separate accounting to reflect required reserves.

Source: Laws 1991, LB 167, § 20.

13-1621 Plan sponsor; contributions; when.

If the fund established pursuant to section 13-1619 is not adequate to fully cover all disbursements under the self-funded portion of the employee benefit plan, the plan sponsor shall contribute funds from other sources so that the employee benefit plan continues to comply with the Political Subdivisions Self-Funding Benefits Act.

Source: Laws 1991, LB 167, § 21.

13-1622 Plan sponsor; obtain excess insurance; when.

(1) Except as provided in subsection (4) of this section, the plan sponsor shall obtain excess insurance which will limit the plan sponsor's total claims liability for each plan year to not more than one hundred twenty-five percent of the expected claims liability as projected by an independent actuary or insurer.

(2) If the expected claims liability of the self-funded portion of the employee benefit plan is exceeded, the plan sponsor shall fund such additional liability by (a) allocating necessary funds from the operating fund of the general fund, (b) setting up an additional reserve in the operating fund of the general fund, or (c) setting up the monthly accruals at a level to fund claims in excess of the expected claims liability.

(3) An insurer shall pay claims for which it is obligated under excess insurance within three months of the time the claims are paid by the plan sponsor.

(4) A city of the metropolitan or primary class or a county with a population of more than two hundred thousand may provide an employee benefit plan without excess insurance if the city or county obtains a determination from an independent actuary or insurer that excess insurance is not necessary to preserve the safety and soundness of the employee benefit plan.

Source: Laws 1991, LB 167, § 22; Laws 2008, LB734, § 1.

13-1623 Self-funded portion of employee benefit plan; claim procedure; requirements.

The self-funded portion of an employee benefit plan shall provide for the following:

(1) A written claim for benefits shall be furnished to the plan sponsor (a) in case of a claim for benefits which provide any periodic payment contingent upon continuing loss, within ninety days after the termination of the period for which the plan sponsor is liable and (b) in case of a claim for any other loss, within ninety days after the date of such loss. Failure to furnish such written claim within the time required shall not invalidate or reduce any claim if it was not reasonably possible to give proof within such time and if proof is furnished as soon as reasonably possible and in no event later than one year from the time proof is otherwise required except in the absence of legal capacity;

(2) Indemnities payable for any loss, other than loss for which periodic payment is provided, shall be paid immediately upon receipt of a written claim for benefits. All accrued indemnities for loss which provide periodic payment shall be paid at least monthly, and any balance remaining unpaid upon the termination of liability shall be paid immediately upon receipt of a written claim for benefits;

(3) If a claim remains unsettled, the plan sponsor shall send to the covered employee, covered dependent, or authorized representative a letter every ninety days. The letter shall set forth specific reasons additional time is needed for investigation; and

(4) If a claim is denied or partly denied, a written notice of the denial from the plan sponsor, together with specific reason for the denial, shall be sent to the covered employee, covered dependent, or authorized representative. A denial may be appealed directly to the plan sponsor within sixty days after receiving the notice. The plan sponsor shall inform a covered employee, covered dependent, or authorized representative of its decision within sixty

days after receipt of written appeal unless an unusual circumstance requires an extension of time to investigate or consider the appeal. If an extension is needed, the plan sponsor shall inform the covered employee, covered dependent, or authorized representative of the reason and the additional time needed which shall not exceed an additional sixty days. If the claim is denied or partly denied by the plan sponsor, a claim denial may be further appealed pursuant to section 13-1625.

Source: Laws 1991, LB 167, § 23.

13-1624 Employee benefit plans; continuation of coverage; compliance with other laws; school district covered employees; rights.

(1) Employee benefit plans established pursuant to the Political Subdivisions Self-Funding Benefits Act shall comply with sections 44-1640 to 44-1645 relating to continuation of coverage if subject to such sections.

(2) If any covered employee of a plan sponsor which is a school district terminates employment with such plan sponsor and obtains employment with another plan sponsor which is a school district prior to October 1, 1994, such employee or such employee and any dependents shall not be subject to any preexisting condition period or other waiting period of the employee benefit plan of the plan sponsor with which such employment is obtained if both such plan sponsors have obtained excess insurance from the same insurer.

Source: Laws 1991, LB 167, § 24.

13-1625 Civil action to require compliance; attorney's fees; when.

(1) A covered employee or covered dependent may bring a civil action against a plan sponsor to require compliance with the Political Subdivisions Self-Funding Benefits Act and the self-funded portion of an employee benefit plan. When the covered employee or covered dependent brings an action against a plan sponsor, the court, upon rendering judgment against the plan sponsor, shall allow the plaintiff a reasonable sum as an attorney's fee in addition to the amount of his or her recovery, to be taxed as part of the costs. If such action is appealed, the appellate court shall allow a reasonable sum as an attorney's fee for the appeal if the plaintiff is successful.

(2) If the plaintiff fails to obtain judgment for more than may have been offered by such plan sponsor in accordance with section 25-901, the plaintiff shall not recover the attorney's fees provided in this section.

Source: Laws 1991, LB 167, § 25.

13-1626 Compliance with act; when required.

Any political subdivision using self-funding to provide hospitalization, medical, surgical, and sickness and accident coverage or any one or more of such coverages for its employees or its employees and their dependents immediately prior to June 8, 1991, shall comply with the Political Subdivisions Self-Funding Benefits Act no later than December 31, 1991.

Source: Laws 1991, LB 167, § 26.

ARTICLE 17
SOLID WASTE DISPOSAL

Section
13-1701. Terms, defined.
13-1702. Request for siting approval.
13-1703. Criteria.
13-1704. Notice to property owners; publication; failure to notify; effect.
13-1705. Request for siting approval; filing requirements; comments.
13-1706. Public hearing; procedure.
13-1707. Final action; when required; amended application.
13-1708. Construction commencement date.
13-1709. Procedures; exclusive.
13-1710. Fee.
13-1711. Reapplication; restriction.
13-1712. Disapproval; hearing before district court.
13-1713. Approval; contest; hearing before district court.
13-1714. Approval; contest; filing fee.

13-1701 Terms, defined.

For purposes of sections 13-1701 to 13-1714 and 76-2,119:

(1) Applicant shall mean any person as defined in section 81-1502 who is required to obtain a permit from the department for a solid waste disposal area or a solid waste processing facility but shall not include any person applying for renewal of such a permit or any person as defined in such section who proposes to dispose of waste which he or she generates on property which he or she owns as of January 1, 1991;

(2) Department shall mean the Department of Environment and Energy;

(3) Solid waste disposal area shall mean an area used for the disposal of solid waste from more than one residential premises or from one or more recreational, commercial, industrial, manufacturing, or governmental operations; and

(4) Solid waste processing facility shall mean an incinerator or a compost plant receiving material, other than yard waste, in quantities greater than one thousand cubic yards annually.

Source: Laws 1991, LB 813, § 1; Laws 1992, LB 1257, § 59; Laws 2019, LB302, § 15.

13-1702 Request for siting approval.

Prior to submitting an application to the department for a solid waste disposal area or solid waste processing facility, the applicant shall submit a request for siting approval to the city council, village board of trustees, or county board of commissioners or supervisors which governs the city, village, or county in which the proposed site is to be located. The city council, village board, or county board shall approve or disapprove the site for each solid waste disposal area or solid waste processing facility.

Source: Laws 1991, LB 813, § 2.

13-1703 Criteria.

An applicant for siting approval shall submit information to the city council, village board of trustees, or county board of commissioners or supervisors to demonstrate compliance with the requirements of this section regarding a solid

waste disposal area or solid waste processing facility. Siting approval shall be granted only if the proposed area or facility meets all of the following criteria:

(1) The solid waste disposal area or solid waste processing facility is necessary to accommodate the solid waste management needs of the area which the solid waste disposal area or solid waste processing facility is intended to serve;

(2) The solid waste disposal area or solid waste processing facility is designed, located, and proposed to be operated so that the public health, safety, and welfare will be protected. The applicant shall provide an evaluation of the potential for adverse health effects that could result from exposure to pollution, in any form, due to the proper or improper construction, operation, or closure of the proposed solid waste disposal area or solid waste processing facility;

(3) The solid waste disposal area or solid waste processing facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property. The city council, village board, or county board shall consider the advice of the appropriate planning commission regarding the application;

(4) The plan of operations for the solid waste disposal area or solid waste processing facility is designed to minimize the danger to the surrounding area from fire, spills, or other operational accidents;

(5) The traffic patterns to or from the solid waste disposal area or solid waste processing facility are designed to minimize the impact on existing traffic flows; and

(6) Information regarding the previous operating experience of a private agency applicant and its subsidiaries or parent corporation in the area of solid waste management or related activities are made available to the city council, village board, or county board. If a corporation, a parent company or subsidiary thereof, or any officer or board member of the corporation or the parent company or subsidiary applying for approval has been convicted of a felony within ten years of the date the application is filed, site approval shall not be granted.

Source: Laws 1991, LB 813, § 3; Laws 1992, LB 1257, § 60.

13-1704 Notice to property owners; publication; failure to notify; effect.

No later than fourteen days prior to a request for siting approval, the applicant shall cause written notice of the request for siting approval to be served either in person or by registered or certified mail on the owners of all property within the proposed site area not solely owned by the applicant and on the owners of all property within one thousand feet in each direction of the lot line of the proposed site if the proposed site is inside or within three miles of the corporate limits of a city or village or on the owners of all property within two miles in each direction of the lot line of the proposed site for all other proposed sites. The owners shall be identified based upon the tax records of the county in which the proposed site is located.

Written notice shall be published in a newspaper of general circulation in the county in which the proposed site is located. The notice shall state the name and address of the applicant, the location of the proposed site, the nature and size of the solid waste disposal area or solid waste processing facility, the probable life of the proposed solid waste disposal area or solid waste process-

ing facility, the date when the request for siting approval will be submitted, and a description of the right of persons to comment on the request.

Failure to notify all landowners and failure to include all information in the publicized notice as required by this section shall not be considered noncompliance if a good faith effort at notice was made by the applicant which results in actual notice to substantially all parties required to be notified.

Source: Laws 1991, LB 813, § 4; Laws 1992, LB 1257, § 61.

13-1705 Request for siting approval; filing requirements; comments.

An applicant shall file a copy of its request for siting approval with the city council, village board of trustees, or county board of commissioners or supervisors of the city, village, or county in which the proposed site is located. The request shall include the substance of the applicant's proposal and all documents, if any, submitted as of that date to the department pertaining to the proposed solid waste disposal area or solid waste processing facility. All documents or other materials pertaining to the proposed area or facility on file with the city council, village board, or county board shall be made available for public inspection at the office of the city council, village board, or county board and may be copied upon payment of a fee in an amount equal to the actual cost of reproduction.

Any person may file written comment with the city council, village board, or county board concerning the appropriateness of the proposed site for its intended purpose. Such comment shall be postmarked not later than thirty days after the date of the last public hearing held pursuant to section 13-1706 and shall be included in the record of the public hearing.

Source: Laws 1991, LB 813, § 5.

13-1706 Public hearing; procedure.

At least one public hearing shall be held by the city council, village board of trustees, or county board of commissioners or supervisors no sooner than ninety days but no later than one hundred twenty days after receipt of the request for siting approval. A hearing shall be preceded by published notice in a newspaper of general circulation in the county, city, or village in which the proposed site is located. The public hearing shall develop a record sufficient to form the basis of an appeal of the decision.

Source: Laws 1991, LB 813, § 6.

13-1707 Final action; when required; amended application.

Final action shall be taken by the city council, village board, or county board within one hundred eighty days after the filing of the request for site approval.

At any time prior to completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for questioning by the city council, village board, or county board and members of the public, the applicant may file not more than one amended application upon payment of additional fees pursuant to section 13-1710. The time limitations prescribed in sections 13-1706 and 13-1708 for final action on an amended application shall be extended for an additional ninety days.

Source: Laws 1991, LB 813, § 7.

13-1708 Construction commencement date.

Construction of a solid waste disposal area or solid waste processing facility which is granted siting approval pursuant to sections 13-1701 to 13-1714 and 76-2,119 shall commence within two calendar years from the date approval was granted, or the approval shall be nullified. If the siting decision is appealed, the two-year period shall begin on the date upon which the appeal process is concluded.

Source: Laws 1991, LB 813, § 8.

13-1709 Procedures; exclusive.

The siting approval procedures, criteria, and appeal procedures provided for in sections 13-1701 to 13-1714 shall be the exclusive siting procedures and appeal procedures. Local zoning ordinances, other local land-use requirements, and other ordinances or resolutions shall be considered in such siting decisions.

Source: Laws 1991, LB 813, § 9; Laws 1992, LB 1257, § 62.

Because this section provides that the siting approval procedures, criteria, and appeal procedures provided for in sections 13-1701 to 13-1714 shall be the exclusive siting procedures and appeal procedures, the Administrative Procedure Act is inapplicable. The standard of review is to search only for errors appearing in the record. The district court determines whether the decision conforms to law, is supported by competent and relevant evidence, and is not arbitrary, capricious, or unreasonable. Tri-County Landfill v. Board of Cty. Comrs., 247 Neb. 350, 526 N.W.2d 668 (1995).

13-1710 Fee.

A city council, village board of trustees, or county board of commissioners or supervisors shall charge an applicant for siting approval a fee in an amount equal to the reasonable and necessary costs incurred by the city, village, or county in the siting approval process.

Source: Laws 1991, LB 813, § 10.

13-1711 Reapplication; restriction.

An applicant shall not file a request for siting approval which is substantially the same as a request which was denied within the immediately preceding two years.

Source: Laws 1991, LB 813, § 11.

13-1712 Disapproval; hearing before district court.

If the city council, village board of trustees, or county board of commissioners or supervisors does not approve a request for siting approval pursuant to sections 13-1701 to 13-1714 and 76-2,119, the applicant, within sixty days after notice of the decision, may petition for a hearing before the district court of the county in which the proposed site is located to contest the decision. The city council, village board, or county board shall appear as respondent in the hearing. At the hearing, the burden of proof shall be on the petitioner. In making its orders and determinations under this section, the district court shall consider the written decision and reasons for the decision of the city council, village board, or county board and the transcribed record of the hearing held pursuant to section 13-1706. The district court shall transmit a copy of its decision to the office of the city council, village board, or county board where it shall be available for public inspection and may be copied upon payment of a

fee in an amount equal to the actual cost of reproduction. Final action by the district court shall be taken within one hundred twenty days.

Source: Laws 1991, LB 813, § 12.

A district court order setting aside, annulling, vacating, or reversing a siting approval decision in a review pursuant to this section is a final order. Butler Cty. Landfill v. Butler Cty. Bd. of Supervisors, 299 Neb. 422, 908 N.W.2d 661 (2018).

A failure to comply with the requirement under this section to petition for a hearing before the district court within 60 days after notice of the siting body's decision deprives the district court of jurisdiction to review a siting approval decision. Butler Cty. Landfill v. Butler Cty. Bd. of Supervisors, 299 Neb. 422, 908 N.W.2d 661 (2018).

13-1713 Approval; contest; hearing before district court.

If the city council, village board of trustees, or county board of commissioners or supervisors grants approval pursuant to sections 13-1701 to 13-1714 and 76-2,119, a third party other than the applicant who participated in the public hearing may petition the district court of the county in which the proposed site is located within sixty days after the filing of the written decision by the city council, village board, or county board for a hearing to contest the approval. Unless the district court determines that the petition is duplicitous or frivolous, the district court shall hear the petition in accordance with the procedures prescribed in section 13-1712. The burden of proof shall be on the petitioner, and the city council, village board, or county board and the applicant shall be named as correspondents.

The district court shall transmit a copy of its decision to the office of the city council, village board, or county board where it shall be available for public inspection and may be copied upon payment of a fee in an amount equal to the actual cost of reproduction.

Source: Laws 1991, LB 813, § 13.

13-1714 Approval; contest; filing fee.

Any person who files a petition with the district court to contest a decision of the city council, village board of trustees, or county board of commissioners or supervisors shall pay the required filing fee.

Source: Laws 1991, LB 813, § 14.

ARTICLE 18

LIABILITY FOR DAMAGES

Section
13-1801. Officers and employees; action against; defense; payment of judgment; liability insurance.
13-1802. Law enforcement activity; insurance required.

13-1801 Officers and employees; action against; defense; payment of judgment; liability insurance.

If any legal action shall be brought against any municipal police officer, constable, county sheriff, deputy sheriff, firefighter, emergency care provider, or other elected or appointed official of any political subdivision, who is an employee as defined in section 48-115, whether such person is a volunteer or partly paid or fully paid, based upon the negligent error or omission of such person while in the performance of his or her lawful duties, the political subdivision which employs, appoints, or otherwise designates such person an employee as defined in section 48-115 shall defend him or her against such

action, and if final judgment is rendered against such person, such political subdivision shall pay such judgment in his or her behalf and shall have no right to restitution from such person.

A political subdivision shall have the right to purchase insurance to indemnify itself in advance against the possibility of such loss under this section, and the insurance company shall have no right of subrogation against the person. This section shall not be construed to permit a political subdivision to pay for a judgment obtained against a person as a result of illegal acts committed by such person.

Source: Laws 1972, LB 1278, § 1; Laws 1973, LB 487, § 1; R.R.S.1943, § 28-844, (1975); R.S.1943, (1989), § 28-1417; Laws 1992, LB 28, § 1; Laws 1997, LB 138, § 32; Laws 2020, LB1002, § 2.

The clear language of this section limits its scope to the defense of civil actions for damages based upon negligent error or omission on the part of certain public officials and has no application to the defense of criminal charges. Guenzel-Handlos v. County of Lancaster, 265 Neb. 125, 655 N.W.2d 384 (2003).

13-1802 Law enforcement activity; insurance required.

Each political subdivision shall self-insure or contract for insurance against liability for personal injuries or property damage that may be incurred by it or by its personnel as a result of law enforcement activity within or without its primary jurisdiction.

Source: Laws 1994, LB 254, § 2.

ARTICLE 19
DEVELOPMENT DISTRICTS

Section
13-1901. Nebraska planning and development regions; created.
13-1902. Development districts; formation; local government, defined.
13-1903. Development district; policy board.
13-1904. Development district; duties.
13-1905. Development districts; certification for funding.
13-1906. Distribution of financial assistance.
13-1907. Rules and regulations; annual reports; evaluation; Governor; powers.

13-1901 Nebraska planning and development regions; created.

(1) There are hereby created nine Nebraska planning and development regions as follows:

(a) Region 1 includes the counties of Sioux, Dawes, Sheridan, Box Butte, Scotts Bluff, Morrill, Garden, Banner, Kimball, Cheyenne, and Deuel;

(b) Region 2 includes the counties of Cherry, Keya Paha, Boyd, Brown, Rock, Holt, Blaine, Loup, Garfield, Wheeler, Custer, Valley, Greeley, and Sherman;

(c) Region 3 includes the counties of Grant, Hooker, Thomas, Arthur, McPherson, Logan, Keith, Lincoln, Perkins, Dawson, Chase, Hayes, Frontier, Gosper, Dundy, Hitchcock, Red Willow, and Furnas;

(d) Region 4 includes the counties of Howard, Merrick, Buffalo, Hall, Hamilton, Phelps, Kearney, Adams, Clay, Harlan, Franklin, Webster, and Nuckolls;

(e) Region 5 includes the counties of Knox, Cedar, Dixon, Antelope, Pierce, Wayne, Thurston, Boone, Madison, Stanton, Cuming, Burt, Platte, Colfax, Dodge, and Nance;

(f) Region 6 includes the counties of Polk, Butler, Saunders, York, Seward, Fillmore, Saline, Otoe, Thayer, Jefferson, Gage, Johnson, Nemaha, Pawnee, and Richardson;

(g) Region 7 includes the county of Lancaster;

(h) Region 8 includes the counties of Washington, Douglas, Sarpy, and Cass; and

(i) Region 9 includes the county of Dakota.

(2) In order to facilitate development of a process which will allow for future changes to the boundaries of the Nebraska planning and development regions, until July 1, 2020, a county, city, village, or development district shall not engage in negotiations to change the boundaries of the planning and development regions. This subsection does not prohibit negotiations relating to implementation of the changes to the boundaries made by Laws 2019, LB334.

Source: Laws 1992, LB 573, § 1; Laws 2019, LB334, § 1.

13-1902 Development districts; formation; local government, defined.

(1) Within a Nebraska planning and development region, a development district may be formed as a voluntary association by agreement pursuant to the Interlocal Cooperation Act in one of the following ways if the combined membership of the association includes at least fifty-one percent of the local governments in the region:

(a) By local governments within the region; or

(b) By two or more regional councils, each of which is a voluntary association of local governments in the region formed by agreement pursuant to the act between the governing bodies of such governments, the membership of which association does not include at least fifty-one percent of the local governments located in the region.

(2) For purposes of this section and sections 13-1903 to 13-1906, local government shall mean a county, city, or village.

Source: Laws 1992, LB 573, § 2.

Cross References

Interlocal Cooperation Act, see section 13-801.

13-1903 Development district; policy board.

Each development district formed pursuant to section 13-1902 shall be governed by a policy board, as described in the development district's interlocal cooperation agreement or bylaws, which shall be the board, body, or persons in which the powers of the local governments forming the development district are vested under the agreement for the purpose of governing the development district.

Source: Laws 1992, LB 573, § 3.

13-1904 Development district; duties.

A development district shall, as directed by its policy board, serve as a regional resource center and provide planning, community and economic development, and technical assistance to local governments which are members of the district and may provide assistance to industrial development

organizations, tourism promotion organizations, community development groups, and similar organizations upon request.

Source: Laws 1992, LB 573, § 4.

13-1905 Development districts; certification for funding.

If state funding is available for distribution pursuant to section 13-1906, the Department of Economic Development shall certify development districts for funding eligibility. Certification shall be based on the following requirements:

(1) The development district shall be formed as provided in section 13-1902;

(2) The development district shall have a staff which shall at a minimum include a full-time director to provide assistance to the local governments which are members of the development district; and

(3) The agreement creating the development district shall insure that all of the local governments within the Nebraska planning and development region may at any time join in the development district.

Source: Laws 1992, LB 573, § 5; Laws 2015, LB661, § 25.

13-1906 Distribution of financial assistance.

(1) The Department of Economic Development shall distribute financial assistance from the state, if available, to the various development districts as they are certified in the manner prescribed in subsection (2) of this section.

(2)(a) Fifty percent of the total sum allocated shall be divided equally among the certified development districts. In certified districts formed by regional councils, funds may be prorated among the cooperating regional councils based upon a formula approved by the governing boards of each of the cooperating regional councils and accepted by the department.

(b) Twenty percent of the total sum allocated shall be divided among the certified development districts based upon their proportional share of the population of all certified development districts in the state. For purposes of this subdivision, population shall mean the number of residents as shown by the latest federal decennial census, except that the population of a county shall mean the number of residents in the unincorporated areas of the county.

(c) Thirty percent of the total sum allocated shall be divided among the certified development districts based upon their proportional share of the local governments located within all certified development districts.

(3) Distributions to newly certified development districts shall not reduce financial assistance to previously funded development districts. State financial assistance shall not exceed the total local dollars received by the development district as verified by the department. For purposes of this subsection, local dollars received shall mean the total local dues received by a development district from any local government as a condition of membership in a development district.

Source: Laws 1992, LB 573, § 6; Laws 2015, LB661, § 26.

13-1907 Rules and regulations; annual reports; evaluation; Governor; powers.

(1) The Department of Economic Development may adopt and promulgate rules and regulations to carry out sections 13-1901 to 13-1907, including

standardized reporting and application procedures. Each development district shall submit annual performance and financial reports to the department which shall address the activities performed and services delivered.

(2) The Governor shall, from time to time, evaluate the effectiveness and activities of the development districts receiving assistance. If the Governor finds a development district to be ineffective, he or she may take action, including the withholding of assistance authorized under section 13-1906.

Source: Laws 1992, LB 573, § 7; Laws 2015, LB661, § 27; Laws 2019, LB334, § 2.

ARTICLE 20

INTEGRATED SOLID WASTE MANAGEMENT

Section

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Sections 13-2001 to 13-2043 shall be known and may be cited as the Integrated Solid Waste Management Act.

Source: Laws 1992, LB 1257, § 1; Laws 1994, LB 1207, § 1; Laws 2003, LB 143, § 1; Laws 2008, LB202, § 1; Laws 2020, LB632, § 2.

13-2002 Legislative findings and declarations.

The Legislature hereby finds and declares that:

(1) The rapidly rising volume of waste deposited by society threatens the capacity of existing and future landfills. The nature of waste disposal means that unknown quantities of potentially toxic and hazardous materials are being buried and pose a constant threat to the ground water supply. In addition, the nature of the waste and the disposal methods utilized allow the waste to remain basically inert for decades, if not centuries, without decomposition;

(2) Wastes filling Nebraska's landfills may at best represent a potential resource, but without proper management wastes are hazards to the environment and to the public health and welfare;

(3) The growing concern with ground water protection and the desire to avoid financial risks inherent in ground water contamination has caused many smaller landfills to close in favor of using higher-volume facilities. Larger

operations allow for better ground water protection at a relatively lower and more manageable cost;

(4) The reduction of solid waste at the source and the recycling of reusable waste materials will reduce the flow of waste to landfills and increase the supply of reusable materials for the use of the public;

(5) Local governments are currently authorized to provide solid waste management services. As a group, counties and municipalities are best positioned to develop efficient solid waste management programs;

(6) An assignment of responsibility for integrated solid waste management should not prohibit governmental entities from procuring services from other units of governments or from private persons. It is the intent of the Legislature that natural resources districts, interlocal cooperative entities, tribal governments, and other statutory and voluntary regional organizations be encouraged to cooperatively provide financing or services to governmental entities responsible for solid waste management; and

(7) A variety of benefits results from a policy of integrated solid waste management, including the following environmental, economic, governmental, and public benefits:

(a) Not producing waste in the first instance is the most certain means for avoiding the widely recognized health and environmental damage associated with waste. Although waste reduction will never eliminate all wastes, to the extent that waste reduction is achieved it results in the most certain form of direct risk reduction;

(b) The government is better able to administer programs which offer a variety of benefits to industry and which reduce the overall cost of government involvement than to administer programs which offer few benefits to industry and require increasingly extensive, complex, and costly governmental actions; and

(c) Public confidence in environmental policies of the government is important for the effectiveness of these policies. Waste reduction and recycling pose no adverse environmental and public health effects and do not therefor lead to increased public concern. Waste reduction and recycling also increase the public confidence that government and industry are doing all that is possible to protect the environment and the public health and welfare.

Source: Laws 1992, LB 1257, § 2.

13-2003 Definitions, where found.

For purposes of the Integrated Solid Waste Management Act, the definitions found in sections 13-2004 to 13-2016.01 shall be used.

Source: Laws 1992, LB 1257, § 3; Laws 1994, LB 1207, § 4; Laws 2003, LB 143, § 2; Laws 2020, LB632, § 3.

13-2004 Agency, defined.

Agency shall mean any combination of two or more municipalities or counties acting together under the Interlocal Cooperation Act or the Joint Public Agency Act, a natural resources district acting alone or together with one or more counties and municipalities under either of such acts, any joint entity as

defined in section 13-803, or any joint public agency as defined in section 13-2503.

Source: Laws 1992, LB 1257, § 4; Laws 1999, LB 87, § 56.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

13-2004.01 Container, defined.

Container means a bag, cup, can, pouch, package, container, bottle, or other packaging that is (1) designed to be reusable, recyclable, or single-use, (2) made of cloth, paper, plastic, including foamed or expanded plastic, cardboard, corrugated material, aluminum, glass, or postconsumer recycled or similar material or substrates, including coated, laminated, or multilayer substrates, and (3) designed for consuming, protecting, or transporting merchandise, food, or beverages from or at a food service or retail facility.

Source: Laws 2020, LB632, § 4.

13-2005 Council, defined.

Council shall mean the Environmental Quality Council.

Source: Laws 1992, LB 1257, § 5.

13-2006 County, defined.

County shall mean any county in the State of Nebraska.

Source: Laws 1992, LB 1257, § 6.

13-2007 County solid waste jurisdiction area, defined.

County solid waste jurisdiction area shall mean all areas of a county not located within the corporate limits of a municipality except a facility which does not serve unincorporated areas of the county.

Source: Laws 1992, LB 1257, § 7.

13-2008 Department, defined.

Department shall mean the Department of Environment and Energy.

Source: Laws 1992, LB 1257, § 8; Laws 2019, LB302, § 16.

13-2009 Director, defined.

Director shall mean the Director of Environment and Energy.

Source: Laws 1992, LB 1257, § 9; Laws 2019, LB302, § 17.

13-2010 Facility, defined.

Facility shall mean any site owned and operated or utilized by any person for the collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste and shall include a solid waste landfill.

Source: Laws 1992, LB 1257, § 10.

13-2011 Integrated solid waste management, defined.

Integrated solid waste management shall mean solid waste management which is focused on planned development of programs and facilities that reduce waste toxicity and volume, recycle marketable materials, and provide for safe disposal of residuals.

Source: Laws 1992, LB 1257, § 11.

13-2012 Municipal solid waste jurisdiction area, defined.

Municipal solid waste jurisdiction area shall mean all the incorporated areas of a city or of a village.

Source: Laws 1992, LB 1257, § 12.

13-2013 Municipality, defined.

Municipality shall mean any city or village incorporated under the laws of this state.

Source: Laws 1992, LB 1257, § 13.

13-2013.01 Passenger tire equivalent of waste tires, defined.

Passenger tire equivalent of waste tires means twenty pounds of waste tire or processed waste tire.

Source: Laws 2003, LB 143, § 3.

13-2013.02 Scrap tire or waste tire, defined.

Scrap tire or waste tire means a tire that is no longer suitable for its original intended purpose because of wear, damage, or defect.

Source: Laws 2003, LB 143, § 4.

13-2014 Solid waste, defined.

Solid waste shall have the definition found in section 81-1502.

Source: Laws 1992, LB 1257, § 14.

13-2015 Solid waste management plan, defined.

Solid waste management plan shall mean a plan adopted by a county or municipality, including a joint plan adopted by an agency, for integrated solid waste management.

Source: Laws 1992, LB 1257, § 15.

13-2016 System, defined.

System shall mean any equipment, vehicles, facilities, personnel, or contractors utilized for the purpose of collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid waste.

Source: Laws 1992, LB 1257, § 16.

13-2016.01 Yard waste, defined.

Yard waste shall mean grass and leaves.

Source: Laws 1994, LB 1207, § 5.

13-2017 Policy of the state.

It is the policy of this state:

(1) To encourage the development of integrated solid waste management programs, including waste volume reduction and recycling programs and education, at the local governmental level through incentives, technical assistance, grants, and other practical measures;

(2) To support and encourage the development of new uses and markets for recycled goods, placing emphasis on the development in Nebraska of businesses relating to waste reduction and recycling;

(3) To provide education concerning the components of integrated solid waste management, at the elementary level through the high school level and through community organizations, to enhance the success of local programs requiring public involvement;

(4) To support and encourage manufacturing methods which are environmentally sustainable, technologically safe, and ecologically sound and which enhance waste reduction by creating products which have longer usage life and which are adaptable to secondary uses through processes such as pyrolysis or biomass, require less input material, and decrease resource consumption; and

(5) To encourage uniform regulation of containers in order to avoid the burden on retailers of having to comply with varying regulatory policies in multiple jurisdictions.

Source: Laws 1992, LB 1257, § 17; Laws 2020, LB632, § 5.

13-2018 Solid waste management hierarchy; established; cooperative program; established.

(1) An effective and efficient program of integrated solid waste management protects the environment and the public and provides the most practical and beneficial use of the solid waste material. While recognizing the continuing necessity for the existence of landfills, alternative methods of managing solid waste and a reduction in the reliance upon land disposal of solid waste are encouraged. In the promotion of these goals, the following solid waste management hierarchy, in descending order of preference, is established as the integrated solid waste management policy of the state:

(a) Volume reduction at the source;

(b) Recycling, reuse, and vegetative waste composting;

(c) Land disposal;

(d) Incineration with energy resource recovery; and

(e) Incineration for volume reduction.

(2) In the implementation of the integrated solid waste management policy, the state shall establish and maintain a cooperative state and local program of project planning and technical assistance to encourage integrated solid waste management.

Source: Laws 1992, LB 1257, § 18.

13-2019 Tribal governments; assume responsibility for integrated solid waste management; department; duties.

Because of the rights of both tribal sovereignty and Nebraska citizenship of individuals under the jurisdiction of federally recognized tribal governments, such tribal governments are recognized as localities which can assume respon-

sibility for integrated solid waste management. The department shall present the state's comprehensive solid waste management plan completed pursuant to section 81-15,166 to the federally recognized tribal governments in Nebraska and encourage such tribes to adopt the state's laws, rules, regulations, and standards for integrated solid waste management.

Source: Laws 1992, LB 1257, § 19.

13-2020 County, municipality, or agency; provide or contract for disposal of solid waste; joint ownership of facility; governing body; powers and duties; rates and charges.

(1) Effective October 1, 1993, each county and municipality shall provide or contract for facilities and systems as necessary for the safe and sanitary disposal of solid waste generated within its solid waste jurisdiction area. Such disposal shall comply with rules and regulations adopted and promulgated by the council for integrated solid waste management programs.

(2) A county, municipality, or agency may jointly own, operate, or own and operate with any person any facility or system and may enter into cooperative agreements as necessary and appropriate for the ownership, operation, or ownership and operation of any facility or system.

(3) A county, municipality, or agency may, either alone or in combination with any other county, municipality, or agency, contract with any person to provide any service, facility, or system required by the Integrated Solid Waste Management Act.

(4) The governing body of a county, municipality, or agency may make all necessary rules and regulations governing the use, operation, and control of a facility or system. Such governing body may establish just and equitable rates or charges to be paid to it for the use of such facility or system by each person whose premises are served by the facility or system, including charges for late payments, except that no city of the metropolitan class shall impose any rate or charge upon individual residences unless a majority of those voting in a regular or special election vote affirmatively to approve or authorize establishment of such a rate or charge. For purposes of the charges authorized by this section, the premises are served if solid waste collection service is available to the premises or if a community solid waste drop-off location is provided, unless the person who would otherwise be subject to such rates or charges proves to the governing body of the county, municipality, or agency that his or her solid waste was lawfully collected and hauled to a permitted facility. Such proof shall be provided by a receipt from a permitted facility, a statement from a licensed hauler, or other documentation acceptable to the governing body of the county, municipality, or agency. If the service charge so established is not paid when due, such sum may be recovered by the county, municipality, or agency in a civil action or, following notice by regular United States mail to the last-known address of the property owner of record and an opportunity for a hearing, may be certified by the governing body of the county, municipality, or agency to the county treasurer and assessed against the premises served and collected or returned in the same manner as other taxes are certified, assessed, collected, and returned.

(5) If the county, municipality, or agency enters into a contract with a person to provide a facility or system, such contract may authorize the person to charge the owners of premises served such a service rate therefor as the

governing body determines to be just and reasonable or the county, municipality, or agency may pay therefor out of its general fund or the proceeds of any tax levy applicable to the purposes of such contract or assess the owners of the premises served a reasonable charge therefor to be collected as provided in this section and paid into a fund to be used to defray such contract charges.

Source: Laws 1992, LB 1257, § 20; Laws 1997, LB 495, § 1.

Subsection (4) of this section permits a municipal waste disposal agency to require periodic submissions of proof that a generator not using its system is disposing of waste at an alternate permitted facility on a regular basis, with the frequency of such submissions to be determined under a standard of reasonableness. Jacobson v. Solid Waste Agency of Northwest Neb., 264 Neb. 961, 653 N.W.2d 482 (2002).

Subsection (4) of this section provides a means by which a resident or business may avoid paying a service fee to a municipality having regulatory jurisdiction under the Solid Waste Management Act, but it does not alter the power to regulate conferred by the act. Jacobson v. Solid Waste Agency of Northwest Neb., 264 Neb. 961, 653 N.W.2d 482 (2002).

A municipality can only impose a garbage fee on those persons that actually use the garbage services provided. Village of Winside v. Jackson, 250 Neb. 851, 553 N.W.2d 476 (1996).

13-2020.01 Imposition of lien for nonpayment of rates and charges; vote required.

(1) For purposes of this section, elected official means a mayor or a member of a city council, village board of trustees, or county board.

(2) Beginning August 1, 2008, only elected officials who are members or alternate members of the governing body of a joint entity or joint public agency created pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act that provides services under the Integrated Solid Waste Management Act are authorized to vote on whether a lien should be imposed on real property for nonpayment of rates and charges under subsection (4) of section 13-2020. Notwithstanding any other requirements for action by the governing body, a vote in favor of imposing such a lien by a majority of the members eligible to vote on whether a lien should be imposed is required to impose such a lien.

Source: Laws 2008, LB202, § 2.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

13-2021 County, municipality, or agency; facility or system; powers and duties; referendum and limited referendum provisions; applicability.

A county, municipality, or agency may purchase, plan, develop, construct, equip, maintain, and improve facilities and systems and may lease or acquire land in fee by gift, grant, purchase, or condemnation as necessary for the construction and operation of a facility or system. A county, municipality, or agency may also make and enter into contracts with any person for the planning, development, construction, maintenance, or operation of such facility or system or any part thereof. Measures adopted or enacted by municipalities with respect to any facility or system shall constitute measures subject to limited referendum under subsection (2) of section 18-2528, and a municipality shall be authorized to exempt all subsequent measures relating to the same project from referendum and limited referendum as provided under subsection (4) of such section.

Source: Laws 1992, LB 1257, § 21.

13-2022 County, municipality, or agency; closure of facility, postclosure care, and investigative and corrective action; powers and duties; tax; special trust funds.

A county, municipality, or agency shall close a facility, provide postclosure care, and undertake investigative and corrective action in accordance with rules and regulations adopted by the council. The costs associated with or reasonably anticipated for such closure, postclosure care, and investigative and corrective action may be included within the rates and charges authorized by section 13-2020 and within the amounts payable under service agreements adopted pursuant to section 13-2024.

Every county, municipality, and agency may approve, execute, and deliver contractual agreements to assume financial responsibility for the payment of costs of closure, postclosure care, or investigative or corrective action with respect to any facility. Such agreements may provide for a binding general obligation of such county, municipality, or agency obligating payments in future years.

For the payment or performance of the terms of any such agreement, any county or municipality may agree to levy or cause to be levied an annual tax upon the taxable property within such county or municipality in an amount sufficient for such purposes. Any such tax shall for all purposes of Nebraska law, including limitations upon budget, revenue, and expenditures of public funds, have the same status as a tax levied for the purpose of paying the bonded indebtedness of such county or municipality.

Every county, municipality, and agency may also approve, execute, and deliver one or more trust agreements, with any bank having trust powers or a trust company, providing for the creation of one or more special trust funds to provide for the payment of costs of closure, postclosure care, or investigative or corrective action.

No county, municipality, or agency shall be required to provide proof of financial responsibility to obtain or renew a permit for a facility which is not used for disposal of solid waste.

Source: Laws 1992, LB 1257, § 22; Laws 1994, LB 1207, § 6.

13-2023 County, municipality, or agency; regulations authorized; limitations; noncompliance fee; regulation of containers; prohibited; exceptions.

(1) A county, municipality, or agency may, by ordinance or resolution, adopt regulations governing collection, source separation, storage, transportation, transfer, processing, treatment, and disposal of solid waste within its solid waste jurisdiction area as necessary to protect the public health and welfare and the environment. Regulations authorized by this section shall be equal to or more stringent than the provisions of the Integrated Solid Waste Management Act and rules and regulations adopted and promulgated by the council as authorized by the act. Any person who violates any such regulation shall be subject to a noncompliance fee not to exceed five hundred dollars.

(2) A county, municipality, or agency shall not adopt, enforce, or otherwise administer an ordinance or resolution that prohibits the use of or that sets standards, fees, prohibitions, or requirements regarding the sale, use, or marketing of containers. This subsection shall not apply to county, municipality, or agency recycling or solid waste collection programs, or restrict such programs from the environmental and lawful operation of program facilities and imposition of user fees at such facilities, except that in no event shall such programs

prohibit or have the effect of prohibiting the sale, use, or marketing of any containers.

Source: Laws 1992, LB 1257, § 23; Laws 2020, LB632, § 6.

13-2024 County or municipality; service agreement with agency; authorized provisions; special tax authorized.

Notwithstanding any other provision of Nebraska law, any county or municipality may enter into a service agreement with an agency which owns and operates or proposes to own and operate any solid waste management facility or system for obtaining solid waste management services from such agency. Any such service agreement may provide for the following:

(1) The payment of fixed or variable periodic amounts for service or the right to obtain service;

(2) That such service agreement may extend for a term of years as determined by the governing body of the county or municipality and be binding upon such county or municipality over such term of years;

(3) That variable or fixed amounts payable under such contracts may be determined based upon one or more of the following factors:

(a) Operating and maintenance expenses of the agency, including contract renewal and replacement for plant and equipment;

(b) Amounts payable by the agency with respect to debt service on its bonds or other obligations, including margins of coverage if deemed appropriate; and

(c) Amounts necessary for the agency to build or maintain operating reserves, capital reserves, and debt service reserves;

(4) That any such service agreement may require payment to be made in the agreed fixed or variable amounts irrespective of whether such facility or system is completed or operational and notwithstanding any suspension, interruption, interference, reduction, or curtailment of the services of such facility or system; and

(5) Such other provisions as the agency and county or municipality deem appropriate in connection with providing and obtaining solid waste management services.

In order to provide for the payments due under any such service agreement, any county or municipality may pledge the revenue received from any and all rates and charges received or to be received from provision of solid waste management services or from contracts with any other persons or entities, private or public, and may further provide, if determined appropriate by the governing body, that any deficiency in such revenue may be made up from a special tax levied for such purpose upon all taxable property within such county or municipality, which special tax shall for all purposes of Nebraska law, including limitations upon budget, revenue, and expenditures of public funds, have the same status as a tax levied for the purpose of paying the bonded indebtedness of such county or municipality.

Source: Laws 1992, LB 1257, § 24.

13-2025 County, municipality, or agency; service agreement; fees and charges; amount.

Any county, municipality, or agency entering into any service agreement under section 13-2024 shall fix, maintain, revise, and collect fees, rates, rents, and charges for functions, services, facilities, or commodities furnished to its customers and users by and through its system as will be sufficient to:

(1) Pay (a) the cost of operating and maintaining the system and renewals or replacements thereto, including all amounts due and payable under such service agreement, and (b) the interest on and principal of any outstanding bonds or other indebtedness of the county, municipality, or agency relative to the service agreement, whether at maturity or upon sinking-fund redemption, which are payable from the revenue of its system; and

(2) Provide, as may be required by any resolution, ordinance, trust indenture, security instrument, or other agreement of the agency, for any reasonable reserves for such operating and maintenance expenses and for any margins or coverages over and above debt service.

Source: Laws 1992, LB 1257, § 25.

13-2025.01 Joint entity or joint public agency; reporting of budget; filing required.

Any joint entity or joint public agency created to fulfill the purposes of the Integrated Solid Waste Management Act pursuant to the Interlocal Cooperation Act or Joint Public Agency Act shall comply with the Municipal Proprietary Function Act for purposes of reporting its budgets. Proprietary budget statements for the joint entity or joint public agency shall be placed on file with the office of the municipal clerk of each member which is a municipality as required by the Municipal Proprietary Function Act and with the county clerk of each member which is a county.

Source: Laws 1994, LB 1207, § 2; Laws 1999, LB 87, § 57.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.
Municipal Proprietary Function Act, see section 18-2801.

13-2026 Municipalities, counties, and agencies; regulate solid waste management; when.

In furtherance of the policy of the state as set forth in the Integrated Solid Waste Management Act, municipalities, counties, and agencies may by ordinance or resolution adopt rules and regulations or may adopt bylaws or enter into written agreements between and among themselves or other persons which regulate and govern solid waste management within their solid waste jurisdiction areas, including the establishment of conditions to assure that a specified amount and type of solid waste will be delivered to a specific facility.

Source: Laws 1984, LB 911, § 2; R.S.1943, (1987), § 81-1572; Laws 1992, LB 1257, § 26.

13-2027 Municipalities, counties, and agencies; regulation of competition and antitrust; exemption.

In exercising the powers granted in the Integrated Solid Waste Management Act, municipalities, counties, and agencies shall be exempt from all rules and regulations of state regulatory competition. It is intended that municipalities, counties, or agencies carrying out the activities described in the act receive full

exemption and immunity from state and federal antitrust laws in light of the public purpose and regulatory provisions provided by the act. The exemption granted pursuant to this section shall not be construed to diminish any other exemption for similar activities authorized through grants of authority to other public bodies even though such exemption may not be stated in terms of antitrust.

Source: Laws 1984, LB 911, § 3; R.S.1943, (1987), § 81-1573; Laws 1992, LB 1257, § 27.

13-2028 Exemption; limitation.

The exemption granted under section 13-2027 shall not constitute a waiver of or exemption from the bidding provisions of sections 16-321 and 17-568.01 or any other similar provision.

Source: Laws 1984, LB 911, § 4; R.S.1943, (1987), § 81-1574; Laws 1992, LB 1257, § 28.

13-2029 Counties and municipalities; statement of intent; filings; failure to file; effect.

On or before October 1, 1992, each county and municipality shall file a statement of intent with the department describing the way in which it intends to fulfill its responsibility for integrated solid waste management. If a municipality or county intends to enter into a cooperative relationship with another entity to fulfill such responsibility, documentation of the reciprocal intent of those entities shall be included with the statement. If no statement of intent is filed by a municipality or county, the responsibility for integrated solid waste management shall remain with the nonfiling county or municipality.

Source: Laws 1992, LB 1257, § 29.

13-2030 Counties and municipalities; certification of facility and system capacity; filing required; department; approval; restrict access to facilities and systems; when.

On or before October 1, 1993, a certification shall be filed with the department on behalf of each county and municipality with respect to (1) facility and system capacity for solid waste management for the solid waste generated within each solid waste jurisdiction area and (2) facility and system capacity for solid waste generated outside of each solid waste jurisdiction area and disposed of in facilities within each solid waste jurisdiction area. If a county or municipality is unable to certify capacity for waste generated outside its solid waste jurisdiction area, it may restrict access to its facilities and systems for such solid waste. Such certification shall be approved by the department if it is found to be in compliance with the Integrated Solid Waste Management Act and the rules and regulations adopted under the act.

Source: Laws 1992, LB 1257, § 30.

13-2031 Integrated solid waste management plan; filing; approval.

On or before October 1, 1994, an integrated solid waste management plan shall be filed with the department on behalf of each county and municipality. Such plan shall be approved by the department if it is found to be in

compliance with the Integrated Solid Waste Management Act and the rules and regulations adopted under the act.

Source: Laws 1992, LB 1257, § 31.

13-2032 Integrated solid waste management plan; minimum requirements; waste reduction and recycling program; priorities; updated plan.

(1) Each integrated solid waste management plan filed pursuant to section 13-2031 shall at a minimum:

(a) Certify facility and system capacity for solid waste management for the solid waste generated within each solid waste jurisdiction area for the twenty years following October 1, 1994;

(b) Certify facility and system capacity for solid waste generated outside of each solid waste jurisdiction area and disposed of in facilities within each solid waste jurisdiction area for the twenty years following October 1, 1994. If a county or municipality is unable to certify capacity for waste generated outside its solid waste jurisdiction area, it may restrict access to its facilities and systems for such solid waste;

(c) Incorporate and reflect the waste management hierarchy of the state integrated solid waste management policy;

(d) State the extent to which solid waste generated within the area covered by the plan is or can be recycled;

(e) State the economic and technical feasibility of using other existing disposal facilities in lieu of initiating new disposal facilities or of continuing the use of disposal facilities in use at the time the plan is filed;

(f) State the expected environmental impact of alternative solid waste disposal methods, including the use of landfills;

(g) State a specific plan and schedule for implementing technically and economically feasible solid waste disposal methods that will result in minimal environmental impact; and

(h) State such additional information, data, and studies as may be required pursuant to rules and regulations adopted by the council.

(2) The integrated solid waste management plan shall provide for a local waste reduction and recycling program. If technically and economically feasible, the volume of materials disposed of in landfills as of July 1, 1994, shall be reduced by twenty-five percent as of July 1, 1996, by forty percent as of July 1, 1999, and by fifty percent as of July 1, 2002. Any county, municipality, or agency which had in effect a recycling or waste reduction program prior to July 1, 1994, shall be credited with the waste-stream reduction achieved prior to July 1, 1994, with respect to the July 1, 1996, goal. The following wastes shall be given first priority when developing reduction and recycling programs and related timetables in relation to an integrated solid waste management plan:

(a) Yard wastes;

(b) Unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act;

(c) Discarded tires;

(d) Waste oil;

(e) Lead-acid batteries; and

(f) Discarded household appliances.

In addition, such plan shall provide a methodology for implementing a program of separation of wastes, including, but not limited to, glass, plastic, paper, and metal.

(3) The solid waste management plan shall be updated for compliance with federal and state laws and regulations as required by the department and may be updated, subject to approval by the department, at any time to reflect local needs and conditions.

Source: Laws 1992, LB 1257, § 32.

Cross References

Environmental Protection Act, see section 81-1532.

13-2033 Dumping or depositing solid waste; permit; council; powers and duties; exemptions; storage of passenger tire equivalents of waste tires; access to property.

(1) Except as provided in subsections (2) and (3) of this section, no person shall dump or deposit any solid waste at any place other than a landfill approved by the director unless the department has granted a permit which allows the dumping or depositing of solid waste at any other facility. The council may adopt and promulgate rules and regulations regarding the permitting of this activity, which rules and regulations shall protect the public interest but may be based upon criteria less stringent than those regulating a landfill. The council may adopt and promulgate rules and regulations defining beneficial reuse and establishing construction standards and other criteria exempting from permit requirements under this section the following: (a) The use of dirt, stone, brick, or some inorganic compound for landfill, landscaping excavation, or grading purposes; (b) the placement of tires, posts, or ferrous objects, not contaminated with other wastes, for agricultural uses, such as bumpers on agricultural equipment, for ballast to maintain covers or structures on the agricultural site, for blowout stabilization, for fish habitat, or for tire mats for bank stabilization; or (c) such other waste placement or depositing activities that are found not to pose a threat to the public health or welfare. In developing construction standards, the council shall consider standards and practices established by the American Society for Testing and Materials.

(2) No person shall be found to be in violation of this section if (a) the solid waste generated by an individual is disposed of on such individual's property, (b) such property is outside the corporate limits of a municipality, and (c) the department determines that the county has not provided integrated solid waste management facilities for its residents.

(3) No person shall be found to be in violation of this section for storing five hundred or fewer passenger tire equivalents of waste tires. Storage of passenger tire equivalents of waste tires for more than one year without reuse, recycling, or shipment out of state is presumed to constitute disposal of solid waste under subsection (1) of this section. Speculative accumulation of more than five hundred passenger tire equivalents of waste tires shall be deemed disposal of solid waste and is prohibited. Tires are not accumulated speculatively if, in a calendar year beginning on January 1, the amount of tire material that is reused or recycled by weight equals at least seventy-five percent of such

material at the beginning of the year. The burden of proof that passenger tire equivalents of waste tires have not been speculatively accumulated rests with the person accumulating the passenger tire equivalents of waste tires to demonstrate through written documentation that the passenger tire equivalents of waste tires have not been accumulated speculatively. Any person, business, or other entity engaged in the business of picking up, hauling, and transporting scrap tires for storage, processing, or recycling shall obtain a permit from the department before engaging in such activity. The council may adopt rules and regulations regarding such permits and may exempt from permit requirements those entities having involvement with scrap tires which is incidental to their primary business activity. Persons holding a permit on August 31, 2003, may continue to operate under such permits until new rules and regulations are established under this section. As a condition for obtaining a permit under this section, the department shall require the permittee to provide the department with an annual report indicating the number of scrap tires hauled, the location of the delivery of such scrap tires, and any additional information the council believes necessary to accomplish the purposes of the Integrated Solid Waste Management Act.

(4) If necessary in the course of an investigation or inspection or during remedial or corrective action and if the owner of the subject property or the owner's agent has specifically denied access to the department for such purposes, the director may order the owner or owner's agent to grant access to such property for the performance of reasonable steps to determine the source and extent of contamination, for remediation, or for other corrective action, including drilling and removal of wastes. Access shall be by the department or by a person conducting the investigation, inspection, or remedial action at the direction of the department. The property shall be restored as nearly as possible to its original condition at the conclusion of the investigation, inspection, or remedial action.

Source: Laws 1992, LB 1257, § 33; Laws 2003, LB 142, § 1; Laws 2003, LB 143, § 5.

13-2034 Rules and regulations.

The council shall adopt and promulgate rules and regulations which shall include the following:

(1) A permit program for facilities providing for permits to be issued to owners and operators;

(2) Requirements for the collection, source separation, storage, transportation, transfer, processing, recycling, resource recovery, treatment, and disposal of solid wastes as well as developmental and operational plans for facilities. Regulations concerning operations may include waste characterization, composition, and source identification, site improvements, air and methane gas monitoring, ground water and surface water monitoring, daily cover, insect and rodent control, salvage operations, waste tire disposal, safety and restricted access, inspection of loads and any other necessary inspection or verification requirements, reporting of monitoring analysis, record-keeping requirements and other reporting requirements, handling and disposal of wastes with special characteristics, and any other operational criteria, location criteria, or design criteria necessary to minimize environmental and health risks and to provide protection of the air, land, and waters of the state; and

(3) Requirements for closure, postclosure care and monitoring, and investigative and corrective action with respect to landfills. Such rules and regulations shall require financial assurance for such activities after April 9, 1996. Such rules and regulations shall impose any necessary requirements upon owners or operators in order to assure proper closure, care, monitoring, and investigative and corrective action with respect to landfills to minimize the need for future maintenance and eliminate, to the extent necessary to protect humans, animals, and the environment, releases or the threat of releases of contaminants or leachate.

Source: Laws 1992, LB 1257, § 34; Laws 1994, LB 1207, § 7; Laws 1995, LB 668, § 1.

13-2035 Applicant for facility permit; exemption from siting approval requirements; when; application; contents.

Any applicant who applies to the department for a permit for a facility pursuant to the Integrated Solid Waste Management Act shall be exempt from the siting approval requirements of sections 13-1701 to 13-1714 if a county, municipality, or agency is to be the owner of the facility and the facility is to be located in a county the unincorporated areas of which are among the areas to be served by such facility or the facility is to be located in the county of a municipality to be served by such facility if such facility will not serve unincorporated areas of a county.

The application of such county, municipality, or agency shall show that the applicant:

(1) Has considered the siting, operational, and traffic criteria established by section 13-1703;

(2) Has given notice of the proposed siting pursuant to the procedures established by section 13-1704;

(3) Has conducted a public hearing regarding the proposed siting preceded by published notice in a newspaper of general circulation in the county or municipality in which the proposed facility is to be located; and

(4) Has submitted a record of such hearing with its application to the department.

Source: Laws 1992, LB 1257, § 35.

13-2036 Applications for permits; contents; department; powers and duties; contested cases; variance; minor modification; how treated.

(1) The department shall review applications for permits for facilities and provide for the issuance, modification, suspension, denial, or revocation of permits after public notice. Applications shall be on forms provided by the department which solicit information necessary to make a determination on the application. The department shall issue public notice of its intent to grant or deny an application for a permit within sixty days after receipt of an application containing all required information. If an application is granted and the permit is issued or modified, any aggrieved person may file a petition for a contested case with the department within thirty days after the granting or modification of the permit, but such petition shall not act as a stay of the permit. If an application is denied, the department shall provide written rationale therefor to the applicant. Any change, modification, or other deviation from the terms or

conditions of an approved permit must be approved by the director prior to implementation. Minor modifications described in subsection (5) of this section shall not require public notice or hearing.

(2) The department shall condition the issuance of permits on terms necessary to protect the public health and welfare and the environment as well as compliance with all applicable regulations. Any applicant may apply to the department for a variance from rules and regulations. The director may grant such variance if he or she finds that the public health and welfare will not be endangered or that compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public. The considerations, procedures, conditions, and limitations set forth in section 81-1513 shall apply to any variance granted pursuant to this section.

(3) The director shall require the owner or operator of a facility to undertake investigation and corrective action in the event of contamination or a threat of contamination caused by the facility. Financial assurance for investigative or corrective action may be required in an amount determined by the director following notice and hearing.

(4) In addition to the information required by this section, the following specific areas shall be addressed in detail in any application filed in conjunction with the issuance, renewal, or reissuance of a permit for a facility:

(a) A closure and postclosure plan detailing the schedule for and the methods by which the operator will meet the conditions for proper closure and postclosure of the facility as defined by the council. The plan shall include, but not be limited to, the proposed frequency and types of actions to be implemented prior to and following closure of an operation, the proposed postclosure actions to be taken to return the area to a condition suitable for other uses, and an estimate of the costs of closure and postclosure and the proposed method of meeting the costs;

(b) A plan for the control and treatment of leachate, including financial considerations proposed in meeting the costs of such control and treatment; and

(c) An emergency response and remedial action plan, including provisions to minimize the possibility of fire, explosion, or any release to air, land, or water of pollutants that could threaten human health and the environment and the identification of possible occurrences that may endanger human health and environment.

(5) If such application is modified after approval by the department, the application shall be resubmitted as a new proposal. The director may approve a minor modification of an application if he or she finds that the public health and welfare will not be endangered. The following minor modifications to an application are subject to departmental approval but do not require public notice or hearing:

(a) Correction of typographical errors;

(b) Change of name, address, or telephone number of persons or agencies identified in the application;

(c) Administrative or informational changes;

(d) Changes in procedures for maintaining operating records;

(e) Changes to provide for more frequent monitoring, reporting, sampling, or maintenance;

(f) Request for a compliance date extension if such date is not more than one hundred twenty days after the date specified in the approved permit;

(g) Adjustments to the cost estimates or the financial assurance instrument for inflation;

(h) Changes in the closure schedule for a unit or in the final closure schedule for the facility or an extension of the closure schedule;

(i) Changes to the days or hours of operation if the hours of operation are within the period from 6:00 a.m. to 8:00 p.m.;

(j) Changes to the facility contingency plan;

(k) Changes which improve sampling or analysis methods, procedures, or schedules;

(l) Changes in quality control or quality assurance plans which will better ensure that the specifications for construction, closure, sampling, or analysis will be met;

(m) Changes in the facility plan of operation which conform to guidance or rules approved by the Environmental Quality Council or provide more efficient waste handling or more effective waste screening; or

(n) Replacement of an existing monitoring well with a new well if location is not changed.

Source: Laws 1992, LB 1257, § 36; Laws 1994, LB 1207, § 8; Laws 2007, LB263, § 1.

13-2037 Comprehensive state plan for solid waste management; department; duties; rules and regulations; requirements; approval of state plan.

(1) The department shall keep current the comprehensive state plan for solid waste management developed pursuant to section 81-15,166, including the rules, regulations, and guidelines adopted by the council for facilities in cooperation with local governments and with agencies.

(2) Rules and regulations adopted and promulgated by the council shall comply with rules and regulations promulgated by the Environmental Protection Agency pursuant to the Hazardous and Solid Waste Amendments of 1984 to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., including the exemptions and deadlines provided for in 40 C.F.R. 258.1.

(3) The department shall apply for approval to the Environmental Protection Agency to attain an approved state program for solid waste management.

Source: Laws 1992, LB 1257, § 37.

13-2038 Definition of certain solid wastes; council; adopt rules and regulations.

The council shall adopt and promulgate rules and regulations which define lead-acid batteries, discarded household appliances, waste oil, and unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act.

Source: Laws 1992, LB 1257, § 38; Laws 1994, LB 1207, § 9.

Cross References

Environmental Protection Act, see section 81-1532.

13-2039 Land disposal of certain solid wastes; prohibited; when; exceptions.

(1)(a) A landfill may accept yard waste without condition from December 1 through March 31 of each year.

(b) A landfill may accept yard waste year-round if such yard waste:

(i) Will be used for the production and recovery of methane gas for use as fuel (A) with the approval of the department and (B) at a landfill operating as a solid waste management facility with a permit issued pursuant to the department's rules and regulations; or

(ii) Has been separated at its source from other solid waste and will be used for the purpose of soil conditioning or composting.

(c) State and local governmental entities responsible for the maintenance of public lands shall give preference to the use of composted materials in all land maintenance activities. This section does not prohibit the use of yard waste as land cover or as soil-conditioning material.

(2) Land disposal of lead-acid batteries and waste oil is prohibited.

(3)(a) Land disposal of waste tires in any form is prohibited except tires that are nonrecyclable. For purposes of this subsection, nonrecyclable tire means a press-on solid tire, a solid pneumatic shaped tire, or a foam pneumatic tire.

(b) On and after September 1, 2003, placing or causing the placement or disposal of scrap tires in any form into the waters of the state is prohibited except as provided in section 13-2033.

(c) Tires are not considered disposed if they are (i) processed into crumb rubber form and reused or recycled in manufactured products such as, but not limited to, products used for schools, playgrounds, and residential, lawn, and garden applications, (ii) used as safety barriers for race courses for motorized vehicles, on the condition that the tires are bolted together and properly wrapped, and not in loose, compressed, or baled form, (iii) used as tire-derived fuel, (iv) retreaded, (v) processed into chip or shred form and used as drainage media in landfill construction or septic drain fields, (vi) used as a raw material in steelmaking, or (vii) processed into shred form and used as an alternative daily cover in a landfill or for a civil engineering project if such project is designed and constructed in compliance with the Engineers and Architects Regulation Act and prior approval for such project is obtained from the department by the tire shredder and the end user, except that departmental approval is not necessary for a tire project involving three thousand five hundred or fewer passenger tire equivalents of waste tires if the department receives notification of the project not later than thirty days prior to any construction on such project. The notification shall contain the name and address of the tire shredder and end user, the location of the project, a description of the type of project, the number of passenger tire equivalents of waste tires to be used, and any additional information the council determines is necessary to accomplish the purposes of the Integrated Solid Waste Management Act.

A race sponsor using tires as safety barriers pursuant to subdivision (3)(c)(ii) of this section prior to October 1, 2006, shall file an approved tire disposal plan with the department on or before January 1, 2007. A race sponsor using tires as

safety barriers on or after October 1, 2006, shall file an approved tire disposal plan with the department prior to the sponsor's first such use of tires. An approved tire disposal plan shall provide for the disposal of tires which cease to be used as safety barriers in accordance with subsection (3) of section 13-2033, and any such race sponsor who ceases to use tires as safety barriers or whose facility ceases operation shall dispose of such tires in accordance with his or her approved tire disposal plan. Any modification to an approved tire disposal plan shall be submitted to and approved by the department prior to implementation of such modified plan. An approved tire disposal plan shall continue in effect as long as such sponsor uses tires as safety barriers.

(4) Land disposal of discarded household appliances is prohibited.

(5) Land disposal of unregulated hazardous wastes, except household hazardous wastes, which are exempt from the regulations under the Environmental Protection Act is prohibited unless such disposal occurs at a licensed hazardous waste disposal facility.

(6) For purposes of this section, land disposal shall include, but not be limited to, incineration at a landfill.

Source: Laws 1992, LB 1257, § 39; Laws 1994, LB 1034, § 1; Laws 1994, LB 1207, § 10; Laws 1995, LB 42, § 1; Laws 2003, LB 143, § 6; Laws 2006, LB 776, § 1; Laws 2006, LB 818, § 1.

Cross References

Engineers and Architects Regulation Act, see section 81-3401.
Environmental Protection Act, see section 81-1532.

13-2040 Licenses issued under prior law; department review; expiration; permits issued under act; expiration.

The department shall review all licenses for solid waste management facilities which were issued under the Environmental Protection Act prior to July 15, 1992, and which expire after October 1, 1993, to determine whether the licensee is in compliance with the requirements of the Integrated Solid Waste Management Act and the rules and regulations adopted by the council.

The department may require such licensee to furnish written documentation evidencing compliance. If the department determines that the licensee is not in compliance with the Integrated Solid Waste Management Act and the rules and regulations adopted by the council, the department may issue an amended permit as necessary to bring the licensee into compliance with these provisions.

All licenses for solid waste management facilities issued under the Environmental Protection Act prior to July 15, 1992, shall expire at the stated date of expiration if such expiration date is before October 1, 1993, except that the department may extend such licenses to continue until October 1, 1993, if it finds that the facility remains in compliance with the Environmental Protection Act and the rules and regulations adopted thereunder by the council prior to July 15, 1992.

Permits for solid waste processing facilities, as defined in rules and regulations adopted and promulgated by the council, issued pursuant to the Integrated Solid Waste Management Act shall expire not more than ten years following the date of issuance, as determined by the department. Permits may be renewed only if the department determines, upon application, that the permitholder is in compliance with all requirements of the act.

Permits for solid waste disposal areas, as defined in rules and regulations adopted and promulgated by the council, issued pursuant to the act shall expire not more than five years following the date of issuance as determined by the department. Permits may be renewed only if the department determines, upon application, that the permitholder is in compliance with all requirements of the act.

Source: Laws 1992, LB 1257, § 40; Laws 1997, LB 752, § 72; Laws 2003, LB 143, § 7.

Cross References

Environmental Protection Act, see section 81-1532.

13-2041 Integrated Solid Waste Management Cash Fund; created; use; investment; application fee schedule; council; establish; permitholder; annual fee.

There is hereby created the Integrated Solid Waste Management Cash Fund. All fees collected by the department pursuant to this section or fees designated pursuant to section 13-2042 or money forfeited under subsection (21) of section 81-1505 shall be remitted to the State Treasurer for credit to the fund. Forfeited funds may only be used for purposes specified in the underlying financial assurance instrument. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

The council shall adopt and promulgate rules and regulations establishing a fee schedule to be paid to the department by persons applying for a permit to operate a facility pursuant to the Integrated Solid Waste Management Act or the Environmental Protection Act. Payment shall be made in full to the department before the application is processed.

By October 1 of each year, any person holding a permit under the Integrated Solid Waste Management Act or to operate a solid waste management facility under the Environmental Protection Act shall pay an annual fee in an amount to be determined by the council. The annual fee shall be sufficient to cover the costs of ongoing permit considerations. The fees collected pursuant to this section shall not exceed the amount necessary to pay reasonable costs of administering the permit program pursuant to the Integrated Solid Waste Management Act or the Environmental Protection Act.

The State Treasurer shall transfer one million three hundred eighty-four thousand four hundred eighty-four dollars from the Integrated Solid Waste Management Cash Fund to the Superfund Cost Share Cash Fund on or before June 1, 2006.

Source: Laws 1992, LB 1257, § 41; Laws 1994, LB 1066, § 12; Laws 2006, LB 1061, § 1.

Cross References

Environmental Protection Act, see section 81-1532.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

13-2042 Landfill disposal fee; payment; interest; use; grants; department; powers; council; duties.

(1) A disposal fee of one dollar and twenty-five cents is imposed for each six cubic yards of uncompacted solid waste, one dollar and twenty-five cents for each three cubic yards of compacted solid waste, or one dollar and twenty-five cents per ton of solid waste (a) disposed of at landfills regulated by the department or (b) transported for disposal out of state from a solid waste processing facility holding a permit under the Integrated Solid Waste Management Act. Each operator of a landfill or solid waste processing facility shall make the fee payment quarterly. The fee shall be paid quarterly to the department on or before the forty-fifth day following the end of each quarter. For purposes of this section, landfill has the same definition as municipal solid waste landfill unit in 40 C.F.R. 258.2.

(2) Each fee payment shall be accompanied by a form prepared and furnished by the department and completed by the permitholder. The form shall state the total volume of solid waste disposed of at the landfill or transported for disposal out of state from the solid waste processing facility during the payment period and shall provide any other information deemed necessary by the department. The form shall be signed by the permitholder.

(3) If a permitholder fails to make a timely payment of the fee, he or she shall pay interest on the unpaid amount at the rate specified in section 45-104.02, as such rate may from time to time be adjusted.

(4) This section shall not apply to a site used solely for the reclamation of land through the introduction of landscaping rubble or inert material.

(5) Fifty percent of the total of such fees collected in each quarter shall be remitted to the State Treasurer for credit to the Integrated Solid Waste Management Cash Fund and shall be used by the department to cover the direct and indirect costs of responding to spills or other environmental emergencies, of regulating, investigating, remediating, and monitoring facilities during and after operation of facilities, or of performance of regulated activities under the Integrated Solid Waste Management Act, the Nebraska Litter Reduction and Recycling Act, and the Waste Reduction and Recycling Incentive Act. The department may seek recovery of expenses paid from the fund for responding to spills or other environmental emergencies or for investigation, remediation, and monitoring of a facility from any person who owned, operated, or used the facility in violation of the Integrated Solid Waste Management Act, the Nebraska Litter Reduction and Recycling Act, and the Waste Reduction and Recycling Incentive Act in a civil action filed in the district court of Lancaster County.

(6)(a) The remaining fifty percent of the total of such fees collected per quarter shall be remitted to the State Treasurer for credit to the Waste Reduction and Recycling Incentive Fund. For purposes of determining the total fees collected, any amount of fees rebated pursuant to section 13-2042.01 shall be included as if the fees had not been rebated, and the amount of the fees rebated pursuant to such section shall be deducted from the amount to be credited to the Waste Reduction and Recycling Incentive Fund.

(b) From the fees credited to the Waste Reduction and Recycling Incentive Fund under this subsection:

(i) Grants shall be awarded to counties, municipalities, and agencies for the purposes of planning and implementing facilities and systems to further the goals of the Integrated Solid Waste Management Act. The grant proceeds shall not be used to fund landfill closure site assessments, closure, monitoring, or

investigative or corrective action costs for existing landfills or landfills already closed prior to July 15, 1992. The council shall adopt and promulgate rules and regulations to carry out this subdivision. Such rules and regulations shall base the awarding of grants on a project's reflection of the integrated solid waste management policy and hierarchy established in section 13-2018, the proposed amount of local matching funds, and community need; and

(ii) The department may disburse amounts to political subdivisions for costs incurred in response to and remediation of any solid waste disposed of or abandoned at dump sites or discrete locations along public roadways or ditches and on any contiguous area affected by such disposal or abandonment. Such reimbursement shall be by application to the department on forms prescribed by the department. The department shall prepare and make available a schedule of eligible costs and application procedures which may include a requirement of a demonstration of preventive measures to be taken to discourage future dumping. The department may not disburse to political subdivisions an amount which in the aggregate exceeds five percent of total revenue from the disposal fees collected pursuant to this section in the preceding fiscal year. These disbursements shall be made on a fiscal-year basis, and applications received after funds for this purpose have been exhausted may be eligible during the next fiscal year but are not an obligation of the state. Any eligible costs incurred by a political subdivision which are not funded due to a lack of funds shall not be considered an obligation of the state. In disbursing funds under this subdivision, the director shall make efforts to ensure equal geographical distribution throughout the state and may deny reimbursements in order to accomplish this goal.

Source: Laws 1992, LB 1257, § 42; Laws 1994, LB 1207, § 11; Laws 1997, LB 495, § 2; Laws 1999, LB 592, § 1; Laws 2001, LB 128, § 1; Laws 2003, LB 143, § 8; Laws 2004, LB 916, § 1; Laws 2010, LB696, § 1; Laws 2011, LB29, § 1.

Cross References

Nebraska Litter Reduction and Recycling Act, see section 81-1534.
Waste Reduction and Recycling Incentive Act, see section 81-15,158.01.

13-2042.01 Landfill disposal fee; rebate to municipality or county; application; Department of Environment and Energy; materiel division of Department of Administrative Services; municipality; county; duties; suspension or denial of rebate; appeal; rules and regulations.

(1) The Department of Environment and Energy shall rebate to the municipality or county of origin ten cents of the disposal fee required by section 13-2042 for solid waste disposed of at landfills regulated by the department or transported for disposal out of state from a solid waste processing facility holding a permit under the Integrated Solid Waste Management Act and when such solid waste originated in a municipality or county with a purchasing policy approved by the department. The fee shall be rebated on a schedule agreed upon between the municipality or county and the department. The schedule shall be no more often than quarterly and no less often than annually.

(2) Any municipality or county may apply to the department for the rebate authorized in subsection (1) of this section if the municipality or county has a written purchasing policy in effect requiring a preference for purchasing products, materials, or supplies which are manufactured or produced from

recycled material. The policy shall provide that the preference shall not operate when it would result in the purchase of products, materials, or supplies which are of inadequate quality as determined by the municipality or county. Upon receipt of an application, the Department of Environment and Energy shall submit the application to the materiel division of the Department of Administrative Services for review. The materiel division shall review the application for compliance with this section and any rules and regulations adopted pursuant to this section and to determine the probable effectiveness in assuring that a preference is given to products, materials, or supplies which are manufactured or produced from recycled material. The materiel division shall provide a report of its findings to the Department of Environment and Energy within thirty days after receiving the review request. The Department of Environment and Energy shall approve the application or suggest modifications to the application within sixty days after receiving the application based on the materiel division's report, any analysis by the Department of Environment and Energy, and any factors affecting compliance with this section or the rules and regulations adopted pursuant to this section.

(3) A municipality or county shall file a report complying with the rules and regulations adopted pursuant to this section with the Department of Environment and Energy before April 1 of each year documenting purchasing practices for the past calendar year in order to continue receiving the rebate. The report shall include, but not be limited to, quantities of products, materials, or supplies purchased which were manufactured or produced from recycled material. The department shall provide copies of each report to the materiel division in a timely manner. If the department determines that a municipality or county is not following the purchasing policy presented in the approved application or that the purchasing policy presented in the approved application is not effective in assuring that a preference is given to products, materials, or supplies which are manufactured or produced from recycled material, the department shall suspend the rebate until it determines that the municipality or county is giving a preference to products, materials, or supplies which are manufactured or produced from recycled material pursuant to a written purchasing policy approved by the department subsequent to the suspension. The materiel division may make recommendations to the department regarding suspensions and reinstatements of rebates. The Department of Administrative Services may adopt and promulgate rules and regulations establishing procedures for reviewing applications and for annual reports.

(4) Any suspension of the rebate or denial of an application made under this section may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

(5) The council shall adopt and promulgate rules and regulations establishing criteria for application procedures, for accepting and denying applications, for required reports, and for suspending and reinstating the rebate. The materiel division shall recommend to the council criteria for accepting and denying applications and for suspending and reinstating the rebate. The materiel division may make other recommendations to the council regarding rules and regulations authorized under this section.

Source: Laws 1994, LB 1207, § 3; Laws 2009, LB180, § 1; Laws 2010, LB696, § 2; Laws 2019, LB302, § 18.

Cross References

Administrative Procedure Act, see section 84-920.

13-2043 Construction of act.

Nothing in the Integrated Solid Waste Management Act shall be construed to apply to any operations or activities regulated by the Nebraska Oil and Gas Conservation Commission or to operations or activities regulated under subsection (10) of section 81-1505.

Source: Laws 1992, LB 1257, § 43.

ARTICLE 21

ENTERPRISE ZONES

Section

13-2101. Legislative findings.
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13-2108. City council, village board, county board, or tribal government; vote to make formal application.
13-2109. Enterprise zone association; board; membership; vacancies; powers and duties; dissolution.
13-2110. Enterprise zone association; powers and duties.
13-2111. Political subdivision; remove, reduce, or simplify certain resolutions, regulations, or ordinances; when.
13-2112. Rules and regulations.
13-2113. Repealed. Laws 2003, LB 608, § 14.
13-2114. Repealed. Laws 2013, LB 222, § 48.

13-2101 Legislative findings.

The Legislature finds that:

(1) There exist in this state distressed areas where unemployment is higher than the state or national average, where poverty levels are higher than the state or national average, where the population is declining, where property is being abandoned, and where other forms of economic distress are occurring which adversely affect the general welfare of the people of this state;

(2) Such unemployment and other problems cause the distressed areas of the state to deteriorate and become substandard and blighted, making the areas economic or social liabilities which are harmful to the social and economic well-being of the state and the counties and communities in which they exist. Such distressed areas cause a needless increase in public expenditures, impose an onerous burden on the state and its political subdivisions, decrease the tax base, reduce tax revenue, substantially impair or arrest the sound growth of the state and its political subdivisions, depreciate general statewide and community-wide values, and contribute to the spread of disease and crime. This in turn necessitates excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment, for the treatment of juvenile delinquency, for the

maintenance of adequate police, fire, and accident protection, and for other public services and facilities;

(3) From time to time, various communities in the state suffer extensive economic distress from the loss of a major employer in the area or from a major cut-back in employment by such an employer resulting in high local unemployment and threatening the economic balance of the community if not its continued existence; and

(4) Stimulation of economic development in the distressed areas is a matter of state policy, public interest, and concern and is within the power and authority inherent in and reserved to the state. Economic development is needed to insure that the state will not continue to be endangered by areas which consume an excessive proportion of revenue and that the economic base of the state may be broadened and stabilized by providing jobs and increasing the tax base.

Source: Laws 1992, LB 1240, § 1; Laws 1993, LB 725, § 2.

13-2101.01 Act, how cited.

Sections 13-2101 to 13-2112 shall be known and may be cited as the Enterprise Zone Act.

Source: Laws 1993, LB 725, § 1; Laws 2013, LB222, § 4.

13-2102 Terms, defined.

For purposes of the Enterprise Zone Act:

(1) Census shall mean the federal decennial census;

(2) Department shall mean the Department of Economic Development;

(3) Economic distress shall mean conditions of unemployment, poverty, and declining population existing within the area of a proposed enterprise zone considered in the stated order as an order of priority from most to least significant;

(4) Enterprise zone or zone shall mean an area which is at least one but no more than sixteen square miles in total area composed of one or more discrete areas which have a combined total resident population of not less than two hundred fifty persons. If it is composed of more than one discrete area, each separate area must meet the eligibility criteria established by this subdivision and (a) must be no more than five miles from another area if the zone is located within a city of the metropolitan or primary class, (b) must be located within the same county if the zone is located outside of the boundaries of a city of the metropolitan or primary class, or (c) must be located within the boundaries of the applying political subdivisions if the application for zone designation is made jointly by counties or tribal government areas pursuant to subsection (4) of section 13-2103. No area or portion of an area located in a city of the metropolitan or primary class shall include any portion of a central business district. For purposes of this subdivision, central business district shall mean an area comprised of a high concentration of office, service, financial, lodging, entertainment, and retail businesses and government facilities and possessing a high traffic flow or an area composed of one or more complete federal census tracts defined as a central business district by the United States Bureau of the Census.

To qualify as an enterprise zone under this subdivision (4), such area must meet at least two of the following three criteria as measured by data from the United States Bureau of the Census:

(i) Population in the area or within a reasonable proximity to the area has decreased by at least ten percent between the date of the most recent census and the date of the immediately preceding census;

(ii) The average rate of unemployment in the area or within a reasonable proximity to the area is at least two hundred percent of the average rate of unemployment in the state during the same period covered by the most recent census or American Community Survey 5-Year Estimate; or

(iii) The average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area or within a reasonable proximity to the area when the area is located within the legal boundaries of a city of the metropolitan or primary class or the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups which encompass the legal boundaries of a city of the first class, city of the second class, village, or tribal government area when the area is located in such political subdivision.

For purposes of this subdivision (4), reasonable proximity shall refer to the federal census tracts or federal census block groups which either in whole or in part are within the boundaries of any portion of the proposed zone;

(5) Political subdivision shall mean any incorporated village, city, county, or tribal government area; and

(6) Tribal government area shall mean (a) that portion of Knox County under the jurisdiction of the Santee Sioux Tribe, (b) that portion of Thurston County under the jurisdiction of the Omaha Tribe, and (c) that portion of Thurston County under the jurisdiction of the Winnebago Tribe.

Source: Laws 1992, LB 1240, § 2; Laws 1993, LB 725, § 3; Laws 2020, LB1003, § 2.

13-2103 Designation; application; requirements; limitation; term.

(1)(a) Beginning on December 1, 2014, the department shall, for a period of one hundred eighty days, accept formal applications for the designation of enterprise zones. Within sixty days after the end of such application period, the department may designate not more than five areas as enterprise zones based on eligible applications it has received.

(b) If the department has received fewer than five applications for the designation of enterprise zones after the end of the application period described in subdivision (1)(a) of this section, the department may establish a period of time within which to accept additional applications. Within sixty days after the end of such extended application period, the department may designate additional areas as enterprise zones based on additional eligible applications received, but not more than a total of five areas may be designated as enterprise zones pursuant to this section.

(c) In the application period, the department may reject from consideration any application which does not fully and completely comport with the provisions of section 13-2104 at the end of the designated application period. In choosing among eligible applications for enterprise zone designation, the de-

partment shall consider the levels of distress existing within the applicant areas and the contents of the applicant's formal enterprise zone application.

(d) Each area designated as an enterprise zone shall meet all eligibility criteria. Of the enterprise zones authorized, no more than one shall be located inside the boundaries of a city of the metropolitan class and no more than one inside a city of the primary class.

(2) Any city, village, tribal government area, or county may apply for designation of an area within such city, village, tribal government area, or county as an enterprise zone, except that if a county seeks to have an area within an incorporated city or village or a tribal government area designated as an enterprise zone, the consent of the governing body of such city, village, or tribal government area shall first be required.

(3) If an incorporated city or village or a tribal government area consents, a county may apply on behalf of the city, village, or tribal government area for certification of an area within such city, village, or tribal government area as an enterprise zone. Both a county and a city, village, or tribal government area shall not apply for certification of the same area.

(4) Two or more counties or tribal government areas may jointly apply for designation of an area as an enterprise zone which is located on both sides of their common boundaries.

(5) Political subdivisions wishing to file an application for designation of an enterprise zone shall first follow the procedures set out in sections 13-2106 to 13-2108. An application for designation as an enterprise zone shall be in a form and contain information prescribed by the department pursuant to section 13-2104.

(6) An area designated as an enterprise zone shall retain such designation for a period of ten years from the date of such designation.

(7) All enterprise zones designated as such within a single county shall not exceed a total of sixteen square miles in area.

Source: Laws 1992, LB 1240, § 3; Laws 1993, LB 725, § 4; Laws 2014, LB800, § 1; Laws 2016, LB948, § 1; Laws 2019, LB334, § 3.

13-2104 Application; contents.

An application for designation of an area as an enterprise zone shall contain at least the following:

(1) A description of the geographic location of the proposed zone;

(2) Documentation that the area of the proposed enterprise zone represents the area with the greatest level of economic distress within the boundaries of the applying political subdivision;

(3) An enterprise zone economic development plan containing goals, objectives, and a description of current and new actions to be undertaken to encourage private investment in the area, including: (a) Job training to be provided to new and existing businesses in the zone and to unemployed and displaced worker residents; (b) the provision of technical assistance to businesses in the zone, such as management training, marketing assistance, engineering or technology assistance, and business plan preparation; (c) efforts to be made to assure the safety of businesses and employees in the zone; (d) efforts to be made to market the zone to new and existing businesses as an appropriate

place for location or expansion; (e) infrastructure investments to be made to lead to economic development; and (f) organizational structures to be created and processes to be undertaken which will lead toward economic development;

(4) A plan to insure that resources are available to assist residents of the area with self-help development;

(5) A description of any projected positive or negative effects of designation of the area as an enterprise zone;

(6) A plan to provide assistance to persons or businesses displaced as a result of zone activity;

(7) Documentation of substantial commitments to be made by the private sector of resources and contributions to the operation or development of the zone;

(8) Documentation that the requirements in sections 13-2106 to 13-2108 have been completed;

(9) Cities of the metropolitan, primary, and first classes shall provide documentation of the commitment of funds for expenditure in the proposed enterprise zone during the first three years of its existence if it is designated an enterprise zone by the department. Such funds shall be for the purpose of directly or indirectly assisting or enabling businesses to locate or expand existing operations within the area of the proposed enterprise zone. The funds to be committed and expended shall be from revenue of the city or any other local political subdivision, from private nongovernmental sources, or from any other nonstate government sources. For cities of the metropolitan and primary classes, such commitments from all permitted sources shall not be less than five hundred thousand dollars. For cities of the first class, such commitments from all permitted sources shall not be less than one hundred thousand dollars. No application for enterprise zone designation from a city of the metropolitan, primary, or first class shall be approved until commitments at the level designated have been documented to the department;

(10) Counties, tribal governments, cities of the second class, and villages shall document commitments to be made from private sector sources of resources and funds for the operation and development of the enterprise zone and commitments by the applicant and other local political subdivisions of local revenue and other nonstate government resources to encourage economic development in the area. Such commitments of funds shall be consistent with local government capabilities to raise additional funds from local sources and shall reflect the applicant's commitment to the proposed enterprise zone. If a county is making an application for designation of an area located in whole or in part within the boundaries of a city of the metropolitan, primary, or first class, the county shall provide documentation of the commitment of funds for expenditure in the proposed enterprise zone as provided in subdivision (9) of this section as if the application were being made by the city; and

(11) A description of any actions to be taken with regard to the removal, reduction, or simplification of any resolutions, regulations, ordinances, fees, or other items pursuant to the authority granted by section 13-2111.

Source: Laws 1992, LB 1240, § 4; Laws 1993, LB 725, § 5.

13-2105 State government interagency response team.

The Governor shall provide a state government interagency response team to work with local governments and enterprise zone associations on effective ways to use new and existing resources from all levels of government to improve development capacity in enterprise zones and accomplish the purposes of the Enterprise Zone Act.

Source: Laws 1992, LB 1240, § 5; Laws 1993, LB 725, § 6; Laws 2014, LB800, § 2.

13-2106 City council, village board, county board, or tribal government; resolution to establish zone.

A city council, village board, county board, or tribal government may propose the creation of one or more enterprise zones by adopting a resolution of intention to establish a zone or zones. The resolution shall contain a description of the boundaries of the zone or zones, the time and place of a hearing to be held by the city council, village board, county board, or tribal government, a basic summary of the information to be provided to the department as specified in section 13-2104, and such other additional information as the proposing body may desire to include.

Source: Laws 1992, LB 1240, § 6; Laws 1993, LB 725, § 7.

13-2107 Public hearing; notice.

Any city council, village board, county board, or tribal government proposing to create an enterprise zone or zones shall hold a public hearing on the question. A notice of the hearing shall be given by one publication of the resolution of intention in a newspaper of general circulation in the city, village, county, or tribal government area at least ten days prior to the hearing.

Source: Laws 1992, LB 1240, § 7; Laws 1993, LB 725, § 8.

13-2108 City council, village board, county board, or tribal government; vote to make formal application.

Following the public hearing held pursuant to section 13-2107, the city council, village board, county board, or tribal government may vote to make formal application to the department for the creation of an enterprise zone or zones and take any additional appropriate action with regard to the creation of such zone or zones.

Source: Laws 1992, LB 1240, § 8; Laws 1993, LB 725, § 9.

13-2109 Enterprise zone association; board; membership; vacancies; powers and duties; dissolution.

(1) There shall be created an enterprise zone association within each proposed enterprise zone upon the decision by the political subdivision to submit an enterprise zone application. Such enterprise zone association shall be governed by an enterprise zone association board which shall consist of seven members. The initial members of the board shall be appointed by the mayor of the city or village with the approval of the city council or village board, by the county board, or by the tribal chairperson. The city council, village board, county board, or tribal government shall establish the length of the terms and shall establish staggered terms so that no more than four members of the enterprise zone association board shall be appointed in any one-year period.

(2) The city council, village board, county board, or tribal government shall, by majority vote, nominate candidates and appoint from the candidates qualified persons to fill each vacant, open, or opening seat on the enterprise zone association board. A member of the enterprise zone association board, not otherwise disqualified, whose term of office has ended shall continue to serve as a member of the board until his or her successor is properly qualified and appointed.

(3) Vacancies on the enterprise zone association board shall be filled in the same manner as provided for appointments other than initial appointments, and such members shall serve for the balance of the unexpired terms. A board member may serve more than one term. Any board member appointed as a resident of the area constituting the enterprise zone shall cease to be a member of the enterprise zone association board at such time as he or she ceases to be a resident within the area constituting the zone, and at such time his or her seat shall be vacant.

(4) The enterprise zone association board shall select its own officers and may exercise such other additional powers and authority as may be granted it by the department or the city, village, county, or tribal government. The presence of at least four members of the enterprise zone association board shall be necessary to transact any business.

(5) Individuals chosen to serve as members of the enterprise zone association board shall include property owners, business operators, and users of space within the area of the enterprise zone as well as individuals representing groups or organizations with an interest in furthering the purposes and goals of the enterprise zone. Not less than two-thirds of the members of the enterprise zone association board shall be residents of the area constituting the enterprise zone. For purposes of this section, residents of the area constituting the enterprise zone shall be construed to include those persons residing within a county in which an enterprise zone is located when the enterprise zone is not located in a city of the primary or metropolitan class.

(6) The city, village, county, or tribal government establishing the enterprise zone association shall provide appropriate staff assistance and support to the association.

(7) If an applicant for designation as an enterprise zone does not receive such designation, the association of such applicant shall be dissolved.

Source: Laws 1992, LB 1240, § 9; Laws 1993, LB 725, § 10; Laws 1998, LB 1259, § 1; Laws 2014, LB800, § 3.

13-2110 Enterprise zone association; powers and duties.

(1) An enterprise zone association created pursuant to section 13-2109 shall:

(a) Approve the application to be submitted by the political subdivision to the department for enterprise zone designation;

(b) Promote the enterprise zone to outside groups and individuals;

(c) Establish a formal line of communication with residents and businesses in the enterprise zone;

(d) Act as a liaison between residents, businesses, and the city, village, county, or tribal government for any development activity that may affect the enterprise zone or zone residents; and

(e) By majority vote of the full enterprise zone association board:

(i) Approve the acceptance by the city, village, county, or tribal government of any state or federal grant or loan for the enterprise zone;

(ii) Approve the purposes for and the conditions surrounding such grants or loans;

(iii) Approve any expenditures of funds by the city, village, county, or tribal government which are to be made for the purpose of complying with the Enterprise Zone Act; and

(iv) Approve the appointment of any staff member designated to work exclusively with the enterprise zone association board.

The city council, village board, county board, or tribal government shall not act affirmatively with regard to any matter requiring the approval of the enterprise zone association board until such time as it has received the approval of the enterprise zone association board.

(2) An enterprise zone association may:

(a) Initiate and coordinate any community development activities that aid in the employment of enterprise zone residents, improve the physical environment, or encourage the turnover or retention of capital in the enterprise zone. Such additional activities may include recommendations to the city, village, county, or tribal government and the department; and

(b) Make recommendations to the city, village, county, tribal government, state agency, or other political subdivision for the establishment of a plan or plans for public improvements or programs.

Source: Laws 1992, LB 1240, § 10; Laws 1993, LB 725, § 11; Laws 1998, LB 1259, § 2.

13-2111 Political subdivision; remove, reduce, or simplify certain resolutions, regulations, or ordinances; when.

In order to accomplish the purposes of the Enterprise Zone Act, any political subdivision may remove, reduce, or simplify, in whole or in part, the provisions of any resolution, regulation, or ordinance relating to fees or administrative or procedural requirements as they relate to enterprise zones or entities or persons within the boundaries of an enterprise zone, except that such removal, reduction, or simplification shall not occur unless there is a finding by the political subdivision that the proposed action would not endanger the health or safety of the public.

Source: Laws 1992, LB 1240, § 11; Laws 1993, LB 725, § 12.

13-2112 Rules and regulations.

The department may adopt and promulgate rules and regulations to carry out the Enterprise Zone Act.

Source: Laws 1992, LB 1240, § 12; Laws 1993, LB 725, § 15; Laws 2014, LB800, § 4; Laws 2019, LB334, § 4.

13-2113 Repealed. Laws 2003, LB 608, § 14.

13-2114 Repealed. Laws 2013, LB 222, § 48.

ARTICLE 22
LOCAL GOVERNMENT MISCELLANEOUS EXPENDITURES

Section
13-2201. Act, how cited.
13-2202. Terms, defined.
13-2203. Additional expenditures; governing body; powers; procedures.
13-2204. Expenditures; limitations; exception.

13-2201 Act, how cited.

Sections 13-2201 to 13-2204 shall be known and may be cited as the Local Government Miscellaneous Expenditure Act.

Source: Laws 1993, LB 734, § 9.

13-2202 Terms, defined.

For purposes of the Local Government Miscellaneous Expenditure Act:

(1) Elected and appointed officials and employees shall mean the elected and appointed officials and employees of any local government;

(2) Governing body shall mean, in the case of a city of any class, the city council; in the case of a village, cemetery district, community hospital for two or more adjoining counties, county hospital, road improvement district, sanitary drainage district, or sanitary and improvement district, the board of trustees; in the case of a county, the county board; in the case of a municipal county, the council; in the case of a township, the town board; in the case of a school district, the school board; in the case of a rural or suburban fire protection district, reclamation district, natural resources district, regional metropolitan transit authority, or hospital district, the board of directors; in the case of a health district, the board of health; in the case of an educational service unit, the board; in the case of a community college, the Community College Board of Governors for the area the board serves; in the case of an airport authority, the airport authority board; in the case of a weed control authority, the board; in the case of a county agricultural society, the board of governors; and in the case of a learning community, the learning community coordinating council;

(3) Local government shall mean cities of any class, villages, cemetery districts, community hospitals for two or more adjoining counties, county hospitals, road improvement districts, counties, townships, sanitary drainage districts, sanitary and improvement districts, school districts, rural or suburban fire protection districts, reclamation districts, natural resources districts, regional metropolitan transit authorities, hospital districts, health districts, educational service units, community colleges, airport authorities, weed control authorities, county agricultural societies, and learning communities;

(4) Public funds shall mean such public funds as defined in section 13-503 as are under the direct control of governing bodies of local governments;

(5) Public meeting shall mean all regular, special, or called meetings, formal or informal, of any governing body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the governing body; and

(6) Volunteer shall mean a person who is not an elected or appointed official or an employee of a local government and who, at the request or with the permission of the local government, engages in activities related to the purposes or functions of the local government or for its general benefit.

Source: Laws 1993, LB 734, § 10; Laws 1997, LB 250, § 3; Laws 2001, LB 142, § 27; Laws 2009, LB392, § 4; Laws 2019, LB492, § 31.

13-2203 Additional expenditures; governing body; powers; procedures.

In addition to other expenditures authorized by law, each governing body may approve:

(1)(a) The expenditure of public funds for the payment or reimbursement of actual and necessary expenses incurred by elected and appointed officials, employees, or volunteers at educational workshops, conferences, training programs, official functions, hearings, or meetings, whether incurred within or outside the boundaries of the local government, if the governing body gave prior approval for participation or attendance at the event and for payment or reimbursement either by the formal adoption of a uniform policy or by a formal vote of the governing body. Authorized expenses may include:

(i) Registration costs, tuition costs, fees, or charges;

(ii) Mileage at the rate allowed by section 81-1176 for travel by personal automobile, but if travel by rental vehicle or commercial or charter means is economical and practical, then authorized expenses shall include only the actual cost of the rental vehicle or commercial or charter means. The governing body may establish different mileage rates based on whether the personal automobile usage is at the convenience of the local government or at the convenience of the local government's elected or appointed official, employee, or volunteer; and

(iii) Meals and lodging at a rate not exceeding the applicable federal rate unless a fully itemized claim is submitted substantiating the costs actually incurred in excess of such rate and such additional expenses are expressly approved by the governing body; and

(b) Authorized expenditures shall not include expenditures for meals of paid members of a governing body provided while such members are attending a public meeting of the governing body unless such meeting is a joint public meeting with one or more other governing bodies;

(2) The expenditure of public funds for:

(a) Nonalcoholic beverages provided to individuals attending public meetings of the governing body; and

(b) Nonalcoholic beverages and meals:

(i) Provided for any individuals while performing or immediately after performing relief, assistance, or support activities in emergency situations, including, but not limited to, tornado, severe storm, fire, or accident;

(ii) Provided for any volunteers during or immediately following their participation in any activity approved by the governing body, including, but not limited to, mowing parks, picking up litter, removing graffiti, or snow removal; or

(iii) Provided at one recognition dinner each year held for elected and appointed officials, employees, or volunteers of the local government. The

maximum cost per person for such dinner shall be established by formal action of the governing body, but shall not exceed fifty dollars. An annual recognition dinner may be held separately for employees of each department or separately for volunteers, or any of them in combination, if authorized by the governing body; and

(3) The expenditure of public funds for plaques, certificates of achievement, or items of value awarded to elected or appointed officials, employees, or volunteers, including persons serving on local government boards or commissions. Before making any such expenditure, the governing body shall, by official action after a public hearing, establish a uniform policy which sets a dollar limit on the value of any plaque, certificate of achievement, or item of value to be awarded. Such policy, following its initial adoption, shall not be amended or altered more than once in any twelve-month period.

Source: Laws 1993, LB 734, § 11; Laws 2018, LB1036, § 1; Laws 2019, LB609, § 1.

13-2204 Expenditures; limitations; exception.

Nothing in the Local Government Miscellaneous Expenditure Act shall authorize the expenditure of public funds to pay for any expenses incurred by a spouse of an elected or appointed official, employee, or volunteer unless the spouse is also an elected or appointed official, employee, or volunteer of the local government. Nothing in the act shall be construed to limit, restrict, or prohibit the governing body of any local government from making any expenditure authorized by statute, ordinance, resolution, or home rule charter or pursuant to any authority granted by law, either express or implied, except to the extent that such statute, ordinance, resolution, home rule charter, or other grant of authority by law, express or implied, may conflict with the act.

Source: Laws 1993, LB 734, § 12.

ARTICLE 23

LOCAL GOVERNMENT INNOVATION AND RESTRUCTURING

Section
13-2301. Repealed. Laws 2003, LB 8, § 4.
13-2302. Repealed. Laws 2003, LB 8, § 4.
13-2303. Repealed. Laws 2003, LB 8, § 4.
13-2304. Repealed. Laws 2003, LB 8, § 4.
13-2305. Repealed. Laws 2003, LB 8, § 4.
13-2306. Repealed. Laws 2003, LB 8, § 4.
13-2307. Repealed. Laws 2003, LB 8, § 4.

13-2301 Repealed. Laws 2003, LB 8, § 4.

13-2302 Repealed. Laws 2003, LB 8, § 4.

13-2303 Repealed. Laws 2003, LB 8, § 4.

13-2304 Repealed. Laws 2003, LB 8, § 4.

13-2305 Repealed. Laws 2003, LB 8, § 4.

13-2306 Repealed. Laws 2003, LB 8, § 4.

13-2307 Repealed. Laws 2003, LB 8, § 4.

ARTICLE 24

RETIREMENT BENEFITS AND PLANS

Section
13-2401. Transfer between political subdivisions; rights of employee; transferring and receiving entities; powers and duties.
13-2402. Political subdivision with defined benefit plan; notification required; actuarial experience study; valuation report; filing; report required; when; contents; failure to file; audit; costs.

13-2401 Transfer between political subdivisions; rights of employee; transferring and receiving entities; powers and duties.

(1) For purposes of this section:

(a) Political subdivision includes villages, cities of all classes, counties, municipal counties, school districts, and all other units of local government, including entities created pursuant to the Interlocal Cooperation Act or Joint Public Agency Act. Political subdivision does not include any contractor with a political subdivision;

(b) Receiving entity means a political subdivision which receives transferred employees from a separate political subdivision; and

(c) Transferring entity means a political subdivision which is transferring employees to a separate political subdivision.

(2) For transfers involving a retirement system which maintains a defined benefit plan, the transfer value of the transferring employee's accrued benefit shall be calculated by one or both of the retirement systems involved as follows:

(a) If the retirement system of the transferring entity maintains a defined benefit plan, an initial benefit transfer value of the employee's accrued benefit shall be determined by calculating the present value of the employee's retirement benefit based on the employee's years of service as of the date of transfer and the other actuarial assumptions of the retirement system of the transferring entity so that the effect on the retirement system of the transferring entity will be actuarially neutral; and

(b) If the retirement system of the receiving entity maintains a defined benefit plan, the final benefit transfer value of the employee's accrued benefit shall be determined by calculating the present value of the employee's retirement benefit as if the employee were employed on the date of transfer and had completed the same amount of service with the same compensation as the employee actually completed at the transferring entity prior to transfer. The calculation shall then be based on the employee's assumed years of service as of the date of transfer and the other actuarial assumptions of the retirement system of the receiving entity so that the effect on the retirement system of the receiving entity will be actuarially neutral.

(3) A full-time or part-time employee of a transferring entity who becomes an employee of a receiving entity pursuant to a merger of services shall receive credit for his or her years of participation in the retirement system of the transferring entity for purposes of membership in the retirement system of the receiving entity.

(4) An employee referred to in subsection (3) of this section shall have his or her participation in the retirement system of the transferring entity transferred to the retirement system of the receiving entity through one of the following options:

(a) If the retirement system of the receiving entity maintains a defined contribution plan, the employee shall transfer all of his or her funds by paying to the retirement system of the receiving entity from funds held by the retirement system of the transferring entity an amount equal to one of the following: (i) If the retirement system of the transferring entity maintains a defined benefit plan, an amount not to exceed the initial benefit transfer value, leaving no funds attributable to the transferred employee within the retirement system of the transferring entity, or (ii) if the retirement system of the transferring entity maintains a defined contribution plan, an amount not to exceed the employee and employer accounts of the transferring employee plus earnings during the period of employment with the transferring entity. The employee shall receive eligibility and vesting credit for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the transferring entity. Payment shall be made within five years after employment begins with the receiving entity or prior to retirement, whichever comes first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization; or

(b) If the retirement system of the receiving entity maintains a defined benefit plan, the employee shall transfer all of his or her funds out of the retirement system of the transferring entity to purchase service credits that will generate a final benefit transfer value not to exceed the employee's initial benefit transfer value in the retirement system of the transferring entity. After such purchase, the employee shall receive eligibility and vesting credit in the retirement system of the receiving entity for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the transferring entity. The amount to be paid by the member for such service credit shall equal the actuarial cost to the retirement system of the receiving entity for allowing such additional service credit to the employee. If any funds remain in the retirement system of the transferring entity after the employee has purchased service credits in the retirement system of the receiving entity, such remaining funds shall be rolled over into another qualified trust under section 401(a) of the Internal Revenue Code, an individual retirement account, or an individual retirement annuity. Payment shall be made within five years after the transfer of services, but prior to retirement, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(5) The transferring entity, the receiving entity, and the employees who are being transferred may by binding agreement determine which parties will provide funds to pay any amount needed to purchase creditable service in the retirement system of the receiving entity sufficient to provide a final benefit transfer value not to exceed the employee's initial benefit transfer value, if the amount of a direct rollover from the retirement system of the transferring entity is not sufficient to provide a final benefit transfer value in the retirement system of the receiving entity.

(6) The retirement system of the receiving entity may accept cash rollover contributions from a member who is making payment pursuant to this section if the contributions do not exceed the amount of payment required for the

service credits purchased by the member and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified trust under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, all of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified trust under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days after the date of the distribution from the qualified trust, individual retirement account, or individual retirement annuity.

(7) Cash transferred to the retirement system of the receiving entity as a rollover contribution shall be deposited as other contributions.

(8) The retirement system of the receiving entity may accept direct rollover distributions made from a qualified trust pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(9) The receiving entity or its retirement system shall adopt provisions defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

(10) Any retirement system authorized pursuant to section 14-1805, 15-1017, 16-1004, 16-1023, 18-812, 19-3501, 23-1118, or 23-2330.04 or any retirement system for a city of the metropolitan class authorized pursuant to home rule charter shall be modified to conform with this section prior to any merger of service involving such system.

Source: Laws 1997, LB 250, § 4; Laws 1997, LB 624, § 45; Laws 1998, LB 1191, § 4; Laws 1999, LB 87, § 58; Laws 2001, LB 142, § 28; Laws 2019, LB492, § 32.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

13-2402 Political subdivision with defined benefit plan; notification required; actuarial experience study; valuation report; filing; report required; when; contents; failure to file; audit; costs.

(1) On or before November 1, 2014, each political subdivision which offers a defined benefit plan pursuant to section 401(a) of the Internal Revenue Code which was open to new members on or after January 1, 2004, shall submit written notification to the Nebraska Retirement Systems Committee of the Legislature that it offers such a plan.

(2) Each political subdivision which offers such a defined benefit plan shall conduct an experience study at least once every four years to review the actuarial assumptions used to determine funding needs for its defined benefit plan. Each such political subdivision shall electronically file a copy of the most recent actuarial experience study with the committee by October 15, 2016, and shall electronically file a copy of each study completed pursuant to this subsection by the next October 15 after completion of the study.

(3) Beginning November 15, 2014, and each October 15 thereafter, the governing entity of the retirement plan of each political subdivision that offers such a defined benefit retirement plan shall file with the committee a copy of

the most recent annual actuarial valuation of the retirement plan. The valuation report shall be filed electronically.

(4)(a) Beginning November 15, 2014, and each October 15 thereafter, the governing entity of the retirement plan of each political subdivision that offers such a defined benefit retirement plan shall file a report with the committee if either of the following conditions exists as of the latest annual actuarial valuation of the retirement plan: (i) The contributions do not equal the actuarial requirement for funding; or (ii) the funded ratio is less than eighty percent.

(b) The report shall include, but not be limited to, an analysis of the conditions and a recommendation for the circumstances and timing of any future benefit changes, contribution changes, or other corrective action, or any combination of actions, to improve the conditions. The committee may require a governing entity to present its report to the committee at a public hearing. The report shall be submitted electronically.

(5) If a governing entity does not file the reports required by subsection (2), (3), or (4) of this section with the committee by October 15, the Auditor of Public Accounts may audit, or cause to be audited, the political subdivision offering the retirement plan. All costs of the audit shall be paid by the political subdivision.

(6) For purposes of this section, political subdivision means any local governmental body formed and organized under state law and any joint entity or joint public agency created under state law to act on behalf of political subdivisions.

Source: Laws 2014, LB759, § 1; Laws 2015, LB42, § 1; Laws 2016, LB447, § 1.

ARTICLE 25

JOINT PUBLIC AGENCY ACT

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13-2501 Act, how cited.

Sections 13-2501 to 13-2550 shall be known and may be cited as the Joint Public Agency Act.

Source: Laws 1999, LB 87, § 1.

13-2502 Purpose of act.

It is the purpose of the Joint Public Agency Act to permit local governmental units to make the most efficient use of their taxing authority and other powers by enabling them to cooperate with other governmental units on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

Source: Laws 1999, LB 87, § 2.

13-2503 Terms, defined.

For purposes of the Joint Public Agency Act:

(1) Board means the board of representatives of a joint public agency;

(2) Governing body has the same meaning as in section 13-503 and, when referring to state agencies, includes the governing board of a state agency or the Governor and, when referring to federal agencies, includes the governing board of a federal agency or the President of the United States;

(3) Joint public agency means an entity created by agreement pursuant to the act;

(4) Person means a natural person, public authority, private corporation, association, firm, partnership, limited liability company, or business trust of any nature whatsoever organized and existing under the laws of this state or of

the United States or any other state thereof. The term does not include a joint public agency;

(5) Public agency means any county, city, village, school district, or agency of the state government or of the United States, any drainage district, sanitary and improvement district, or other municipal corporation or political subdivision of this state, and any political subdivision of another state;

(6) Representative means a member of the board and includes an alternate representative; and

(7) State means a state of the United States and the District of Columbia.

Source: Laws 1999, LB 87, § 3.

13-2504 Agreements authorized; conditions; transfer of property and employees.

(1) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the Joint Public Agency Act. Appropriate action by ordinance, resolution, or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(2) Any such agreement shall specify the following:

(a) Its duration;

(b) The general organization, composition, and nature of any joint public agency created by the agreement together with the powers delegated to the entity;

(c) Its purpose or purposes;

(d) The manner of financing the joint undertaking and of establishing and maintaining a budget;

(e) The permissible method or methods to be employed in amending the agreement or accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination consistent with section 13-2518;

(f) The manner of levying, collecting, and accounting for any tax authorized under sections 13-318 to 13-326 or 13-2813 to 13-2816 and any allocation of tax authority under section 13-2507; and

(g) Any other necessary and proper matters.

(3) No agreement made pursuant to the Joint Public Agency Act shall relieve any public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance by a joint public agency created by an agreement made pursuant to the act, which performance may be offered in satisfaction of the obligation or responsibility.

(4) Participating public agencies may transfer property, other assets, and employees to a joint public agency as provided in the agreement. Notwithstanding other provisions of law, if employees are transferred any vested employment rights shall be transferred with the employee and the employee shall be vested with the joint public agency at the time of transfer.

(5) Any governing body as defined in section 13-503 which is a party to an agreement made pursuant to the Joint Public Agency Act shall provide informa-

tion to the Auditor of Public Accounts regarding such agreements as required in section 13-513.

Source: Laws 1999, LB 87, § 4; Laws 2001, LB 142, § 29; Laws 2004, LB 939, § 4.

13-2505 Joint exercise of powers.

Notwithstanding any restrictions contained in a city charter, any power, privilege, or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges, and authority conferred by the Joint Public Agency Act upon a public agency.

Source: Laws 1999, LB 87, § 5.

13-2506 Legislative power; limitation.

The Legislature may amend or repeal the Joint Public Agency Act or any law governing public agencies, and any agreement which creates a joint public agency is subject to the amendment or repeal of a law governing participating public agencies by subsequent acts of the Legislature, the United States, or another state, except that no act of the Legislature may impair any contractual obligation of a joint public agency or any participant thereof, including a contract for bonded indebtedness.

Source: Laws 1999, LB 87, § 6.

13-2507 Power to tax; election; when required.

(1) Subject to subsection (4) of this section, a joint public agency shall have only those powers of taxation as one or more of the participating public agencies has and only as specifically provided in the agreement proposing creation of the joint public agency, except that a joint public agency shall not levy a local option sales tax. Participating public agencies may agree to allow the joint public agency to levy a property tax rate not to exceed a limit as provided in the agreement if the agreement also limits the levy authority of the overlapping participating public agencies collectively to the same amount. The levy authority of a joint public agency shall be allocated by the city or county as provided in section 77-3443, and the agreement may require allocation of levy authority by the city or county.

(2) If one or more of the participating public agencies is a municipality, the agreement may allow any occupation or wheel tax to be extended over the area encompassed by the joint public agency at a rate uniform to that of the city or village for the purpose of providing revenue to finance the services to be provided by the joint public agency. The tax shall not be extended until the procedures governing enactment by the municipality are followed by the joint public agency, including any requirement for a public vote.

(3) If the agreement calls for the allocation of property tax levy authority to the joint public agency, the amount of the allocation to the joint public agency

and from each participating public agency shall be reported to the Property Tax Administrator.

(4)(a) Prior to the issuance of bonds and the pledge of property tax levy authority allocated to a joint public agency to pay the principal of and interest on bonds to be issued by the joint public agency, the joint public agency shall hold an election to present the question of issuing such bonds and levying such tax to the registered voters of the participating public agency which allocated such property tax levy authority. Such election shall be held at a special election called for such purpose or an election held in conjunction with a statewide or local primary or general election.

(b) If a ballot question is required to be submitted to the registered voters of more than one participating public agency pursuant to subdivision (a) of this subsection and if the participating public agencies have overlapping jurisdiction of any geographic area, the registered voters residing in the geographic area subject to overlapping jurisdiction shall only be entitled to one vote on the ballot question.

(c) A joint public agency may issue refunding bonds as authorized in section 13-2537 which are payable from the same security and tax levy authority as bonds being refunded without holding an election as required by this subsection if the issuance of the refunding bonds does not allow additional principal and does not allow extension of the final maturity date of the indebtedness.

Source: Laws 1999, LB 87, § 7; Laws 2015, LB132, § 1.

13-2508 Joint public agencies; creation authorized.

Any combination of two or more public agencies may create one or more joint public agencies to exercise the powers and authority prescribed by the Joint Public Agency Act.

Source: Laws 1999, LB 87, § 8.

13-2509 Creation; procedure; appointment of representatives.

(1) The governing body of each public agency participating in the creation of a joint public agency shall adopt a resolution determining that there is a need for a joint public agency and setting forth the names of the proposed participating public agencies. The resolution shall be published in three issues, not less than seven days between issues, of a legal newspaper for each proposed participating public agency or a newspaper having general circulation in the area served by a proposed participating public agency if no legal newspaper exists for the participating public agency and of one or more newspapers of general circulation in the area to be served by the joint public agency. Any such resolution shall not be adopted by a public agency prior to five days after the last publication by the proposed participating public agency. In the case of a state agency, the governing board shall adopt the resolution, or if there is no governing board, the Governor shall issue a proclamation without notice in lieu of a resolution. In the case of a federal agency, the governing board shall adopt the resolution or, if there is no governing board, the President of the United States shall issue a proclamation without notice in lieu of a resolution. The resolution may be adopted by a governing body on its own motion upon determining, in its discretion, that a need exists for a joint public agency. In determining whether such a need exists, a governing body may take into consideration the present and future needs of the public agency with respect to

the materials, goods, property, and services which a joint public agency may utilize or provide, the adequacy, suitability, and availability of such materials, goods, property, and services to meet the needs of the participating public agency if no joint public agency is formed, and economic or other advantages or efficiencies which may be realized by cooperative action through a joint public agency.

(2) Upon issuance of a certificate of creation by the Secretary of State, the Governor in the case of a participating state agency which does not have a governing board, the President of the United States or federal agency head in the case of a federal agency, the mayor or city manager in the case of a city which has not elected to be governed as a village, or the chairperson of the governing body of each participating public agency shall appoint representatives as provided by the agreement for creation of the joint public agency. Representatives, other than representatives appointed by the Governor, the President of the United States, or a federal agency head, must be members of the governing body of the participating public agency which they are appointed to represent. Upon issuance of an amended certificate of creation pursuant to section 13-2513, a representative shall be appointed by each additional participating public agency as provided in this section. An alternate representative with the same qualifications may be appointed in the same manner as a representative and shall serve and exercise all powers of a representative in the absence of the representative for whom he or she is the alternate. The representatives shall constitute the board in which shall be vested all powers of the joint public agency.

Source: Laws 1999, LB 87, § 9.

13-2510 Creation; statement; contents.

Within thirty days after adoption of the resolutions for creation of a joint public agency by the proposed participating public agencies, the board shall file with the Secretary of State a statement signed by the representatives setting forth (1) the names of all the proposed participating public agencies, (2) a certified copy of each of the resolutions of the participating public agencies determining the need for such a joint public agency, (3) proof of publication as required in subsection (1) of section 13-2509, (4) a brief description of the nature of the joint public agency's activities, and (5) the name of the joint public agency.

Source: Laws 1999, LB 87, § 10.

13-2511 Creation; Secretary of State; duties; certificate of creation; issuance.

The Secretary of State shall examine the statement and, if he or she finds that the name proposed for the joint public agency is distinguishable from any other entity name registered or on file with the Secretary of State pursuant to Nebraska law and that the statement conforms to the requirements of the Joint Public Agency Act, the Secretary of State shall record it and issue and record a certificate of creation. The certificate shall state the name of the joint public agency, the fact and date of creation, and the names of the participating public agencies. Upon the issuance of the certificate, the existence of the joint public agency as a political subdivision and a body corporate and politic of this state shall commence. Notice of the issuance of the certificate shall be given to all of the proposed participating public agencies by the Secretary of State and shall

be published in one issue of a legal newspaper for each proposed participating public agency or a newspaper having general circulation in the area served by a proposed participating public agency if no legal newspaper exists for the participating public agency and of one or more newspapers of general circulation in the area to be served by the joint public agency.

Source: Laws 1999, LB 87, § 11.

13-2512 Certificate of creation; proof of establishment.

In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract of the joint public agency, the joint public agency shall be conclusively deemed to have been established, except as against the state, in accordance with the Joint Public Agency Act upon proof of the filing of the certificate of creation by the Secretary of State. A copy of the certificate or amended certificate, duly certified by the Secretary of State, shall be admissible in evidence in any suit, action, or proceeding and shall be conclusive proof of the filing and contents thereof.

Source: Laws 1999, LB 87, § 12.

13-2513 Participation by other public agencies; procedure.

After the creation of a joint public agency, any other public agency may become a participating public agency therein upon (1) the adoption of a resolution by the governing body of the public agency setting forth the determination prescribed in section 13-2509 and authorizing the public agency to become a participating public agency after notice as described in subsection (1) of section 13-2509, (2) application to the joint public agency, and (3) adoption by a majority vote of the representatives, unless the joint public agency's rules of governance require a greater percentage, of a resolution by the board admitting the public agency as a participating public agency. Thereupon the public agency shall become a participating public agency entitled to appoint a representative or representatives in the manner prescribed by sections 13-2509 and 13-2515 and to otherwise participate in the joint public agency to the same extent as if the public agency had participated in the creation of the joint public agency. Upon the filing with the Secretary of State of certified copies of the resolutions described in this section and proof of publication of notice, the Secretary of State shall issue an amended certificate of creation setting forth the names of the participating public agencies, the date of creation, and the name of the joint public agency. Notice shall be given as provided in section 13-2511.

Source: Laws 1999, LB 87, § 13.

13-2514 Representatives; terms; vacancy; expenses.

Each representative shall serve for a term specified in the agreement creating the joint public agency, not to exceed four years, or until his or her successor has been appointed and has qualified in the same manner as the original appointment. A representative shall be eligible for reappointment upon the expiration of his or her term. A certificate of the appointment or reappointment of any representative or alternate representative shall be issued by the governing body and shall be filed with the clerk or secretary of the public agency for which the representative acts and the joint public agency. The certificate shall be conclusive evidence of the due and proper appointment of the representa-

tive. A representative may be removed for any cause at any time by the governing body of the participating public agency for which the representative acts. A representative shall be removed if he or she is no longer a member of the governing body of the public agency which makes the appointment. A vacancy shall be filled for the balance of the unexpired term of a person who is no longer eligible to hold office in the same manner as the original appointment, until the term as representative expires, or until removed by the participating public agency which appointed him or her. A representative shall receive no compensation for his or her services but shall be entitled to actual and necessary expenses incurred in the discharge of his or her official duties, including mileage at the rate provided in section 81-1176.

Source: Laws 1999, LB 87, § 14.

13-2515 Representatives; number; voting; quorum; meetings.

(1) Each participating public agency shall at all times be entitled to appoint at least one representative. A joint public agency's rules of governance may allow any participating public agency to appoint additional representatives and shall specify the number of representatives to be appointed by each participating public agency. The number of representatives may be increased or decreased from time to time by an amendment to the rules of governance approved by each participating public agency as evidenced by a resolution of the governing body thereof unless the agreement provides for approval by less than all participating public agencies.

(2) Each representative shall be entitled to one vote. With the approval of each participating public agency as evidenced by a resolution of the governing body thereof unless the agreement provides for approval by less than all participating public agencies, a joint public agency's rules of governance may allow the representative of any participating public agency to cast more than one vote and shall specify the number of votes such representative may cast.

(3) A quorum of the board is required for conducting the business and exercising the powers of the joint public agency and for all other purposes. Unless the rules of governance require a larger quorum, the presence at the meeting of the number of representatives entitled to cast a majority of the total votes which may be cast by all of the representatives constitutes a quorum. Action may be taken upon a vote of a majority of the votes which the representatives present are entitled to cast unless the rules of governance require a larger vote.

(4) The manner of scheduling regular meetings and the method of calling special board meetings, including the giving or waiving of notice, shall be as provided in the rules of governance within the constraints of the Open Meetings Act.

Source: Laws 1999, LB 87, § 15; Laws 2004, LB 821, § 4.

Cross References

Open Meetings Act, see section 84-1407.

13-2516 Board; officers; employees.

The board shall elect a chairperson and vice-chairperson from among its representatives. The joint public agency may employ an executive director. The board shall elect a secretary who shall either be from among the representa-

tives or the executive director. The joint public agency may employ or obtain the services of legal counsel, technical experts, and such other officers, agents, and employees as it may require and shall determine their qualifications, duties, compensation, and term of office. The board may delegate to its officers, agents, or employees such powers and duties as the board deems proper.

Source: Laws 1999, LB 87, § 16.

13-2517 Committees; meetings.

(1) The board may create an executive committee the composition of which shall be set forth in the joint public agency's rules of governance. The executive committee shall have and exercise the power and authority of the board during intervals between the board's meetings in accordance with the rules of governance, motions, or resolutions creating the executive committee. The terms of office of the members of the executive committee and the method of filling vacancies shall be fixed by the rules of governance.

(2) The board may also create one or more committees to which the board may delegate such powers and duties as the board shall specify. In no event shall any committee be empowered to authorize the issuance of bonds. The membership and voting requirements for action by a committee shall be specified by the board.

(3) The board shall be subject to the Open Meetings Act.

Source: Laws 1999, LB 87, § 17; Laws 2004, LB 821, § 5.

Cross References

Open Meetings Act, see section 84-1407.

13-2518 Dissolution; withdrawal.

Unless the agreement provides for dissolution, a joint public agency shall be dissolved upon the adoption, by the governing bodies of at least one-half of the participating public agencies, of a resolution setting forth the determination that the need for the public agencies to act cooperatively through a joint public agency no longer exists. A joint public agency shall not be dissolved so long as the agency has bonds outstanding unless provision for full payment of the bonds and interest thereon, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, indenture, or security instrument securing the bonds. If the governing bodies of one or more, but less than a majority, of the participating public agencies adopt such a resolution, such public agencies shall be permitted to withdraw from participation in the joint public agency, but withdrawal shall not affect the obligations of the withdrawing public agency pursuant to any contracts or other agreements with the joint public agency. Withdrawal shall not impair the payment of any outstanding bonds or interest thereon. In the event of the dissolution of a joint public agency, its board shall provide for the disposition, division, or distribution of the joint public agency's assets among the participating public agencies by such means as the board shall determine, in its sole discretion, to be fair and equitable or as provided in the agreement for creation of the joint public agency.

Source: Laws 1999, LB 87, § 18.

13-2519 Status as political subdivision.

A joint public agency shall constitute a political subdivision and a public body corporate and politic of this state exercising public powers separate from the participating public agencies. A joint public agency shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a political subdivision and a public body corporate and politic exercising powers and acting on behalf of the participating public agencies.

Source: Laws 1999, LB 87, § 19.

13-2520 Applicability of Political Subdivisions Tort Claims Act.

A joint public agency may be sued subject to the Political Subdivisions Tort Claims Act.

Source: Laws 1999, LB 87, § 20.

Cross References

Political Subdivisions Tort Claims Act, see section 13-901.

13-2521 Powers.

The powers of a joint public agency shall include the power:

(1) To sue;

(2) To have a seal and alter the same at pleasure or to dispense with the necessity thereof;

(3) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers;

(4) From time to time, to make, amend, and repeal rules of governance not inconsistent with the Joint Public Agency Act or the terms of the agreement for its creation to carry out and effectuate its powers and purposes;

(5) To adopt and promulgate rules and regulations as authorized for at least one of the participating public agencies and as provided in the agreement;

(6) To acquire, own, hold, use, lease, as lessor or lessee, sell, or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity, product, or service or any interest therein or right thereto as provided by law;

(7) To incur debts, liabilities, or obligations, including the borrowing of money and the issuance of bonds, secured or unsecured, pursuant to the Joint Public Agency Act;

(8) To borrow money or accept contributions, grants, or other financial assistance from a public agency and to comply with such conditions and enter into such contracts, covenants, mortgages, trust indentures, leases, or agreements as may be necessary, convenient, or desirable;

(9) To fix, maintain, revise, and collect fees, rates, rents, and charges for functions, services, or facilities provided by the joint public agency;

(10) Subject to any agreements with holders of outstanding bonds, to invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities, and other investments as the board shall deem proper;

(11) To join and pay dues to organizations, membership in which is deemed by the board to be beneficial to the accomplishment of the joint public agency's purposes; and

(12) To exercise any other powers which are deemed necessary and convenient to carry out the Joint Public Agency Act.

A joint public agency may perform any governmental service, activity, or undertaking which at least one of the participating public agencies is authorized to perform. In exercising its powers under this section to perform any governmental service, activity, or undertaking, a joint public agency shall be subject to the same procedures, regulations, and restrictions as the participating public agency which is granted the power by law to perform the governmental service, activity, or undertaking.

Source: Laws 1999, LB 87, § 21.

13-2522 Liability insurance coverage.

The board may provide its representatives, its officers, and agents and employees of the joint public agency and participating public agencies, either collectively or individually, with personal liability insurance coverage insuring against any liability and claim arising by reason of any act or omission in any manner relating to the performance, attempted performance, or failure of performance of official duties as a participating public agency, representative, officer, agent, or employee and may authorize the payment of the premium, cost, and expense of insurance from the general fund of the joint public agency. The agreement may provide that such coverage be the responsibility of one or more of the participating public agencies.

Source: Laws 1999, LB 87, § 22.

13-2523 Benefits.

The agreement creating a joint public agency may provide that insurance, retirement, indemnification, and other benefits be provided by one or more participating public agencies. If the agreement so provides, the insurance, retirement, indemnification, or other benefits applicable to the participating public agencies shall include the officers or employees of the joint public agency as provided in the agreement.

Source: Laws 1999, LB 87, § 23.

13-2524 Bankruptcy petition; authorized.

A joint public agency may file a petition in the United States Bankruptcy Court under 11 U.S.C. chapter 9 and any acts amendatory thereto and supplementary thereof and may incur and pay the expenses incident to the consummation of a plan of adjustment of debts as contemplated by the petition.

Source: Laws 1999, LB 87, § 24.

13-2525 Biennial report; fee.

(1) Commencing in 2001 and each odd-numbered year thereafter, each joint public agency shall deliver to the Secretary of State a biennial report on a form prescribed and furnished by the Secretary of State that sets forth:

(a) The name of the joint public agency;

(b) The street address of its principal office and the name of its manager or executive director, if any, at the office in this state;

(c) The names and business or residence addresses of its representatives and principal officers;

(d) A brief description of the nature of its activities; and

(e) The names of the participating public agencies.

(2) The information in the biennial report must be current on the date the biennial report is executed on behalf of the joint public agency.

(3) The first biennial report must be delivered to the Secretary of State between January 1 and April 1 of the odd-numbered year following the calendar year in which the joint public agency was authorized to transact business. Subsequent biennial reports must be delivered to the Secretary of State between January 1 and April 1 of the following odd-numbered years. The biennial report is due on April 1 of the odd-numbered year in which it must be delivered to the Secretary of State as required by this section.

(4) If a biennial report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting joint public agency in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within thirty days after the effective date of notice, it is deemed to be timely filed.

(5) Upon the delivery of the biennial report as provided in this section, the Secretary of State shall charge and collect a fee of thirty dollars if the filing is submitted in writing and twenty-five dollars if the filing is submitted electronically pursuant to section 84-511. The fee is due on April 1 of the odd-numbered year in which the biennial report must be delivered to the Secretary of State as required by this section.

(6) A correction or an amendment to the biennial report may be delivered to the Secretary of State for filing at any time. The fee for filing a correction or an amendment to the biennial report shall be thirty dollars if the filing is submitted in writing and twenty-five dollars if the filing is submitted electronically pursuant to section 84-511.

(7) The Secretary of State shall collect all fees imposed in this section and shall remit the fees to the State Treasurer. The State Treasurer shall credit sixty percent of the fees to the General Fund and forty percent of the fees to the Secretary of State Cash Fund.

Source: Laws 1999, LB 87, § 25; Laws 2014, LB774, § 1; Laws 2020, LB910, § 2.

13-2526 Bidding procedures.

If all participating public agencies are of the same type, the bidding procedures for that type of public agency apply to the joint public agency. If the participating public agencies are not all of the same type, the bidding requirements set out in the County Purchasing Act apply to the joint public agency.

Source: Laws 1999, LB 87, § 26.

Cross References

County Purchasing Act, see section 23-3101.

13-2527 Expenditures; bond requirements.

(1) All money of the joint public agency shall be paid out or expended only by check, draft, warrant, or other instrument in writing, signed by the chairperson and the treasurer, assistant treasurer, or such other officer, employee, or agent of the joint public agency as is authorized by the treasurer to sign in his or her behalf. The authorization by the treasurer shall be in writing and filed with the secretary of the joint public agency.

(2) In the event that there is no treasurer's bond that expressly insures the joint public agency against loss resulting from the fraudulent, illegal, negligent, or otherwise wrongful or unauthorized acts or conduct by or on the part of any person authorized to sign checks, drafts, warrants, or other instruments in writing, there shall be procured and filed with the secretary of the joint public agency, together with the written authorization filed with the secretary, a surety bond, effective for protection against the loss, in such form and penal amount and with such corporate surety as shall be approved in writing by the signed endorsement thereon of any two officers of the joint public agency other than the treasurer. The secretary shall report to the board at each meeting any such bonds filed, or any change in the status of any such bonds, since the last previous meeting of the board.

Source: Laws 1999, LB 87, § 27.

13-2528 Agreement; approval by state officer or agency; when required.

In the event that an agreement made pursuant to the Joint Public Agency Act deals in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by the officer or agency as to all matters within the officer's or agency's jurisdiction.

Source: Laws 1999, LB 87, § 28.

13-2529 Public agencies; powers.

Any public agency entering into an agreement pursuant to the Joint Public Agency Act may appropriate funds and may sell, lease, give, or otherwise supply the board, joint public agency, or other legal or administrative entity created to operate the joint or cooperative undertaking by providing such personnel or services therefor as it may employ or contract to furnish.

Source: Laws 1999, LB 87, § 29.

13-2530 Revenue bonds authorized.

(1) Any joint public agency may issue such types of bonds as its board may determine subject only to any agreement with the holders of outstanding bonds, including bonds as to which the principal and interest are payable exclusively from all or a portion of the revenue from one or more projects, from one or more revenue-producing contracts, including securities acquired from any person, bonds issued by any qualified public agency under the Public Facilities Construction and Finance Act, or leases made by the joint public agency with any person, including any of the public agencies which are parties to the agreement creating the joint public agency, or from its revenue generally or

which may be additionally secured by a pledge of any grant, subsidy, or contribution from any person or a pledge of any income or revenue, funds, or money of the joint public agency from any source whatsoever or a mortgage or security interest in any real or personal property, commodity, product, or service or interest therein.

(2) Any bonds issued by such joint public agency shall be issued on behalf of the joint public agency solely for the specific purpose or purposes for which the joint public agency has been created. Such specific purposes may include, but shall not be limited to, joint projects authorized by the Public Facilities Construction and Finance Act; solid waste collection, management, and disposal; waste recycling; sanitary sewage treatment and disposal; public safety communications; correctional facilities; water treatment plants and distribution systems; drainage systems; flood control projects; fire protection services; ground water quality management and control; river-flow enhancement; education and postsecondary education; hospital and other health care services; bridges, roads, and streets; and law enforcement.

(3) As an alternative to issuing bonds for financing public safety communication projects, any joint public agency may enter into a financing agreement with the Nebraska Investment Finance Authority for such purpose.

(4) Any joint public agency formed for purposes of providing or assisting with the provision of public safety communications may enter into an agreement with any other joint public agency relating to (a) the operation, maintenance, or management of the property or facilities of such joint public agency or (b) the operation, maintenance, or management of the property or facilities of such other joint public agency.

Source: Laws 1999, LB 87, § 30; Laws 2002, LB 1211, § 2; Laws 2005, LB 217, § 10; Laws 2007, LB701, § 14.

Cross References

Public Facilities Construction and Finance Act, see section 72-2301.

13-2531 General obligation bonds.

Any joint public agency may from time to time issue its bonds in such principal amounts as its board determines is necessary to provide sufficient funds to carry out any of the joint public agency's purposes and powers, including the establishment or increase of reserves, the payment of interest accrued during construction of a project and for such period thereafter as the board may determine, and the payment of all other costs or expenses of the joint public agency incident to and necessary or convenient to carry out its purposes and powers. Except as provided in section 72-2304, bonds issued prior to April 18, 2018, for purposes of the Public Facilities Construction and Finance Act may be issued with no requirement for a vote. Bonds issued on or after April 18, 2018, for purposes of the Public Facilities Construction and Finance Act shall be subject to a vote prior to issuance as provided in the act.

Source: Laws 1999, LB 87, § 31; Laws 2005, LB 217, § 11; Laws 2018, LB1000, § 2.

Cross References

Public Facilities Construction and Finance Act, see section 72-2301.

13-2532 Bonds; treatment.

(1) The representatives or agents of the board and a person executing the bonds shall not be liable personally on such bonds by reason of the issuance thereof.

(2) The bonds shall not be a debt of any political subdivision other than the joint public agency or of this state, and neither this state nor any other political subdivision shall be liable thereon. Bonds shall be payable only out of any funds or properties of the issuing joint public agency. Such limitations shall be plainly stated upon the face of the bonds.

Source: Laws 1999, LB 87, § 32.

13-2533 Bond issuance; procedure.

Bonds shall be authorized by resolution of the board and may be issued under a resolution, indenture, or other security instrument in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, indenture, or other security instrument may provide and without limitation by any other law limiting amounts, maturities, or interest rates. Any officer authorized or designated to sign, countersign, execute, or attest any bond or any coupon may utilize a facsimile signature.

Source: Laws 1999, LB 87, § 33.

13-2534 Bonds; negotiation; sale.

(1) Except as the board may otherwise provide, any bond and any interest coupons thereto attached shall be fully negotiable within the meaning of and for all purposes of article 8, Uniform Commercial Code.

(2) The bonds may be sold at public or private sale as the issuing board may provide and at such price or prices as such board shall determine.

Source: Laws 1999, LB 87, § 34.

13-2535 Bonds; signatures.

If any of the officers whose signatures appear on any bonds or coupons cease to be such officers before the delivery of such obligations, such signatures shall nevertheless be valid and sufficient for all purposes to the same extent as if such officers had remained in office until such delivery.

Source: Laws 1999, LB 87, § 35.

13-2536 Bond issuance; covenants.

Any joint public agency may in connection with the issuance of its bonds:

(1) Covenant as to the use of any or all of its property, real or personal;

(2) Redeem the bonds, covenant for their redemption, and provide the terms and conditions thereof;

(3) Covenant to charge or seek necessary approvals to charge rates, fees, and charges sufficient to meet operating and maintenance expenses of the joint public agency, costs of renewals and replacements to a project, interest and

principal payments, whether at maturity or upon sinking-fund redemption, on any outstanding bonds or other indebtedness of the joint public agency, and creation and maintenance of any reasonable reserves therefor and to provide for any margins or coverages over and above debt service on the bonds deemed desirable for the marketability or security of the bonds;

(4) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity, as to the terms and conditions upon which such declaration and its consequences may be waived, and as to the consequences of default and the remedies of bondholders;

(5) Covenant as to the mortgage or pledge of or the grant of any other security interest in any real or personal property and all or any part of the revenue from any project or projects or any revenue-producing contract or contracts made by the joint public agency with any person to secure the payment of bonds, subject to such agreements with the holders of outstanding bonds as may then exist;

(6) Covenant as to the custody, collection, securing, investment, and payment of any revenue, assets, money, funds, or property with respect to which the joint public agency may have any rights or interest;

(7) Covenant as to the purposes to which the proceeds from the sale of any bonds then or thereafter to be issued may be applied and the pledge of such proceeds to secure the payment of the bonds;

(8) Covenant as to limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

(9) Covenant as to the rank or priority of any bonds with respect to any lien or security;

(10) Covenant as to the procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(11) Covenant as to the custody, safekeeping, and insurance of any of its properties or investments and the use and disposition of insurance proceeds;

(12) Covenant as to the vesting in a trustee or trustees, within or outside the state, of such properties, rights, powers, and duties in trust as the joint public agency may determine;

(13) Covenant as to the appointing and providing for the duties and obligations of a paying agent or paying agents or other fiduciaries within or outside the state;

(14) Make all other covenants and do any and all such acts and things as may be necessary, convenient, or desirable in order to secure its bonds or in the absolute discretion of the joint public agency tend to make the bonds more marketable, notwithstanding that such covenants, acts, or things may not be enumerated in this section; and

(15) Execute all instruments necessary or convenient in the exercise of the powers in the Joint Public Agency Act granted or in the performance of

covenants or duties, which instruments may contain such covenants and provisions as any purchaser of bonds may reasonably require.

Source: Laws 1999, LB 87, § 36.

13-2537 Refunding bonds authorized.

Any joint public agency may issue and sell refunding bonds for the purpose of paying or providing for the payment of any of its bonds at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at any time prior to or at the maturity or redemption of the refunded bonds as the board deems appropriate. The refunding bonds may be issued in principal amount not exceeding an amount sufficient to pay or to provide for the payment of (1) the principal of the bonds being refunded, (2) any redemption premium thereon, (3) interest accrued or to accrue to the first or any subsequent redemption date or dates selected by the board in its discretion or to the date or dates of maturity, whichever is determined to be most advantageous or convenient for the joint public agency, (4) the expenses of issuing the refunding bonds, including bond discount, and redeeming the bonds being refunded, and (5) such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be deemed necessary or convenient by the board. A determination by the board that any refinancing is advantageous or necessary to the joint public agency, that any of the amounts provided in this section should be included in such refinancing, or that any of the bonds to be refinanced should be called for redemption on the first or any subsequent redemption date or permitted to remain outstanding until their respective dates of maturity shall be conclusive.

Source: Laws 1999, LB 87, § 37.

13-2538 Refunding bonds; proceeds.

To the extent not required for the immediate payment and retirement of the obligations being refunded or for the payment of expenses incurred in connection with such refunding and subject to any agreement with the holders of any outstanding bonds, principal proceeds from the sale of any refunding bonds shall be deposited in trust to provide for the payment and retirement of the bonds being refunded, payment of interest and any redemption premiums, and payment of any expenses incurred in connection with such refunding, but provision may be made for the pledging and disposition of any surplus, including, but not limited to, provision for the pledging of any such surplus to the payment of the principal of and interest on any issue or series of refunding bonds. Money in any such trust fund may be invested in direct obligations of or obligations the principal of and interest on which are guaranteed by the United States Government, in obligations of any agency or instrumentality of the United States Government, or in certificates of deposit issued by a bank, capital stock financial institution, qualifying mutual financial institution, or trust company if such certificates are secured by a pledge of any of such obligations having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing in this section shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded but which have not matured and which are not presently redeemable or, if presently redeemable, have not been called for redemption. Section 77-2366 shall apply to deposits in capital stock

financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1999, LB 87, § 38; Laws 2001, LB 362, § 9.

13-2539 Refunding bonds; exchange for other bonds.

Refunding bonds may be exchanged for and in payment and discharge of any of the outstanding obligations being refunded. The refunding bonds may be exchanged for a like, greater, or smaller principal amount of the bonds being refunded as the board may determine in its discretion. The holder or holders of the bonds being refunded need not pay accrued interest on the refunding bonds if and to the extent that interest is due or accrued and unpaid on the bonds being refunded and to be surrendered.

Source: Laws 1999, LB 87, § 39.

13-2540 Other bond provisions applicable.

The issue of refunding bonds, the manner of sale, the maturities, interest rates, form, and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties, and obligations of the joint public agency in respect of the same shall be governed by the Joint Public Agency Act relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

Source: Laws 1999, LB 87, § 40.

13-2541 Bond issuance; consent not required.

Bonds may be issued under the Joint Public Agency Act without obtaining the consent of any department, division, commission, board, bureau, or instrumentality of this state and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required therefor by the act, and the validity of and security for any bonds shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions, or things.

Source: Laws 1999, LB 87, § 41.

13-2542 Notice; proceeding.

The board may provide for the publication of any resolution or other proceeding adopted by it pursuant to the Joint Public Agency Act in a newspaper of general circulation published in the area served by the joint public agency or, if no newspaper is so published, in a newspaper qualified to carry legal notices having general circulation in the area served by the joint public agency.

Source: Laws 1999, LB 87, § 42.

13-2543 Issuance of bonds; notice.

In the case of a resolution or other proceeding providing for the issuance of bonds pursuant to the Joint Public Agency Act, the board may, either before or after the adoption of such resolution or other proceeding, in lieu of publishing the entire resolution or other proceeding, publish a notice of intention to issue bonds under the act, titled as such, containing:

(1) The name of the joint public agency;

(2) The purpose of the issue, including a brief description of the project and the name of the public agencies to be serviced by the project;

(3) The principal amount of bonds to be issued;

(4) The maturity date or dates and amount or amounts maturing on such dates;

(5) The maximum rate of interest payable on the bonds; and

(6) The times and place where a copy of the form of the resolution or other proceeding providing for the issuance of the bonds may be examined which shall be at an office of the joint public agency, identified in the notice, during regular business hours of the joint public agency as described in the notice and for a period of at least thirty days after the publication of the notice.

Source: Laws 1999, LB 87, § 43.

13-2544 Issuance of bonds; right to contest; procedure.

For a period of thirty days after such publication, any interested person shall have the right to contest the legality of such resolution or proceeding or any bonds which may be authorized thereby, any provisions made for the security and payment of such bonds, or any contract of purchase, sale, or lease relating to the issuance of such bonds. After such time no one shall have any cause of action to contest the regularity, formality, or legality thereof for any cause whatsoever.

Source: Laws 1999, LB 87, § 44.

13-2545 Bonds; investment authorized.

Bonds issued pursuant to the Joint Public Agency Act shall be securities in which all public officers and instrumentalities of the state and all political subdivisions, insurance companies, trust companies, banks, savings and loan associations, investment companies, executors, administrators, personal representatives, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds shall be securities which may properly and legally be deposited with and received by any officer or instrumentality of this state or any political subdivision for any purpose for which the deposit of bonds or obligations of this state or any political subdivision thereof is now or may hereafter be authorized by law.

Source: Laws 1999, LB 87, § 45.

13-2546 Bonds, property, and income; exempt from taxes; when.

(1) All bonds of a joint public agency are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all taxes.

(2) The property of a joint public agency, including any pro rata share of any property owned by a joint public agency in conjunction with any other person, is declared to be public property of a governmental subdivision of the state. Such property and the income of a joint public agency shall be exempt from all taxes and assessments of the state or any political subdivision of the state if used for a public purpose.

Source: Laws 1999, LB 87, § 46; Laws 2001, LB 173, § 12.

13-2547 Act; how construed.

The provisions of the Joint Public Agency Act shall be deemed to provide an additional, alternative, and complete method for the doing of the things authorized by the act and shall be deemed and construed to be supplemental and additional to, and not in derogation of, powers conferred upon political subdivisions, agencies, and others by law. Insofar as the provisions of the Joint Public Agency Act are inconsistent with the provisions of any general or special law, administrative order, or regulation, the provisions of the Joint Public Agency Act shall be controlling.

Source: Laws 1999, LB 87, § 47.

13-2548 Pledge of state.

The State of Nebraska does hereby pledge to and agree with the holders of any bonds and with those persons who may enter into contracts with any joint public agency under the Joint Public Agency Act that the state will not alter, impair, or limit the rights thereby vested until the bonds, together with applicable interest, are fully met and discharged and such contracts are fully performed. Nothing contained in the Joint Public Agency Act shall preclude such alteration, impairment, or limitation if and when adequate provisions are made by law for the protection of the holders of the bonds or persons entering into contracts with any joint public agency. Each joint public agency may include this pledge and undertaking for the state in such bonds or contracts.

Source: Laws 1999, LB 87, § 48.

13-2549 Joint public agency; status.

A joint public agency created by public agencies pursuant to the Joint Public Agency Act shall not be considered a state agency, and an employee of such an entity or agency shall not be considered a state employee.

Source: Laws 1999, LB 87, § 49.

13-2550 Liberal construction.

The Joint Public Agency Act is necessary for the welfare of the state and its inhabitants and shall be construed liberally to effect its purposes.

Source: Laws 1999, LB 87, § 50.

ARTICLE 26

CONVENTION CENTER FACILITY FINANCING ASSISTANCE ACT

Section
13-2601. Act, how cited.
13-2602. Legislative findings.
13-2603. Terms, defined.
13-2604. State assistance.
13-2605. State assistance; application; contents.
13-2606. Board; powers and duties; hearing.
13-2607. Board; assistance approved; when; quorum.
13-2608. Repealed. Laws 2007, LB 551, § 10.
13-2609. Tax Commissioner; duties; certain retailers and operators; reports required.
13-2610. Convention Center Support Fund; created; use; investment; distribution to certain areas; development fund; committee; duties; report; recipient; report.

Section
13-2611. Bonds; issuance; election.
13-2612. Act; applications; limitation.
13-2613. Rules and regulations.

13-2601 Act, how cited.

Sections 13-2601 to 13-2613 shall be known and may be cited as the Convention Center Facility Financing Assistance Act.

Source: Laws 1999, LB 382, § 1; Laws 2010, LB779, § 2.

Cross References

Limitation on applications, see section 13-2612.

13-2602 Legislative findings.

(1) The Legislature finds that it will be beneficial to the economic well-being of the people of this state that there be convention and meeting center facilities and sports arena facilities of appropriate size and quality to host regional, national, or international events. Regional refers to states that border Nebraska; national refers to states other than those that border Nebraska; and international refers to nations other than the United States.

(2) The Legislature further finds that such facilities may (a) generate new economic activity as well as additional state and local taxes from persons residing within and outside the state and (b) create new economic opportunities for residents.

(3) In order that the state may receive any long-term economic and fiscal benefits from such facilities, a need exists to provide some state assistance to political subdivisions endeavoring to construct, acquire, substantially reconstruct, expand, operate, improve, or equip such facilities.

(4) Therefor, it is deemed to be in the best interest of both the state and its political subdivisions that the state assist political subdivisions in financing the construction, acquisition, substantial reconstruction, expansion, operation, improvement, or equipping of such facilities.

(5) The amount of state assistance shall be limited to a designated portion of state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and state sales tax revenue collected by associated hotels.

Source: Laws 1999, LB 382, § 2; Laws 2007, LB551, § 1.

Cross References

Limitation on applications, see section 13-2612.

13-2603 Terms, defined.

For purposes of the Convention Center Facility Financing Assistance Act:

(1) Associated hotel means any publicly or privately owned facility in which the public may, for a consideration, obtain sleeping accommodations and which is located, in whole or in part, within six hundred yards of an eligible facility, measured from any point of the exterior perimeter of the eligible facility but not from any parking facility or other structure;

(2) Board means a board consisting of the Governor, the State Treasurer, the chairperson of the Nebraska Investment Council, the chairperson of the Nebraska State Board of Public Accountancy, and a professor of economics on the faculty of a state postsecondary educational institution appointed to a two-year term on the board by the Coordinating Commission for Postsecondary Education. For administrative and budget purposes only, the board shall be considered part of the Department of Revenue;

(3) Bond means a general obligation bond, redevelopment bond, lease-purchase bond, revenue bond, or combination of any such bonds;

(4) Convention and meeting center facility means a temperature-controlled building and personal property primarily used as a convention and meeting center, including an auditorium, an exhibition hall, a facility for onsite food preparation and serving, an onsite, directly connected parking facility for the use of the convention and meeting center facility, a nearby parking facility for the use of the convention and meeting center facility, and an onsite administrative office of the convention and meeting center facility;

(5)(a) Eligible facility means any publicly owned convention and meeting center facility approved for state assistance on or before June 1, 2007, any publicly owned sports arena facility attached to such convention and meeting center facility, or any publicly or privately owned convention and meeting center facility or publicly or privately owned sports arena facility acquired, constructed, improved, or equipped after June 1, 2007; and

(b) Beginning with applications for financial assistance received on or after February 1, 2008, eligible facility does not include any publicly or privately owned sports arena facility with a seating capacity greater than sixteen thousand seats;

(6) General obligation bond means any bond or refunding bond issued by a political subdivision and which is payable from the proceeds of an ad valorem tax;

(7) Nearby parking facility means any parking lot, parking garage, or other parking structure that is not directly connected to a convention and meeting center facility but which is located, in whole or in part, within six hundred yards of a convention and meeting center facility, measured from any point of the exterior perimeter of such facility but not from any other parking facility or other structure;

(8) Political subdivision means any local governmental body formed and organized under state law and any joint entity or joint public agency created under state law to act on behalf of political subdivisions which has statutory authority to issue general obligation bonds;

(9) Revenue bond means any bond or refunding bond issued by a political subdivision which is limited or special rather than a general obligation bond of the political subdivision and which is not payable from the proceeds of an ad valorem tax; and

(10) Sports arena facility means any enclosed temperature-controlled building primarily used for competitive sports, including arenas, dressing and locker facilities, concession areas, parking facilities, and onsite administrative offices connected with operating the facilities.

Source: Laws 1999, LB 382, § 3; Laws 2007, LB551, § 2; Laws 2008, LB912, § 1; Laws 2016, LB884, § 1; Laws 2022, LB927, § 1. Effective date July 21, 2022.

Cross References

Limitation on applications, see section 13-2612.

13-2604 State assistance.

Any political subdivision that has acquired, constructed, improved, or equipped or has approved a general obligation bond issue to acquire, construct, improve, or equip eligible facilities may apply to the board for state assistance. The state assistance shall be used:

(1) To pay back amounts expended or borrowed through one or more issues of bonds to be expended by the political subdivision to acquire, construct, improve, and equip eligible facilities until repayment in full of the amounts expended or borrowed by the political subdivision, including the principal of and interest on bonds, for eligible facilities;

(2) To pay for capital improvements to eligible facilities; and

(3) To acquire, construct, improve, and equip nearby parking facilities.

Source: Laws 1999, LB 382, § 4; Laws 2010, LB779, § 3; Laws 2016, LB884, § 2; Laws 2022, LB927, § 2.
Effective date July 21, 2022.

Cross References

Limitation on applications, see section 13-2612.

13-2605 State assistance; application; contents.

(1) All applications for state assistance under the Convention Center Facility Financing Assistance Act shall be in writing and shall include a certified copy of the approving action of the governing body of the applicant describing the proposed eligible facility and the anticipated financing.

(2) The application shall contain:

(a) A description of the proposed financing of the eligible facility, including the estimated principal and interest requirements for the bonds proposed to be issued in connection with the eligible facility or the amounts necessary to repay the original investment by the applicant in the eligible facility;

(b) Documentation of local financial commitment to support the project, including all public and private resources pledged or committed to the project; and

(c) Any other project information deemed appropriate by the board.

(3) Upon receiving an application for state assistance, the board shall review the application and notify the applicant of any additional information needed for a proper evaluation of the application.

(4) Any state assistance received pursuant to the act shall be used only for public purposes.

(5) Each political subdivision that had an application for state assistance approved prior to October 1, 2016, shall submit a map to the Department of Revenue showing the area that lies within six hundred yards of the eligible facility as such area is described in subdivision (1) of section 13-2603. The department shall approve such area if it satisfies the requirements of subdivision (1) of section 13-2603.

Source: Laws 1999, LB 382, § 5; Laws 2007, LB551, § 3; Laws 2016, LB884, § 3.

Cross References

Limitation on applications, see section 13-2612.

13-2606 Board; powers and duties; hearing.

(1) After reviewing an application submitted under section 13-2605 and upon reasonable notice to the applicant, the board shall hold a public hearing on the application.

(2) The board shall give notice of the time, place, and purpose of the public hearing by publication three times in a newspaper of statewide circulation. Such publication shall be not less than ten days prior to the hearing. The notice shall describe generally the facilities for which state assistance has been requested. The applicant shall pay the cost of the notice.

(3) At the public hearing, representatives of the applicant and any other interested persons may appear and present evidence and argument in support of or in opposition to the application or neutral testimony. The board may seek expert testimony and may require testimony of persons whom the board desires to comment on the application. The board may provide for the acceptance of additional evidence after conclusion of the public hearing.

Source: Laws 1999, LB 382, § 6.

Cross References

Limitation on applications, see section 13-2612.

13-2607 Board; assistance approved; when; quorum.

(1) After consideration of the application and the evidence, the board shall issue a finding of whether the convention and meeting center facility or sports arena facility described in the application is eligible for state assistance.

(2) If the board finds that the facility described in the application is an eligible facility and that state assistance is in the best interest of the state, the application shall be approved.

(3) In determining whether state assistance is in the best interest of the state, the board shall consider the fiscal and economic capacity of the applicant to finance the local share of the eligible facility.

(4) A majority of the board members constitutes a quorum for the purpose of conducting business. All actions of the board shall be by a majority vote of all the board members, one of whom must be the Governor.

Source: Laws 1999, LB 382, § 7; Laws 2007, LB551, § 4.

Cross References

Limitation on applications, see section 13-2612.

13-2608 Repealed. Laws 2007, LB 551, § 10.

13-2609 Tax Commissioner; duties; certain retailers and operators; reports required.

(1) If an application is approved, the Tax Commissioner shall:

(a) Audit or review audits of the approved convention and meeting center facility, sports arena facility, or associated hotel to determine the state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and

secondary box office sales of admissions to such facilities, and state sales tax revenue collected by associated hotels; and

(b) Certify annually the amount of state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and state sales tax revenue collected by associated hotels, to the State Treasurer.

(2) State sales tax revenue collected by retailers and operators that are not eligible facilities but are doing business at eligible facilities shall be reported on informational returns developed by the Department of Revenue and provided to any such retailers and operators by the eligible facility. The informational returns shall be submitted to the department by the retailer or operator by the twentieth day of the month following the month the sales taxes are collected. The Tax Commissioner shall use the data from the informational returns and sales tax returns of eligible facilities and associated hotels to determine the appropriate amount of state sales tax revenue.

(3) Changes made to the Convention Center Facility Financing Assistance Act by Laws 2007, LB 551, shall apply to state sales tax revenue collected commencing on July 1, 2006.

Source: Laws 1999, LB 382, § 9; Laws 2007, LB551, § 5; Laws 2011, LB210, § 1.

Cross References

Limitation on applications, see section 13-2612.

13-2610 Convention Center Support Fund; created; use; investment; distribution to certain areas; development fund; committee; duties; report; recipient; report.

(1) Upon the annual certification under section 13-2609, the State Treasurer shall transfer after the audit the amount certified to the Convention Center Support Fund. The Convention Center Support Fund is created. Transfers may be made from the fund to the General Fund at the direction of the Legislature. Any money in the Convention Center Support Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2)(a) It is the intent of the Legislature to appropriate from the fund to any political subdivision for which an application for state assistance under the Convention Center Facility Financing Assistance Act has been approved an amount not to exceed (i) seventy percent of the state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and state sales tax revenue collected by associated hotels, (ii) one hundred fifty million dollars for any one approved project, or (iii) the total cost of acquiring, constructing, improving, or equipping the eligible facility. State assistance shall not be used for an operating subsidy.

(b) It is further the intent of the Legislature to appropriate from the fund to any city of the metropolitan class for which an application for state assistance under the Convention Center Facility Financing Assistance Act has been ap-

proved an amount not to exceed the amount of money transferred to the fund pursuant to subdivision (9)(a) of section 13-3108.

(3)(a) Ten percent of the funds appropriated to a city of the metropolitan class under subdivision (2)(a) of this section and all of the funds appropriated to a city of the metropolitan class under subdivision (2)(b) of this section shall be equally distributed to areas with a high concentration of poverty. Fifty-five percent of such funds shall be used to showcase important historical aspects of such areas or areas within close geographic proximity of the area with a high concentration of poverty and to assist with the reduction of street and gang violence in such areas. Forty-five percent of such funds shall be used to assist with small business and entrepreneurship growth in such areas.

(b) Each area with a high concentration of poverty that has been distributed funds under subdivision (3)(a) of this section shall establish a development fund and form a committee which shall identify and research potential projects to be completed in the area with a high concentration of poverty or in an area within close geographic proximity of such area if the project would have a significant or demonstrable impact on such area and make final determinations on the use of the funds received for such projects.

(c) A committee formed under subdivision (3)(b) of this section shall include the following members:

(i) The member of the city council whose district includes a majority of the census tracts which each contain a percentage of persons below the poverty line of greater than thirty percent, as determined by the most recent federal decennial census, within the area with a high concentration of poverty;

(ii) The commissioner of the county whose district includes a majority of the census tracts which each contain a percentage of persons below the poverty line of greater than thirty percent, as determined by the most recent federal decennial census, within the area with a high concentration of poverty;

(iii) Two residents of the area with a high concentration of poverty, appointed by the two members of the committee described in subdivisions (3)(c)(i) and (ii) of this section. Such resident members shall be appointed for four-year terms. Each time a resident member is to be appointed pursuant to this subdivision, the committee shall solicit applications from interested individuals by posting notice of the open position on the city's website and on the city's official social media accounts, if any, and by publishing the notice in a legal newspaper in or of general circulation in the area with a high concentration of poverty. Applications may be submitted to either of the committee members described in subdivisions (3)(c)(i) and (ii) of this section. Prior to making any appointment, the committee shall hold a public hearing in the area with a high concentration of poverty. Notice of the hearing shall be provided, at least seven days prior to the hearing, by posting the notice on the city's website and on the city's official social media accounts, if any, and by publishing the notice in a legal newspaper in or of general circulation in the area with a high concentration of poverty; and

(iv) The member of the Legislature whose district includes a majority of the census tracts which each contain a percentage of persons below the poverty line of greater than thirty percent, as determined by the most recent federal decennial census, within the area with a high concentration of poverty. The member described in this subdivision shall be a nonvoting member of the committee.

(d) A committee formed under subdivision (3)(b) of this section shall solicit project ideas from the public and shall hold a public hearing in the area with a high concentration of poverty. Notice of a proposed hearing shall be provided in accordance with the procedures for notice of a public hearing pursuant to section 18-2115.01. The committee shall research potential projects and make the final determination regarding the annual distribution of funding to such projects.

(e) For any committee formed under subdivision (3)(b) of this section:

(i) The two committee members described in subdivisions (3)(c)(i) and (ii) of this section shall share joint responsibility of all committee operations and meetings. Applications for funding may be submitted to either of such members; and

(ii) All applications, reports, and other records of the committee shall be accessible to any member of the committee.

(f) Each recipient of funding from a committee formed under subdivision (3)(b) of this section shall submit an itemized report to such committee on the use of such funds. A recipient shall not be eligible to receive funding for more than three consecutive years unless such recipient is able to justify continued funding based on the following criteria:

(i) The number of people served by the project;

(ii) The relevance and scale of the project;

(iii) The desirability of the social or environmental outcomes of the project and how such outcomes will be achievable and measurable;

(iv) The economic impact on the area with a high concentration of poverty; and

(v) The recipient's sustainability plan.

(g) On or before July 1, 2022, and on or before July 1 of each year thereafter, a committee formed under subdivision (3)(b) of this section shall electronically submit a report to the Legislature which includes:

(i) A description of the projects that were funded during the most recently completed calendar year;

(ii) A description of where such projects were located;

(iii) A description of the outcomes of such projects; and

(iv) A ten-year strategic plan on how the committee plans to meet the goals described in subdivision (3)(a) of this section.

(h) For purposes of this subsection, an area with a high concentration of poverty means an area within the corporate limits of a city of the metropolitan class consisting of one or more contiguous census tracts, as determined by the most recent federal decennial census, which contain a percentage of persons below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts, as determined by the most recent federal decennial census.

(4)(a) Ten percent of the funds appropriated to a city of the primary class under subdivision (2)(a) of this section may, if the city determines by consent of the city council that such funds are not currently needed for the purposes described in section 13-2604, be used as follows:

(i) For investment in the construction of qualified low-income housing projects as defined in 26 U.S.C. 42, including qualified projects receiving Nebraska affordable housing tax credits under the Affordable Housing Tax Credit Act; or

(ii) If there are no such qualified low-income housing projects as defined in 26 U.S.C. 42 being constructed or expected to be constructed within the political subdivision, for investment in areas with a high concentration of poverty to assist with low-income housing needs.

(b) For purposes of this subsection, an area with a high concentration of poverty means an area within the corporate limits of a city of the primary class consisting of one or more contiguous census tracts, as determined by the most recent American Community Survey 5-Year Estimate, which contain a percentage of persons below the poverty line of greater than thirty percent, and all census tracts contiguous to such tract or tracts, as determined by the most recent American Community Survey 5-Year Estimate.

(5) State assistance to the political subdivision shall no longer be available upon the retirement of the bonds issued to acquire, construct, improve, or equip the facility or any subsequent bonds that refunded the original issue or when state assistance reaches the amount determined under subdivision (2)(a) of this section, whichever comes first.

(6) The remaining thirty percent of state sales tax revenue collected by retailers and operators doing business at such facilities on sales at such facilities, state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and state sales tax revenue collected by associated hotels, shall be appropriated by the Legislature to the Civic and Community Center Financing Fund. Upon the annual certification required pursuant to section 13-2609 and following the transfer to the Convention Center Support Fund required pursuant to subsection (1) of this section, the State Treasurer shall transfer an amount equal to the remaining thirty percent from the Convention Center Support Fund to the Civic and Community Center Financing Fund.

(7) Any municipality that has applied for and received a grant of assistance under the Civic and Community Center Financing Act may not receive state assistance under the Convention Center Facility Financing Assistance Act.

Source: Laws 1999, LB 382, § 10; Laws 2007, LB551, § 6; Laws 2008, LB754, § 1; Laws 2009, LB63, § 1; Laws 2010, LB975, § 1; Laws 2011, LB297, § 1; Laws 2015, LB661, § 28; Laws 2016, LB884, § 4; Laws 2018, LB874, § 1; Laws 2021, LB39, § 1; Laws 2021, LB479, § 1; Laws 2022, LB927, § 3.
Effective date July 21, 2022.

Cross References

Affordable Housing Tax Credit Act, see section 77-2501.
Civic and Community Center Financing Act, see section 13-2701.
Limitation on applications, see section 13-2612.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

13-2611 Bonds; issuance; election.

(1) The applicant political subdivision may issue from time to time its bonds and refunding bonds to finance and refinance the acquisition, construction, improving, and equipping of eligible facilities and appurtenant public facilities

that are a part of the same project. The bonds may be sold by the applicant in such manner and for such price as the applicant determines, at a discount, at par, or at a premium, at private negotiated sale or at public sale, after notice published prior to the sale in a legal newspaper having general circulation in the political subdivision or in such other medium of publication as the applicant deems appropriate. The bonds shall have a stated maturity of thirty years or less and shall bear interest at such rate or rates and otherwise be issued in accordance with the respective procedures and with such other terms and provisions as are established, permitted, or authorized by applicable state laws and home rule charters for the type of bonds to be issued. Such bonds may be secured as to payment in whole or in part by a pledge, as shall be determined by the applicant, from the income, proceeds, and revenue of the eligible facilities financed with proceeds of such bonds, from the income, proceeds, and revenue of any of its eligible facilities, or from its revenue and income, including its sales, use, or occupation tax revenue, fees, or receipts, as may be determined by the applicant. The applicant may further secure the bonds by a mortgage or deed of trust encumbering all or any portion of the eligible facilities and by a bond insurance policy or other credit support facility. No general obligation bonds, except refunding bonds, shall be issued until authorized by greater than fifty percent of the applicant's electors voting on the question as to their issuance at any election as defined in section 32-108. The face of the bonds shall plainly state that the bonds and the interest thereon shall not constitute nor give rise to an indebtedness, obligation, or pecuniary liability of the state nor a charge against the general credit, revenue, or taxing power of the state. Bonds of the applicant are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all state income taxes.

(2) All payments to political subdivisions under the Convention Center Facility Financing Assistance Act are made subject to specific appropriation for such purpose. Nothing in the act precludes the Legislature from amending or repealing the act at any time.

Source: Laws 1999, LB 382, § 11; Laws 2009, LB402, § 1.

Cross References

Limitation on applications, see section 13-2612.

13-2612 Act; applications; limitation.

The board shall not accept applications for assistance under the Convention Center Facility Financing Assistance Act after December 31, 2012.

Source: Laws 1999, LB 382, § 12; Laws 2007, LB551, § 7; Laws 2009, LB402, § 2.

13-2613 Rules and regulations.

The Department of Revenue may adopt and promulgate rules and regulations to carry out the Convention Center Facility Financing Assistance Act.

Source: Laws 2010, LB779, § 4.

ARTICLE 27

CIVIC AND COMMUNITY CENTER FINANCING ACT

Section

13-2701. Act, how cited.
13-2702. Purpose of act.
13-2703. Terms, defined.
13-2704. Civic and Community Center Financing Fund; created; use; investment.
13-2704.01. Grants of assistance; purposes; applications; evaluation.
13-2704.02. Grants of assistance; engineering and technical studies.
13-2705. Conditional grant approval; limits; conditions; State Historic Preservation Officer; Nebraska Arts Council; approval required, when.
13-2706. Eligibility for grant; grant application.
13-2707. Department; evaluation criteria; match required; location.
13-2707.01. Grant; engineering and technical studies; evaluation criteria.
13-2708. Grant; approval.
13-2709. Information on grants; department; duties; Political Subdivision Recapture Cash Fund; created; use; investment.
13-2710. Rules and regulations.

13-2701 Act, how cited.

Sections 13-2701 to 13-2710 shall be known and may be cited as the Civic and Community Center Financing Act.

Source: Laws 1999, LB 382, § 13; Laws 2011, LB297, § 2; Laws 2013, LB153, § 1.

13-2702 Purpose of act.

The purpose of the Civic and Community Center Financing Act is to support the development of civic centers, historic buildings or districts, public spaces, and recreation centers throughout Nebraska. Furthermore, the act is intended to support projects that foster maintenance or growth of communities.

Source: Laws 1999, LB 382, § 14; Laws 2011, LB297, § 3; Laws 2013, LB153, § 2; Laws 2019, LB564, § 1.

13-2703 Terms, defined.

For purposes of the Civic and Community Center Financing Act:

(1) Applicant means and includes (a) any city or village in this state that is eligible for a grant of assistance pursuant to section 13-2706 and (b) any tribal government;

(2) Civic center means a facility that is used to host conventions, meetings, and cultural events or a library;

(3) Department means the Department of Economic Development;

(4) Eligible facility means any civic center, historic building or district, public space, or recreation center;

(5) Fund means the Civic and Community Center Financing Fund;

(6) Historic building or district means a building or district eligible for listing on or currently listed on the National Register of Historic Places or a building that is certified as contributing to the significance of a registered state or national historic district;

(7) Political subdivision means a county, school district, community college area, or natural resources district;

(8) Public space means property located within the traditional center of a community, typically comprised of a cohesive core of residential, civic, religious, and commercial buildings, arranged around a main street and intersecting streets;

(9) Recreation center means a facility or park used for athletics, fitness, sport activities, or recreation that is owned by an applicant and is available for use by the general public with or without charge. Recreation center does not include any facility that requires a person to purchase a membership to utilize such facility; and

(10) Tribal government means the officially recognized government of any Indian tribe, nation, or other organized group or community located in the state exercising self-government powers and recognized as eligible for services provided by the United States to Indians because of their status as Indians or any Indian tribe located in the state and recognized as an Indian tribe by the state.

Source: Laws 1999, LB 382, § 15; Laws 2011, LB297, § 4; Laws 2013, LB153, § 3; Laws 2018, LB940, § 1; Laws 2019, LB564, § 2; Laws 2022, LB800, § 1.
Operative date July 21, 2022.

13-2704 Civic and Community Center Financing Fund; created; use; investment.

(1) The Civic and Community Center Financing Fund is created. The fund shall be administered by the department. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Transfers may be made from the fund to the General Fund, the Department of Revenue Enforcement Fund, and the State Colleges Sport Facilities Cash Fund at the direction of the Legislature.

(2)(a) The department shall use the Civic and Community Center Financing Fund for the following purposes:

(i) For grants of assistance as described in section 13-2704.01;

(ii) For grants of assistance as described in section 13-2704.02; and

(iii) For reasonable and necessary costs of the department directly related to the administration of the fund.

(b) Grants of assistance shall not be used for programming, marketing, advertising, or facility-staffing activities.

(3) The State Treasurer shall transfer two hundred fifty thousand dollars from the Civic and Community Center Financing Fund to the State Colleges Sport Facilities Cash Fund on October 1 of 2012, 2013, and 2014. Commencing October 1, 2015, and every year thereafter, the State Treasurer shall transfer three hundred thousand dollars from the Civic and Community Center Financing Fund to the State Colleges Sport Facilities Cash Fund.

Source: Laws 1999, LB 382, § 16; Laws 2009, First Spec. Sess., LB3, § 8; Laws 2010, LB779, § 5; Laws 2011, LB297, § 5; Laws 2012, LB969, § 4; Laws 2013, LB153, § 4; Laws 2015, LB661, § 29; Laws 2019, LB564, § 3; Laws 2020, LB1009, § 3.

Cross References

Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

13-2704.01 Grants of assistance; purposes; applications; evaluation.

(1) The department shall use the fund to provide grants of assistance for the following purposes:

(a) To assist in the construction of new civic centers and recreation centers or the renovation or expansion of existing civic centers and recreation centers;

(b) To assist in the preservation, restoration, conversion, rehabilitation, or reuse of historic buildings or districts; or

(c) To assist in the construction or upgrade of public spaces, including the demolition of substandard and abandoned buildings.

(2) Applications for grants of assistance pursuant to this section shall be evaluated by the department pursuant to section 13-2707.

Source: Laws 2013, LB153, § 5; Laws 2018, LB379, § 3; Laws 2018, LB940, § 2; Laws 2019, LB564, § 4.

13-2704.02 Grants of assistance; engineering and technical studies.

(1) The department shall use the fund to provide grants of assistance for engineering and technical studies directly related to projects described in section 13-2704.01.

(2) Applications for grants of assistance pursuant to this section shall be evaluated by the department pursuant to section 13-2707.01.

Source: Laws 2013, LB153, § 6.

13-2705 Conditional grant approval; limits; conditions; State Historic Preservation Officer; Nebraska Arts Council; approval required, when.

The department may conditionally approve grants of assistance from the fund to eligible and competitive applicants subject to the following limits and requirements:

(1) Except as provided in subdivision (2) of this section and subsection (4) of section 13-2706, a grant request shall be in an amount meeting the following requirements:

(a) For a grant of assistance under section 13-2704.01, at least fifteen thousand dollars but no more than:

(i) For a city of the primary class or a tribal government, two million two hundred fifty thousand dollars;

(ii) For a city with a population of at least forty thousand inhabitants but fewer than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, one million one hundred twenty-five thousand dollars;

(iii) For a city with a population of at least twenty thousand inhabitants but fewer than forty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, seven hundred fifty thousand dollars;

(iv) For a city with a population of at least ten thousand inhabitants but fewer than twenty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, six hundred thousand dollars; and

(v) For a municipality with a population of fewer than ten thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, three hundred seventy-five thousand dollars; and

(b) For a grant of assistance under section 13-2704.02, at least three thousand dollars but no more than fifteen thousand dollars;

(2) Except as provided in subsection (4) of section 13-2706, upon the balance of the fund reaching three million seven hundred fifty thousand dollars, and until the balance of the fund falls below one million five hundred thousand dollars, a grant request shall be in an amount meeting the following requirements:

(a) For a grant of assistance under section 13-2704.01, at least fifteen thousand dollars but no more than:

(i) For a city of the primary class or a tribal government, three million three hundred seventy-five thousand dollars;

(ii) For a city with a population of at least forty thousand inhabitants but fewer than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, one million six hundred eighty-seven thousand dollars;

(iii) For a city with a population of at least twenty thousand inhabitants but fewer than forty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, one million one hundred twenty-five thousand dollars;

(iv) For a city with a population of at least ten thousand inhabitants but fewer than twenty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, nine hundred thousand dollars; and

(v) For a municipality with a population of fewer than ten thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, five hundred sixty-two thousand dollars; and

(b) For a grant of assistance under section 13-2704.02, at least three thousand dollars but no more than fifteen thousand dollars;

(3) Assistance from the fund shall not amount to more than fifty percent of the cost of the project for which a grant is requested;

(4) An applicant shall not be awarded more than one grant of assistance under section 13-2704.01 and one grant of assistance under section 13-2704.02 in any two-year period;

(5) Any eligible facility for which a grant of assistance under section 13-2704.01 is made shall not be sold for at least five years following the award of such grant of assistance;

(6) An application for a grant of assistance to assist in the preservation, restoration, conversion, rehabilitation, or reuse of a historic building or district

shall include a notification of approval from the State Historic Preservation Officer that the work proposed in the application conforms to the United States Secretary of the Interior's Standards for the Treatment of Historic Properties. If the application does not include such notification of approval from the State Historic Preservation Officer, the department shall not award a grant of assistance for such application; and

(7) An application for a grant of assistance to a municipality partnering with a certified creative district as provided in subsection (4) of section 13-2706 shall include a notification of approval from the Nebraska Arts Council that the work proposed in the application conforms to the council's standards. If the application does not include such notification of approval from the Nebraska Arts Council, the department shall not award a grant of assistance for such application.

Source: Laws 1999, LB 382, § 17; Laws 2003, LB 385, § 1; Laws 2010, LB789, § 1; Laws 2011, LB297, § 6; Laws 2013, LB153, § 7; Laws 2017, LB113, § 3; Laws 2018, LB940, § 3; Laws 2019, LB67, § 3; Laws 2019, LB564, § 5; Laws 2020, LB1003, § 3; Laws 2022, LB800, § 2; Laws 2022, LB927, § 4.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB800, section 2, with LB927, section 4, to reflect all amendments.

Note: Changes made by LB800 became operative July 21, 2022. Changes made by LB927 became effective July 21, 2022.

13-2706 Eligibility for grant; grant application.

(1) Except as provided in subsection (2) of this section for a city of the primary class, any municipality that has applied for and received a grant of assistance under the Sports Arena Facility Financing Assistance Act shall not receive state assistance under the Civic and Community Center Financing Act for the same project for which the grant was awarded under the Sports Arena Facility Financing Assistance Act.

(2) A city of the primary class shall not be eligible to receive a grant of assistance from the Civic and Community Center Financing Act if the city has applied for and received a grant of assistance under the Sports Arena Facility Financing Assistance Act.

(3) Any city that has received funding under the Convention Center Facility Financing Assistance Act shall not receive state assistance under the Civic and Community Center Financing Act.

(4) From July 1, 2023, to June 30, 2024, a municipality shall be eligible for a grant of assistance under the Civic and Community Center Financing Act only if such municipality (a) partners with a certified creative district and (b) is not prohibited from receiving a grant of assistance under subsection (1), (2), or (3) of this section. Notwithstanding the limitations on the amount of grants of assistance in section 13-2705, the amount of any grant of assistance for a municipality partnering with a certified creative district shall not be less than one hundred thousand dollars or more than two hundred fifty thousand dollars, regardless of the population of the municipality. For purposes of this subsection, certified creative district means a creative district certified pursuant to subdivision (5) of section 82-312. After June 30, 2024, this subsection no longer applies.

(5) Any municipality eligible for a grant of assistance as provided in this section may apply for a grant of assistance from the fund. Any tribal govern-

ment may apply for a grant of assistance from the fund. Application shall be made on forms developed by the department.

Source: Laws 1999, LB 382, § 18; Laws 2003, LB 385, § 2; Laws 2007, LB551, § 8; Laws 2010, LB779, § 6; Laws 2012, LB426, § 1; Laws 2022, LB800, § 3; Laws 2022, LB927, § 5.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB800, section 3, with LB927, section 5, to reflect all amendments.

Note: Changes made by LB800 became operative July 21, 2022. Changes made by LB927 became effective July 21, 2022.

Cross References

Convention Center Facility Financing Assistance Act, see section 13-2601.
Sports Arena Facility Financing Assistance Act, see section 13-3101.

13-2707 Department; evaluation criteria; match required; location.

(1) The department shall evaluate all applications for grants of assistance under section 13-2704.01 based on the following criteria, which are listed in no particular order of preference:

(a) Retention Impact. Funding decisions by the department shall be based on the likelihood of the project retaining existing residents in the community where the project is located, developing, sustaining, and fostering community connections, and enhancing the potential for economic growth in a manner that will sustain the quality of life and promote long-term economic development;

(b) New Resident Impact. Funding decisions by the department shall be based on the likelihood of the project attracting new residents to the community where the project is located;

(c) Visitor Impact. Funding decisions by the department shall be based on the likelihood of the project enhancing or creating an attraction that would increase the potential of visitors to the community where the project is located from inside and outside the state;

(d) Readiness. The fiscal, economic, and operational capacity of the applicant, and of any political subdivision that owns the eligible facility jointly with the applicant, to finance and manage the project and to operate the eligible facility; and

(e) Project Planning. Projects with completed technical assistance and feasibility studies shall be preferred to those with no prior planning.

(2) The department shall give priority to applications from applicants which have not received a grant of assistance under section 13-2704.01 within the last ten years.

(3) Any grant of assistance under section 13-2704.01 shall be matched at least equally from local sources. At least fifty percent of the local match must be in cash.

(4) To receive a grant of assistance under section 13-2704.01, the project for which the grant is requested shall be located in the municipality that applies for the grant or, for any city of the first class, city of the second class, or village, within the municipality's extraterritorial zoning jurisdiction. This subsection shall not apply to any application submitted by a tribal government.

(5) To receive a grant of assistance under section 13-2704.01, the project for which the grant is requested shall involve an eligible facility that is owned by the applicant, except that a municipality may own an eligible facility jointly with a political subdivision if the municipality's ownership interest in such

eligible facility is at least fifty percent. In such case, the municipality shall be the applicant for the grant of assistance.

Source: Laws 1999, LB 382, § 19; Laws 2003, LB 385, § 3; Laws 2011, LB297, § 7; Laws 2013, LB153, § 8; Laws 2018, LB940, § 4; Laws 2019, LB564, § 6; Laws 2022, LB800, § 4.
Operative date July 21, 2022.

13-2707.01 Grant; engineering and technical studies; evaluation criteria.

The department shall evaluate all applications for grants of assistance under section 13-2704.02 based on the following criteria:

(1) Financial Support. Assistance from the fund shall be matched at least equally from local sources. At least fifty percent of the local match must be in cash. Projects with a higher level of local matching funds shall be preferred as compared to those with a lower level of matching funds; and

(2) Project Location. Assistance from the fund shall be for engineering and technical studies related to projects that will be located in the municipality that applies for the grant or, for any city of the first class, city of the second class, or village, in the municipality's extraterritorial zoning jurisdiction. This subdivision shall not apply to any application submitted by a tribal government.

Source: Laws 2013, LB153, § 9; Laws 2019, LB564, § 7; Laws 2022, LB800, § 5.
Operative date July 21, 2022.

13-2708 Grant; approval.

If a grant of assistance is approved by the department, the applicant shall receive conditional approval of the level of assistance. Projects shall receive funding from the fund in the order conditional approval is received and whenever there is sufficient money in the fund to provide the assistance. It is the intent of the Legislature to appropriate funds to support projects which have received conditional approval from the department. A grant of assistance shall be finally approved when funds for the project are appropriated by the Legislature.

Source: Laws 1999, LB 382, § 20; Laws 2003, LB 385, § 4.

13-2709 Information on grants; department; duties; Political Subdivision Recapture Cash Fund; created; use; investment.

(1) The department shall submit, as part of the department's annual status report under section 81-1201.11, the following information regarding the Civic and Community Center Financing Act:

(a) Information documenting the grants conditionally approved for funding by the Legislature in the following fiscal year;

(b) Reasons why a full application was not sent to any applicant seeking assistance under the act;

(c) The amount of sales tax revenue generated for the fund pursuant to subsection (6) of section 13-2610 and subsection (9) of section 13-3108, the total amount of grants applied for under the act, the year-end fund balance, the amount of the year-end fund balance which has not been committed to funding grants under the act, and, if all available funds have not been committed to

funding grants under the act, an explanation of the reasons why all such funds have not been so committed;

(d) The amount of appropriated funds actually expended by the department for the year;

(e) The department's current budget for administration of the act and the department's planned use and distribution of funds, including details on the amount of funds to be expended on grants and the amount of funds to be expended by the department for administrative purposes; and

(f) Grant summaries, including the applicant, project description, grant amount requested, amount and type of matching funds, and reasons for approval or denial based on evaluation criteria from section 13-2707 or 13-2707.01 for every application seeking assistance under the act.

(2) If the amount of the year-end fund balance which has not been committed to funding grants under the act as reported under subdivision (1)(c) of this section, excluding any amount required to be transferred under subsection (3) of section 13-2704, is more than one million dollars, the department shall notify the State Treasurer of the amount in excess of one million dollars. The State Treasurer shall transfer the amount in excess of one million dollars from the Civic and Community Center Financing Fund to the Political Subdivision Recapture Cash Fund.

(3) The Political Subdivision Recapture Cash Fund is created and shall consist of money transferred under subsection (2) of this section. Any money in the Political Subdivision Recapture Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. By October 1 of each year, the State Treasurer shall distribute the money in the Political Subdivision Recapture Cash Fund to the political subdivisions which have an application for state assistance for an eligible facility or an eligible sports arena facility approved under the Convention Center Facility Financing Assistance Act or the Sports Arena Facility Financing Assistance Act. Each political subdivision shall receive a proportionate share of the amount to be distributed under this subsection, and such proportionate share shall be based on the amount of sales tax revenue generated for the Civic and Community Center Financing Fund during the most recently completed fiscal year by the political subdivision's facility. The Tax Commissioner shall supply the State Treasurer with any information needed to make the distributions required in this subsection.

Source: Laws 1999, LB 382, § 21; Laws 2011, LB404, § 2; Laws 2013, LB153, § 10; Laws 2014, LB867, § 1; Laws 2016, LB285, § 1; Laws 2016, LB884, § 5; Laws 2022, LB800, § 6.
Operative date July 21, 2022.

Cross References

Convention Center Facility Financing Assistance Act, see section 13-2601.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.
Sports Arena Facility Financing Assistance Act, see section 13-3101.

13-2710 Rules and regulations.

The department shall adopt and promulgate rules and regulations to carry out the Civic and Community Center Financing Act.

Source: Laws 1999, LB 382, § 22; Laws 2011, LB297, § 8.

ARTICLE 28
MUNICIPAL COUNTIES

Section
13-2801. Municipal county; creation; procedure.
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13-2819. Sanitary and improvement district; consolidated with municipal county; procedure.

13-2801 Municipal county; creation; procedure.

(1) One or more counties and at least one of the municipalities in each county may create a municipal county to carry out all county services and all municipal services. The process of creating a municipal county shall begin by passage of a joint resolution by the governing bodies of the counties and municipalities involved. The joint resolution may be initiated by the governing bodies or by petition as provided in subsection (2) of this section.

(2) Whenever registered voters of any county and of at least one municipality in the county, equal in number to ten percent of the total vote cast for Governor in the county or municipality at the preceding election, petition the respective county board and city council or village board of trustees to pass a resolution as contemplated by this section, it shall be the duty of the county board and city council or village board to pass a joint resolution creating an interjurisdictional planning commission. Petitions shall be filed with the county clerk, election commissioner, city clerk, or other officer having charge of the records of the governing body. The official shall ascertain the number of registered voters signing such petitions and transmit his or her findings, along with the petition, to the county board and city council or village board of trustees.

(3) Within ninety days after the passage of the joint resolution or within ninety days after receipt of a petition by the registered voters, the governing bodies of the counties and municipalities involved shall create an interjurisdictional planning commission. A commission may also be created by the district court having jurisdiction over the counties and municipalities involved upon the failure by the counties and municipalities to pass a joint resolution after

submission of a petition by the registered voters. The commission shall have no less than nine members and no more than twenty-one members representing the counties and municipalities involved as determined by the governing bodies of the counties and municipalities involved in order to achieve proportionate representation. The governing bodies shall select the members. Representation on the commission shall be prorated based upon population of the counties and municipalities involved, except that (a) each county and each municipality involved shall have at least one representative selected by its respective governing body and (b) not more than forty percent of the total membership shall be public officials. Meetings of the commission shall be subject to the Open Meetings Act.

(4)(a) The commission shall hold at least one public hearing prior to preparing the plan for the creation of the municipal county, study all governmental subdivisions in the affected area, and then make a determination of whether creation of a municipal county is in the public interest. If it is not in the public interest to do so, the commission shall issue a report stating its findings, including, but not limited to, any recommendations regarding (i) interlocal agreements, (ii) agreements to provide for the joint delivery of services, or (iii) any other such recommendations. If it is in the public interest to do so, the commission shall prepare one plan for the creation of the municipal county. Such plan shall be approved by the governing body of each county and each municipality involved prior to submission of the issue to a vote of the registered voters unless the commission was created by a petition of the registered voters.

(b) The plan shall specify (i) which counties and municipalities will be dissolved upon creation of the municipal county, (ii) the form of government, with an elected executive officer, a professional municipal county manager or administrator appointed by the commission, or both, to operate the executive functions of the municipal county, (iii) the number of council members of the municipal county and whether they will be elected by district or at large, and (iv) which elected officials, if any, will be eliminated.

(c) At least ninety days prior to submission of the issue to a vote of the registered voters, the commission and the governing body of each county and each municipality involved shall hold at least one public hearing in its respective jurisdiction and make available for review by residents of the county and municipality all material terms and conditions set forth in the resolution to create the municipal county, including information regarding the tax implications and quality and cost of services to be provided by the proposed plan to create the municipal county.

(5) Upon approval of the plan by the governing body of each county and each municipality involved, if required, or upon the governing bodies' approval or failure to approve if the commission was created by a petition of the registered voters, the county clerks or election commissioners shall place the issue on the ballot at the next primary, general, or special election.

Source: Laws 2001, LB 142, § 1; Laws 2004, LB 821, § 6.

Cross References

Open Meetings Act, see section 84-1407.

13-2802 Metropolitan utilities district; how treated.

Whenever creation of a municipal county is proposed involving a city of the metropolitan class, the interjurisdictional planning commission shall include in

its plan a recommendation with regard to the territory within which any metropolitan utilities district shall have and may exercise the power of eminent domain pursuant to subsection (2) of section 14-2116. The plan shall further include a recommendation with regard to the territory which shall be deemed to be within the corporate boundary limits or extraterritorial zoning jurisdiction of a municipality or a municipality dissolved by the creation of the municipal county for purposes of the State Natural Gas Regulation Act. The question of creation of the municipal county shall not be submitted to a vote under section 13-2810 until a law adopting the provisions required by this section has been enacted.

Source: Laws 2001, LB 142, § 2; Laws 2006, LB 1249, § 1.

Cross References

State Natural Gas Regulation Act, see section 66-1801.

13-2803 Council; members; quorum; election; executive officer.

(1)(a) Except as provided in subdivision (1)(b) of this section, a municipal county created under section 13-2801 shall be governed by a council of five to nine members, at least two-thirds of whom shall be elected by district. The council members shall be elected on a nonpartisan ballot. The area involved in the consolidation shall be divided into districts of as equal population as possible so that at least a majority of the members of the council are elected by district. The division shall be made by the county board members of each county involved by January 31 of the year in which the council members are to be elected. A majority of the council members shall constitute a quorum for the purpose of transacting business. The council shall annually elect a chairperson from among its members. Each council member shall be elected to a four-year term beginning with the first general election following the formation, except that at the first election, fifty to sixty percent of the members shall be elected to four-year terms and the others shall be elected to two-year terms. If there are to be at-large members, the district-elected members shall be elected to four-year terms and the at-large members shall be elected to two-year terms. If there are to be no at-large members, the members elected to four-year terms and the members elected to two-year terms shall be selected by lot.

(b) A municipal county created under section 13-2801, in which is situated a city of the metropolitan class, shall be governed by a council of fifteen members who shall be elected by districts. The council members shall be elected on a nonpartisan ballot. The area involved in the consolidation shall be divided into fifteen council districts of compact and contiguous territory. Such districts shall be numbered consecutively from one to fifteen. One council member shall be elected from each district. The division shall be made by the county board members of each county involved, by January 31 of the year in which the council members are to be elected. Each council member shall be elected to a four-year term, except that at the first general election following the formation, the members elected from even-numbered districts shall be elected to four-year terms and members elected from odd-numbered districts shall be elected to two-year terms and to four-year terms thereafter. A majority of the council members shall constitute a quorum for the purpose of transacting business. The council shall annually elect a chairperson from among its members. The council shall be responsible for redrawing the council district boundaries pursuant to section 32-553.

(c) Initial elections of the council members and the executive officer, if applicable, shall be completed by May 15 of the year the municipal county is created.

(2) If the plan to create the municipal county provides for an executive officer to operate the executive functions of the municipal county, the executive officer shall be elected to a four-year term beginning with the first general election following the formation of the municipal county.

(3) The resolution proposing creation of the municipal county may retain, as an elected position, any elected county office in any county to be consolidated into the municipal county. If such elected officials are to be retained, the officials in such offices at the time the municipal county is created may be retained or, if more than one such elected official are in office at the time the municipal county is created, the officials shall be elected together with the council members and executive officer of the municipal county.

Source: Laws 2001, LB 142, § 3.

13-2804 Municipal county; powers and duties; provisions governing transition.

(1) A municipal county has the powers and duties of a county and shall fulfill the same role as other counties and county officials of the municipal county as would be applicable to a county of the same population as the municipal county. Any reference in law to counties shall be deemed to refer to a municipal county. A municipal county has the powers and duties of cities and villages as would be applicable to the largest municipality consolidated into the municipal county. Any reference in law to cities, villages, or municipalities shall be deemed to apply also to a municipal county.

(2) On the date of creation of a municipal county, all ordinances, bylaws, acts, motions, rules, resolutions, and proclamations enacted by the governing body of each county or municipality involved shall continue in full force and effect, with respect to the counties and municipalities consolidated into the municipal county, until amended, repealed, or otherwise superseded by the council of the municipal county. All obligations, leases, and contracts of the counties or municipalities consolidated into the municipal county, except for bonded indebtedness, shall become obligations, leases, and contracts of the municipal county. In the event any utility, lease, franchise, or service area agreement has been entered into by or is applicable to a county or municipality involved, the utility, lease, franchise, or service area agreement shall be unaffected by the creation of the municipal county and unchanged by the elimination of the municipal or county boundaries. In the event any service area or territory in which powers of a political subdivision could be exercised or boundaries of a political subdivision were previously defined by reference, in whole or in part, to the boundaries of a participating municipality or county, the boundaries of such service area or territory or political subdivision, and the exercise of the powers of the political subdivision, shall be unaffected by the creation of a municipal county and unchanged by the elimination of the municipal or county boundaries.

Source: Laws 2001, LB 142, § 4.

13-2805 Ordinances; adoption; procedure.

(1) A municipal county may adopt ordinances, and any such ordinances shall supersede those of any municipality or county consolidated into the municipal county.

(2) All ordinances shall be passed pursuant to such rules and regulations as the council may provide, and all such ordinances may be proved by the certificate of the council. When printed or published in book or pamphlet form and purporting to be published by authority of the municipal county, such ordinances shall be read and received in evidence in all courts and places without further proof. The passage, approval, and publication or posting of an ordinance shall be sufficiently proved by a certificate from the council showing that the ordinance was passed and approved and when and in what newspaper the ordinance was published or when, by whom, and where the ordinance was posted. When ordinances are published in book or pamphlet form, purporting to be published by authority of the council, the same need not be otherwise published, and the book or pamphlet shall be received as evidence of the passage and legal publication of the ordinances, as of the dates mentioned in the book or pamphlet, in all courts without further proof.

Source: Laws 2001, LB 142, § 5.

13-2806 Ordinances; requirements.

(1) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members of the council.

(2) Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the members vote to suspend this requirement.

(3) Ordinances shall contain no subject which is not clearly expressed in the title, and, except as provided in section 19-915, no ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that for an ordinance revising all the ordinances of the municipal county the only title necessary shall be: ''An ordinance of the municipal county of . . . . . , revising all the ordinances of the municipal county.'' Under such title, all the ordinances may be revised in sections and chapters or otherwise, may be corrected, added to, and any part suppressed, and may be repealed with or without a saving clause as to the whole or any part without other title.

Source: Laws 2001, LB 142, § 6.

13-2807 Ordinance; form; publication; emergency.

The style of ordinances shall be: ''Be it ordained by the council of the municipal county of . . . . . ,'' and all ordinances of a general nature shall, within fifteen days after they are passed, be published in one or more newspapers in general circulation within the municipal county, or in pamphlet form, to be distributed or sold, as may be provided by ordinance. Every ordinance fixing a penalty or forfeiture for its violation shall, before the same takes effect, be published for at least one week in one or more newspapers in general circulation within the municipal county. In cases of riots, infectious diseases, or other impending danger, or any other emergency requiring its immediate operation,

such ordinance shall take effect upon the proclamation of the council immediately upon its first publication.

Source: Laws 2001, LB 142, § 7.

13-2808 Levy authorized; allocations.

A municipal county may levy up to one dollar per one hundred dollars of taxable value, not including bonded indebtedness. From the levy authority of the municipal county, the municipal county may allocate to miscellaneous political subdivisions as provided in section 77-3443. In no event shall the levies of the municipal county and any miscellaneous political subdivisions allocated levy authority by the municipal county total more than one dollar per one hundred dollars of taxable value on any one parcel in the municipal county, except for bonded indebtedness approved according to law, lease-purchase agreements approved prior to July 1, 1998, and judgments obtained against the municipal county or one of its predecessors which obligate the municipal county to pay the judgments to the extent not paid by liability insurance and except as provided in section 77-3444.

Source: Laws 2001, LB 142, § 8.

13-2809 Municipalities and fire protection districts within municipal county; treatment.

(1) An area within the boundaries of a municipality which remains within the boundaries of a municipal county and is not consolidated into the municipal county at the time of the formation of the municipal county shall not be considered to be part of the municipal county for any purpose. Such a municipality shall not be annexed by the municipal county, and such a municipality shall not annex any territory, for at least four years after the date of creation of the municipal county. Such a municipality shall retain:

(a) The authority to levy property taxes, not to exceed ninety cents per one hundred dollars of taxable value except as provided in sections 77-3442 and 77-3444; and

(b) All the other powers and duties applicable to a municipality of the same population with the same form of government in effect on the date of creation of the municipal county, including, but not limited to, its zoning jurisdiction and the authority to impose a tax as provided in the Local Option Revenue Act.

(2) In order to provide economical and efficient services, a municipality within the boundaries of a municipal county may annex adjacent territory within the municipal county if the municipal county consents. Consent shall be granted if the services will be provided by the municipality within the annexed territory at less cost than similar services provided by the municipal county.

(3) All fire protection districts which are within the boundaries of a municipal county shall continue to exist after formation of the municipal county.

Source: Laws 2001, LB 142, § 9; Laws 2015, LB325, § 2.

Cross References

Local Option Revenue Act, see section 77-27,148.

13-2810 Election; requirements.

(1) The powers granted by sections 13-2801 to 13-2809 shall not be exercised unless and until the question has been submitted at a primary, general, or special election held within the county or counties involved and in which registered voters within the boundaries of the proposed municipal county are entitled to vote on such question. The ballot question may combine the issues of creation of the municipal county, the merger of the county or counties and its offices, the merger of each municipality proposed to be merged, and the authorization of a local sales and use tax under section 13-2813.

(2) The officials of each county and each municipality seeking to form the municipal county shall order the submission of the question for creation by submitting a certified copy of the resolution calling for creation to the election commissioner or county clerk. The question may include any terms or conditions set forth in the resolution, such as the timing of the consolidation implementation, the number and method of election of council members, and any proposed name for the municipal county, and shall specifically state any offices to be eliminated.

(3) The election commissioner or county clerk shall give notice of the submission of the question not more than thirty days nor less than ten days before the election by publication one time in one or more newspapers published in or of general circulation within the boundaries of the proposed municipal county in which the question is to be submitted. This notice is in addition to any other notice required under the Election Act.

(4)(a) The vote shall be tabulated for (i) all those voting on the question, (ii) those voting who reside in each county and any municipality which would be consolidated into the municipal county, (iii) those voting who reside in each county but outside any municipality, and (iv) those voting who reside in each county but outside any municipality or any sanitary and improvement district.

(b) If a majority of those voting on the question, a majority of those voting who reside in at least one county to be consolidated, a majority of those voting who reside in at least one municipality which is in one county voting in favor of consolidation, a majority of those voting who reside in areas in the county to be consolidated which are outside any municipality to be consolidated, and a majority of those voting who reside in each county but outside any municipality or any sanitary and improvement district vote in favor of consolidation, the municipal county shall be deemed to be created for each county and municipality which had a majority of those voting in favor of consolidation according to the terms of the resolution. If no date of creation is provided in the resolution, the municipal county shall be deemed to be created on the following July 1. Any county in which a majority of those voting approve the consolidation shall be deemed to be abolished, and any municipality in such county which was proposed to be consolidated and in which a majority of those voting who reside in such municipality approve the consolidation shall be deemed to be abolished.

(c) The municipal county shall not be created (i) if a majority of those voting on the question are opposed, (ii) if a majority of those voting who reside in every county to be consolidated are opposed, (iii) if a majority of those voting who reside in every municipality to be consolidated which is in a county which approved are opposed, (iv) if a majority of those voting who reside in areas in a county which approved which are outside any municipality are opposed, or (v) if a majority of those voting who reside in a county which approved but outside any municipality or sanitary and improvement district are opposed.

(5) If a municipality within the boundaries of a municipal county is not a part of the municipal county either because the governing body of the municipality did not approve the resolution seeking inclusion or because the voters of the municipality disapproved the consolidation, the municipality may later seek inclusion into an existing municipal county by passing a resolution seeking inclusion and approval by those voting at a primary, general, or special election. The officials of the municipality shall deliver a certified copy of the resolution to the appropriate officer of the municipal county proposing inclusion. If a majority of those voting in the municipality approve inclusion and a majority of the elected council members of the municipal county vote to approve inclusion of such municipality, the municipality shall be merged into the municipal county. If a majority of those voting in the municipality disapprove or a majority of the elected council members of the municipal county do not vote to approve inclusion of such municipality, it shall not be merged.

(6) Any election under this section shall be conducted in accordance with the procedures provided in the Election Act.

Source: Laws 2001, LB 142, § 10.

Cross References

Election Act, see section 32-101.

13-2811 Approval of formation of municipal county; effect.

Approval of the formation of a municipal county shall abolish all county and municipal offices at the end of the then current officeholders' terms except as provided in subsection (3) of section 13-2803 and shall terminate all townships located within the municipal county. All debt of abolished counties and municipalities consolidated into a municipal county shall remain the responsibility of the county or municipality responsible at the time consolidation is approved.

Source: Laws 2001, LB 142, § 11.

13-2812 Dissolution; procedure.

(1) A municipal county may be dissolved by submitting the question of dissolution at a primary, general, or special election held within the county or counties involved and in which all registered voters are entitled to vote on such question. The ballot question may combine the issues of dissolution of the municipal county, the division of the municipal county into the county or counties and its offices, and the division of each merged municipality. The process of dissolving a municipal county shall begin by passage of a resolution by the council of the municipal county. The resolution may be initiated by the council or by petition as provided in subsection (2) of this section.

(2) Whenever registered voters of the municipal county, equal in number to ten percent of the total vote cast for Governor in the municipal county at the preceding election, petition the council to pass a resolution as contemplated by this section, it shall be the duty of the council to pass a resolution creating a dissolution planning commission. Petitions shall be filed with the election official. The election official shall ascertain the number of registered voters signing such petitions and transmit his or her findings, along with the petition, to the council.

(3) Within ninety days after the passage of the resolution or within ninety days after receipt of a petition by the registered voters, the council shall create

a dissolution planning commission. A commission may also be created by the district court having jurisdiction over the municipal county upon the failure by the municipal county to pass a resolution after submission of a petition by the registered voters. The commission shall have no less than nine members and no more than twenty-one members representing the proposed counties and proposed municipalities to be reestablished as determined by the council in order to achieve proportionate representation. The council shall select the members. Representation on the commission shall be prorated based upon population of the proposed counties and proposed municipalities involved, except that (a) each proposed county and each proposed municipality involved shall have at least one representative selected by the council and (b) not more than forty percent of the total membership shall be public officials. Meetings of the commission shall be subject to the Open Meetings Act.

(4) The commission shall hold at least one public hearing prior to preparing the plan for the dissolution of the municipal county, study the affected area, and then make a determination of whether dissolution of a municipal county is in the public interest. If it is not in the public interest to do so, the commission shall issue a report stating its findings. If it is in the public interest to do so, the commission shall prepare one plan for the dissolution of the municipal county. Such plan shall be approved by the council prior to submission of the issue to a vote of the registered voters unless the commission was created by a petition of the registered voters. The plan shall specify (a) which counties and municipalities will be reestablished upon dissolution of the municipal county, and (b) which elected officials, if any, will be reestablished. At least ninety days prior to submission of the issue to a vote of the registered voters, the commission and the council shall hold at least one public hearing in each county and municipality proposed to be reestablished and make available for review by residents of the municipal county all material terms and conditions set forth in the resolution to dissolve the municipal county, including information regarding the tax implications and quality and cost of services to be provided by the proposed plan to dissolve the municipal county.

(5) Upon approval of the plan by the council, if required, or upon the council's approval or failure to approve if the commission was created by a petition of registered voters, the election official shall place the issue on the ballot at the next primary, general, or special election. The question may include any terms or conditions set forth in the resolution, such as the services to be provided by the municipalities and the timing of the dissolution implementation, and shall include any offices to be reestablished.

(6) The election official shall give notice of the submission of the question not more than thirty days nor less than ten days before the election by publication one time in one or more newspapers published in or of general circulation in the municipal county in which the question is to be submitted. This notice is in addition to any other notice required under the Election Act.

(7) The vote shall be tabulated in each municipality which is proposed to be created by the dissolution separately from the areas outside the boundaries of the proposed municipalities. If a majority of those voting on the question in the area within the boundaries of any proposed municipality and the areas outside the proposed municipalities vote in favor of dissolution, the municipal county shall be deemed to be dissolved according to the terms of the resolution. If the dissolution is not approved by a majority of those voting in the election in the

area within the boundaries of any proposed municipality or the areas outside the proposed municipalities, the dissolution shall be deemed rejected.

(8) Any election under this section shall be conducted in accordance with the procedures provided in the Election Act.

Source: Laws 2001, LB 142, § 12; Laws 2004, LB 821, § 7.

Cross References

Election Act, see section 32-101.
Open Meetings Act, see section 84-1407.

13-2813 Sales and use tax authorized.

(1) A municipal county by ordinance of its council may impose a sales and use tax of one-half percent, one percent, or one and one-half percent upon the same transactions within the entire municipal county on which the state is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended from time to time.

(2) A municipal county shall not impose a new sales and use tax, increase the tax, or extend the territory of an existing sales and use tax until an election is held and a majority of the registered voters as provided in section 13-2810 have approved the tax, increase, or extension. The ballot issue proposing approval of a new sales and use tax or the increase or territorial extension of an existing sales and use tax may be combined with the issue proposing creation of a municipal county.

Source: Laws 2001, LB 142, § 13.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

13-2814 Sales and use tax; administration.

(1) The Tax Commissioner shall administer all sales and use taxes adopted under section 13-2813. The Tax Commissioner may prescribe forms and adopt and promulgate rules and regulations in conformity with the Nebraska Revenue Act of 1967, as amended, for the making of returns and for the ascertainment, assessment, and collection of taxes. The council shall furnish a certified copy of the adopting or repealing resolution to the Tax Commissioner in accordance with such rules and regulations. The tax shall begin the first day of the next calendar quarter following receipt by the Tax Commissioner of the certified copy of the adopted resolution if the certified copy of the adopted resolution is received sixty days prior to the start of the next calendar quarter.

(2) For resolutions containing a termination date, the termination date is the first day of a calendar quarter. The council shall furnish a certified statement to the Tax Commissioner no more than one hundred twenty days and at least sixty days before the termination date stating that the termination date in the resolution is still valid. If the certified statement is not furnished within the prescribed time, the tax shall remain in effect and the Tax Commissioner shall continue to collect the tax until the first day of the calendar quarter which is at least sixty days after receipt of the certified statement notwithstanding the termination date stated in the resolution.

(3) The Tax Commissioner shall collect the sales and use tax concurrently with collection of a state tax in the same manner as the state tax is collected. The Tax Commissioner shall remit monthly the proceeds of the tax to the

municipal county imposing the tax, after deducting the amount of refunds made and three percent of the remainder as an administrative fee necessary to defray the cost of collecting the tax and the expenses incident thereto. The Tax Commissioner shall keep full and accurate records of all money received and distributed. All receipts from the three percent administrative fee shall be deposited in the Municipal Equalization Fund.

(4) Upon any claim of illegal assessment and collection, the taxpayer has the same remedies as provided for claims of illegal assessment and collection of the state tax. It is the intention of the Legislature that the provisions of law which apply to the recovery of state taxes illegally assessed and collected apply to the recovery of sales and use taxes illegally assessed and collected under section 13-2813.

Source: Laws 2001, LB 142, § 14; Laws 2003, LB 381, § 2; Laws 2005, LB 274, § 223; Laws 2011, LB211, § 2.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

13-2815 Sales and use tax proceeds; use.

The proceeds of the sales and use tax imposed by a municipal county under section 13-2813 shall be distributed to the municipal county for deposit in its general fund.

Source: Laws 2001, LB 142, § 15.

13-2816 Nebraska Revenue Act of 1967; applicability.

(1) All relevant provisions of the Nebraska Revenue Act of 1967, as amended, not inconsistent with sections 13-2813 to 13-2815, shall govern transactions, proceedings, and activities pursuant to any sales and use tax imposed by a municipal county.

(2) For purposes of the sales and use tax imposed by a municipal county, all retail sales, rentals, and leases, as defined and described in the Nebraska Revenue Act of 1967, are consummated:

(a) At the place where title, possession, or segregation takes place, with the exception of sales or leases or rentals for more than one year of motor vehicles, trailers, semitrailers, and motorboats, if a purchaser takes possession of tangible personal property within a municipal county, which has enacted a tax under section 13-2813, regardless of the business location of the Nebraska retailer;

(b) At the point of delivery of utility services and community antenna television services or where such services are provided, with the exception that Nebraska intrastate message toll telephone and telegraph services which are consummated in the county where the customer is normally billed for such services;

(c) At the physical location of individual vending machines; and

(d) At the place designated on the application for registration for motor vehicles, trailers, semitrailers, and motorboats sold or leased or rented for more than one year, except that the sale of any motor vehicle or trailer operated by a public power district and registered under section 60-3,228 is consummated at

the place where the motor vehicle or trailer has situs as defined in section 60-349.

Source: Laws 2001, LB 142, § 16; Laws 2018, LB1030, § 1.

Cross References

Nebraska Revenue Act of 1967, see section 77-2701.

13-2817 Municipality; payments to municipal county; when; amount; how determined.

(1) Any municipality that is within the boundaries of a municipal county that is not merged into the municipal county shall be required to pay the municipal county for services that were previously provided by the county and are not ordinarily provided by a municipality. Except as provided in subsection (2) of this section, the amount paid shall be equal to the attributable cost of county services times a ratio, the numerator of which is the total valuation of all municipalities that are within the boundaries of the municipal county and the denominator of which is the total valuation of the municipal county and all municipalities and unconsolidated sanitary and improvement districts that are within the boundaries of the municipal county that are not merged into the municipal county, times a ratio the numerator of which is the valuation of the particular municipality and the denominator of which is the total valuation of all municipalities that are within the boundaries of the municipal county, except that (a) the amount paid shall not exceed the total taxable valuation of the municipality times forty-five hundredths of one percent and (b) the municipality shall not be required to pay the municipal county for fire protection or ambulance services.

(2) The amount paid for law enforcement by a municipality that is within the boundaries of a municipal county but is not merged into the municipal county shall be as follows: (a) If the county did not provide law enforcement services prior to the formation of the municipal county or if the municipality continues its own law enforcement services after formation of the municipal county, the total cost of services budgeted by the municipal county for law enforcement shall be the net cost of services that are the express and exclusive duties and responsibilities of the county sheriff by law times the same ratios calculated in subsection (1) of this section; (b) if the municipality discontinues providing law enforcement services after the formation of the municipal county (i) the municipal county shall provide a level of service in such municipality that is equal to the level provided in the area or areas of the municipal county that were municipalities prior to the formation of the municipal county and (ii) the municipality shall pay the municipal county for the cost of county services for law enforcement as calculated in subsection (1) of this section, except that for the first five years, the amount shall be no more than the amount budgeted by the municipality for law enforcement services in the last year the municipality provided the services for itself; and (c) if the municipal county has deputized the police force of the municipality to perform the express and exclusive duties and responsibilities of the county sheriff by law, there shall be no amount paid to the municipal county for law enforcement services.

(3) Disputes regarding the amounts any municipality that is within the boundaries of a municipal county that is not merged into the municipal county must pay to the municipal county for services that were previously provided by

the county and are not ordinarily provided by a municipality shall be heard in the district court of such municipal county.

(4) For purposes of this section and section 13-2818, attributable cost of county services means the total budgeted cost of services that were previously provided by the county for the immediately prior fiscal year times a ratio, the numerator of which is the property tax request of the municipal county or the county and all cities to be consolidated for the prior fiscal year, not including any tax for bonded indebtedness, and the denominator of which is the total of the restricted funds as defined in section 13-518 plus inheritance taxes, fees, and charges and other revenue that were budgeted for the immediately prior fiscal year by the municipal county or the county and all cities to be consolidated.

Source: Laws 2001, LB 142, § 17.

13-2818 Sanitary and improvement districts; treatment; payments to municipal county; when; amount; how determined.

(1) Sanitary and improvement districts located within a municipal county created under sections 13-2801 to 13-2819, unless consolidated into a municipal county in accordance with section 13-2819, shall be deemed to be unconsolidated sanitary and improvement districts and shall continue to exist after approval of the formation of the municipal county except as provided in this section.

(2) An unconsolidated sanitary and improvement district shall have and retain its authority to levy property taxes, and the municipal county shall have no authority to levy property taxes on the lands within an unconsolidated sanitary and improvement district other than for bonded indebtedness incurred by the county prior to creation of the municipal county. The area of the unconsolidated sanitary and improvement district shall not be considered to be within the municipal county except as provided by law.

(3) Parcels of land which are contiguous to each other and are included within the municipal county, but not included in an unconsolidated municipality, may be included in a sanitary and improvement district with the approval of the council of the municipal county.

(4) Each unconsolidated sanitary and improvement district shall pay the municipal county for services that were previously provided by the county. The amount paid shall be equal to the attributable cost of county services times a ratio, the numerator of which is the total valuation of all unconsolidated sanitary and improvement districts that are within the boundaries of the municipal county and the denominator of which is the total valuation of the municipal county and all unconsolidated sanitary and improvement districts and unconsolidated municipalities that are within the boundaries of the municipal county, times a ratio the numerator of which is the valuation of the particular unconsolidated sanitary and improvement district and the denominator of which is the total valuation of all unconsolidated sanitary and improvement districts that are within the boundaries of the municipal county, except that the amount paid shall not exceed the total taxable valuation of the unconsolidated sanitary and improvement district times forty-five hundredths of one percent. Any disputes arising under this subsection shall be heard in the district court of such municipal county.

(5) Unless the unconsolidated sanitary and improvement district is located wholly within the extraterritorial zoning jurisdiction of an unconsolidated municipality, an unconsolidated sanitary and improvement district shall be deemed to be within the zoning jurisdiction of the municipal county.

(6) Any municipal county sales and use tax that has been approved under section 13-2813 shall be imposed upon transactions within the entire municipal county, including all unconsolidated sanitary and improvement districts.

Source: Laws 2001, LB 142, § 18.

13-2819 Sanitary and improvement district; consolidated with municipal county; procedure.

A municipal county may by ordinance cause any unconsolidated sanitary and improvement district located (1) within the extraterritorial zoning jurisdiction of an unconsolidated municipality with the consent of the governing body of the unconsolidated municipality, or (2) within any portion of the municipal county, to be consolidated, in whole or part, into the municipal county, and thereafter the municipal county shall succeed to the property and property rights of every kind, contracts, obligations, and choses in action of every kind, held by or belonging to the sanitary and improvement district, and the municipal county shall be liable for and recognize, assume, and carry out the valid contracts and obligations of the district. Any such consolidation, in whole or in part, shall be accomplished by the municipal county and the sanitary and improvement district in accordance with sections 31-763 to 31-766, and other applicable law, as if the municipal county were a city and the consolidation were an annexation or partial annexation.

Source: Laws 2001, LB 142, § 19.

ARTICLE 29

POLITICAL SUBDIVISIONS CONSTRUCTION ALTERNATIVES ACT

Section
13-2901. Act, how cited.
13-2902. Purpose.
13-2903. Terms, defined.
13-2904. Contracts authorized; governing body; resolution required.
13-2905. Political subdivision; policies; requirements.
13-2906. Letters of interest; requirements.
13-2907. Design-build contract; request for proposals; requirements.
13-2908. Design-build contract; evaluation of proposals; requirements; negotiations.
13-2909. Construction management at risk contract; request for proposals; requirements.
13-2910. Construction management at risk contract; evaluation of proposals; requirements; negotiations.
13-2911. Contract proposals; evaluation; selection committee; duties.
13-2912. Contracts; refinements; changes authorized.
13-2913. Act; bonding or insurance requirements.
13-2914. Road, street, or highway construction projects excluded; water, wastewater, utility, or sewer construction projects permitted.

13-2901 Act, how cited.

Sections 13-2901 to 13-2914 shall be known and may be cited as the Political Subdivisions Construction Alternatives Act.

Source: Laws 2002, LB 391, § 1; R.S.1943, (2003), § 79-2001; Laws 2008, LB889, § 1.

13-2902 Purpose.

The purpose of the Political Subdivisions Construction Alternatives Act is to authorize a political subdivision to enter into a design-build contract which is subject to qualification-based selection or a construction management at risk contract for a public project if the political subdivision adheres to the procedures set forth in the act.

Source: Laws 2002, LB 391, § 2; R.S.1943, (2003), § 79-2002; Laws 2008, LB889, § 2.

13-2903 Terms, defined.

For purposes of the Political Subdivisions Construction Alternatives Act:

(1) Construction management at risk contract means a contract by which a construction manager (a) assumes the legal responsibility to deliver a construction project within a contracted price to the political subdivision, (b) acts as a construction consultant to the political subdivision during the design development phase of the project when the political subdivision's architect or engineer designs the project, and (c) is the builder during the construction phase of the project;

(2) Construction manager means the legal entity which proposes to enter into a construction management at risk contract pursuant to the act;

(3) Design-build contract means a contract which is subject to qualification-based selection between a political subdivision and a design-builder to furnish (a) architectural, engineering, and related design services for a project pursuant to the act and (b) labor, materials, supplies, equipment, and construction services for a project pursuant to the act;

(4) Design-builder means the legal entity which proposes to enter into a design-build contract which is subject to qualification-based selection pursuant to the act;

(5) Letter of interest means a statement indicating interest to enter into a design-build contract or a construction management at risk contract for a project pursuant to the act;

(6) Performance-criteria developer means any person licensed or any organization issued a certificate of authorization to practice architecture or engineering pursuant to the Engineers and Architects Regulation Act who is selected by a political subdivision to assist the political subdivision in the development of project performance criteria, requests for proposals, evaluation of proposals, evaluation of the construction under a design-build contract to determine adherence to the performance criteria, and any additional services requested by the political subdivision to represent its interests in relation to a project;

(7) Political subdivision means a city, village, county, natural resources district, metropolitan utilities district, public power district, public power and irrigation district, school district, community college, or state college;

(8) Project performance criteria means the performance requirements of the project suitable to allow the design-builder to make a proposal. Performance requirements include the following, if required by the project: Capacity, durability, standards, ingress and egress requirements, description of the site, surveys, soil and environmental information concerning the site, interior space requirements, material quality standards, design and construction schedules, site development requirements, provisions for utilities, storm water retention

and disposal, parking requirements, applicable governmental code requirements, and other criteria for the intended use of the project;

(9) Proposal means an offer in response to a request for proposals (a) by a design-builder to enter into a design-build contract for a project pursuant to the Political Subdivisions Construction Alternatives Act or (b) by a construction manager to enter into a construction management at risk contract for a project pursuant to the act;

(10) Qualification-based selection process means a process of selecting a design-builder based first on the qualifications of the design-builder and then on the design-builder's proposed approach to the design and construction of the project;

(11) Request for letters of interest means the documentation or publication by which a political subdivision solicits letters of interest;

(12) Request for proposals means the documentation by which a political subdivision solicits proposals; and

(13) School district means any school district classified under section 79-102.

Source: Laws 2002, LB 391, § 3; R.S.1943, (2003), § 79-2003; Laws 2008, LB889, § 3; Laws 2021, LB414, § 1; Laws 2022, LB847, § 1. Effective date July 21, 2022.

Cross References

Engineers and Architects Regulation Act, see section 81-3401.

13-2904 Contracts authorized; governing body; resolution required.

(1) Notwithstanding the procedures for public lettings in sections 73-101 to 73-106 or any other statute relating to the letting of bids by a political subdivision, a political subdivision which follows the Political Subdivisions Construction Alternatives Act may solicit and execute a design-build contract or a construction management at risk contract.

(2) The governing body of the political subdivision shall adopt a resolution selecting the design-build contract or construction management at risk contract delivery system provided under the act prior to proceeding with the provisions of sections 13-2905 to 13-2914. The resolution shall require the affirmative vote of at least two-thirds of the governing body of the political subdivision. For a project authorized under subsection (3) of section 13-2914, the resolution shall include a statement that the political subdivision has made a determination that the design-build contract or construction management at risk contract delivery system is in the public interest based, at a minimum, on one of the following criteria: (a) Savings in cost or time or (b) requirement of specialized or complex construction methods suitable for the design-build contract or construction management at risk contract delivery system.

Source: Laws 2002, LB 391, § 4; R.S.1943, (2003), § 79-2004; Laws 2008, LB889, § 4; Laws 2021, LB414, § 2.

13-2905 Political subdivision; policies; requirements.

The political subdivision shall adopt policies for entering into a design-build contract or construction management at risk contract. The policies shall require that such contracts include the following:

(1) Procedures for selecting and hiring on its behalf a performance-criteria developer when soliciting and executing a design-build contract. The procedures shall be consistent with the Nebraska Consultants' Competitive Negotiation Act and shall provide that the performance-criteria developer (a) is ineligible to be included as a provider of any services in a proposal for the project on which it has acted as performance-criteria developer and (b) is not employed by or does not have a financial or other interest in a design-builder or construction manager who will submit a proposal;

(2) Procedures for the preparation and content of requests for proposals;

(3) Procedures and standards to be used to prequalify design-builders and construction managers. The procedures and standards shall provide that the political subdivision will evaluate prospective design-builders and construction managers based on the information submitted to the political subdivision in response to a request for letters of interest and will select design-builders or construction managers who are prequalified and consequently eligible to respond to the request for proposals;

(4) Procedures for preparing and submitting proposals;

(5) Procedures for evaluating proposals in accordance with sections 13-2908, 13-2910, and 13-2911;

(6) Procedures for negotiations between the political subdivision and the design-builders or construction managers submitting proposals prior to the acceptance of a proposal if any such negotiations are contemplated;

(7) Procedures for filing and acting on formal protests relating to the solicitation or execution of design-build contracts or construction management at risk contracts; and

(8) Procedures for the evaluation of construction under a design-build contract by the performance-criteria developer to determine adherence to the performance criteria.

Source: Laws 2002, LB 391, § 5; R.S.1943, (2003), § 79-2005; Laws 2008, LB889, § 5.

Cross References

Nebraska Consultants' Competitive Negotiation Act, see section 81-1702.

13-2906 Letters of interest; requirements.

(1) A political subdivision shall prepare a request for letters of interest for design-build proposals and shall prequalify design-builders in accordance with this section. The request for letters of interest shall describe the project in sufficient detail to permit a design-builder to submit a letter of interest.

(2) The request for letters of interest shall be (a) published in a newspaper of general circulation within the political subdivision at least thirty days prior to the deadline for receiving letters of interest and (b) sent by first-class mail to any design-builder upon request.

(3) Letters of interest shall be reviewed by the political subdivision in consultation with the performance-criteria developer. The political subdivision shall select prospective design-builders in accordance with the procedures and standards adopted by the political subdivision pursuant to section 13-2905. The political subdivision shall select at least three prospective design-builders, except that if only two design-builders have submitted letters of interest, the

political subdivision shall select at least two prospective design-builders. The selected design-builders shall then be considered prequalified and eligible to receive requests for proposals.

Source: Laws 2002, LB 391, § 6; R.S.1943, (2003), § 79-2006; Laws 2008, LB889, § 6.

13-2907 Design-build contract; request for proposals; requirements.

A political subdivision shall prepare a request for proposals for each design-build contract in accordance with this section. Notice of the request for proposals shall be published in a newspaper of general circulation within the political subdivision at least thirty days prior to the deadline for receiving and opening proposals. A notice of the request for proposals by a school district shall be filed with the State Department of Education at least thirty days prior to the deadline for receiving and opening proposals. The request for proposals shall contain, at a minimum, the following elements:

(1) The identity of the political subdivision for which the project will be built and the political subdivision that will execute the design-build contract;

(2) Policies adopted by the political subdivision in accordance with section 13-2905;

(3) The proposed terms and conditions of the design-build contract, including any terms and conditions which are subject to further negotiation. The proposed general terms and conditions shall be consistent with nationally recognized model general terms and conditions which are standard in the design and construction industry in Nebraska. The proposed terms and conditions may set forth an initial determination of the manner by which the design-builder selects any subcontractor and may require that any work subcontracted be awarded by competitive bidding;

(4) A project statement which contains information about the scope and nature of the project;

(5) Project performance criteria;

(6) Budget parameters for the project;

(7) Any bonds and insurance required by law or as may be additionally required by the political subdivision;

(8) The criteria for evaluation of proposals and the relative weight of each criterion;

(9) A requirement that the design-builder provide a written statement of the design-builder's proposed approach to the design and construction of the project, which may include graphic materials illustrating the proposed approach to design and construction but shall not include price proposals;

(10) A requirement that the design-builder agree to the following conditions:

(a) An architect or engineer licensed to practice in Nebraska will participate substantially in those aspects of the offering which involve architectural or engineering services;

(b) At the time of the design-build offering, the design-builder will furnish to the governing body of the political subdivision a written statement identifying the architect or engineer who will perform the architectural or engineering work for the design-build project;

(c) The architect or engineer engaged by the design-builder to perform the architectural or engineering work with respect to the design-build project will have direct supervision of such work and may not be removed by the design-builder prior to the completion of the project without the written consent of the governing body of the political subdivision;

(d) A design-builder offering design-build services with its own employees who are design professionals licensed to practice in Nebraska will (i) comply with the Engineers and Architects Regulation Act by procuring a certificate of authorization to practice architecture or engineering and (ii) submit proof of sufficient professional liability insurance; and

(e) The rendering of architectural or engineering services by a licensed architect or engineer employed by the design-builder will conform to the Engineers and Architects Regulation Act and rules and regulations adopted under the act; and

(11) Other information which the political subdivision chooses to require.

Source: Laws 2002, LB 391, § 7; R.S.1943, (2003), § 79-2007; Laws 2008, LB889, § 7.

Cross References

Engineers and Architects Regulation Act, see section 81-3401.

13-2908 Design-build contract; evaluation of proposals; requirements; negotiations.

(1) A political subdivision shall evaluate proposals for a design-build contract in accordance with this section.

(2) The request for proposals shall be sent only to the prequalified design-builders selected pursuant to section 13-2906.

(3) Design-builders shall submit proposals as required by the request for proposals. The political subdivision may only proceed to negotiate and enter into a design-build contract if there are at least two proposals from prequalified design-builders.

(4) Proposals shall be sealed and shall not be opened until expiration of the time established for making proposals as set forth in the request for proposals.

(5) Proposals may be withdrawn at any time prior to acceptance. The political subdivision shall have the right to reject any and all proposals except for the purpose of evading the provisions and policies of the Political Subdivisions Construction Alternatives Act. The political subdivision may thereafter solicit new proposals using the same or a different project performance criteria.

(6) The political subdivision shall rank in order of preference the design-builders pursuant to the criteria in the request for proposals and taking into consideration the recommendation of the selection committee pursuant to section 13-2911.

(7) The political subdivision may attempt to negotiate a design-build contract with the highest ranked design-builder selected by the political subdivision and may enter into a design-build contract after negotiations. The negotiations shall include a final determination of the manner by which the design-builder selects a subcontractor. If the political subdivision is unable to negotiate a satisfactory design-build contract with the highest ranked design-builder, the political subdivision may terminate negotiations with that design-builder. The political

subdivision may then undertake negotiations with the second highest ranked design-builder and may enter into a design-build contract after negotiations. If the political subdivision is unable to negotiate a satisfactory contract with the second highest ranked design-builder, the political subdivision may undertake negotiations with the third highest ranked design-builder, if any, and may enter into a design-build contract after negotiations.

(8) A school district shall file a copy of all design-build contract documents with the State Department of Education within thirty days after their full execution. Within thirty days after completion of the project, the design-builder shall file a copy of all contract modifications and change orders with the department.

(9) If the political subdivision is unable to negotiate a satisfactory contract with any of the ranked design-builders, the political subdivision may either revise the request for proposals and solicit new proposals or cancel the design-build process under the act.

Source: Laws 2002, LB 391, § 8; R.S.1943, (2003), § 79-2008; Laws 2008, LB889, § 8.

13-2909 Construction management at risk contract; request for proposals; requirements.

A political subdivision shall prepare a request for proposals for each construction management at risk contract in accordance with this section. At least thirty days prior to the deadline for receiving and opening proposals, notice of the request for proposals shall be published in a newspaper of general circulation within the political subdivision. A notice of the request for proposals by a school district shall be filed with the State Department of Education at least thirty days prior to the deadline for receiving and opening proposals. The request for proposals shall contain, at a minimum, the following elements:

(1) The identity of the political subdivision for which the project will be built and the political subdivision that will execute the contract;

(2) Policies adopted by the political subdivision in accordance with section 13-2905;

(3) The proposed terms and conditions of the contract, including any terms and conditions which are subject to further negotiation. The proposed general terms and conditions shall be consistent with nationally recognized model general terms and conditions which are standard in the design and construction industry in Nebraska. The proposed terms and conditions may set forth an initial determination of the manner by which the construction manager selects any subcontractor and may require that any work subcontracted be awarded by competitive bidding;

(4) Any bonds and insurance required by law or as may be additionally required by the political subdivision;

(5) General information about the project which will assist the political subdivision in its selection of the construction manager, including a project statement which contains information about the scope and nature of the project, the project site, the schedule, and the estimated budget;

(6) The criteria for evaluation of proposals and the relative weight of each criterion; and

(7) A description of any other information which the political subdivision chooses to require.

Source: Laws 2002, LB 391, § 9; R.S.1943, (2003), § 79-2009; Laws 2008, LB889, § 9.

13-2910 Construction management at risk contract; evaluation of proposals; requirements; negotiations.

(1) A political subdivision shall evaluate proposals for a construction management at risk contract in accordance with this section.

(2) The political subdivision shall evaluate and rank each proposal on the basis of best meeting the criteria in the request for proposals and taking into consideration the recommendation of the selection committee pursuant to section 13-2911.

(3) The political subdivision shall attempt to negotiate a construction management at risk contract with the highest ranked construction manager and may enter into a construction management at risk contract after negotiations. The negotiations shall include a final determination of the manner by which the construction manager selects a subcontractor. If the political subdivision is unable to negotiate a satisfactory contract with the highest ranked construction manager, the political subdivision may terminate negotiations with that construction manager. The political subdivision may then undertake negotiations with the second highest ranked construction manager and may enter into a construction management at risk contract after negotiations. If the political subdivision is unable to negotiate a satisfactory contract with the second highest ranked construction manager, the political subdivision may undertake negotiations with the third highest ranked construction manager, if any, and may enter into a construction management at risk contract after negotiations.

(4) A school district shall file a copy of all construction management at risk contract documents with the State Department of Education within thirty days after their full execution. Within thirty days after completion of the project, the construction manager shall file a copy of all contract modifications and change orders with the department.

(5) If the political subdivision is unable to negotiate a satisfactory contract with any of the ranked construction managers, the political subdivision may either revise the request for proposals and solicit new proposals or cancel the construction management at risk process under the Political Subdivisions Construction Alternatives Act.

Source: Laws 2002, LB 391, § 10; R.S.1943, (2003), § 79-2010; Laws 2008, LB889, § 10.

13-2911 Contract proposals; evaluation; selection committee; duties.

(1) In evaluating proposals in accordance with sections 13-2908 and 13-2910, the political subdivision shall refer the proposals for recommendation to a selection committee. The selection committee shall be a group of at least five persons designated by the political subdivision. Members of the selection committee shall include (a) members of the governing body of the political subdivision, (b) members of the administration or staff of the political subdivision, (c) the performance-criteria developer when evaluating proposals from design-builders under section 13-2908 or the political subdivision's architect or

engineer when evaluating proposals from construction managers under section 13-2910, (d) any person having special expertise relevant to selection of a design-builder or construction manager under the Political Subdivisions Construction Alternatives Act, and (e) a resident of the political subdivision other than an individual included in subdivisions (a) through (d) of this subsection. A member of the selection committee designated under subdivision (d) or (e) of this subsection shall not be employed by or have a financial or other interest in a design-builder or construction manager who has a proposal being evaluated and shall not be employed by the political subdivision or the performance-criteria developer.

(2) The selection committee and the political subdivision shall evaluate proposals taking into consideration the criteria enumerated in subdivisions (a) through (g) of this subsection with the maximum percentage of total points for evaluation which may be assigned to each criterion set forth following the criterion. The following criteria shall be evaluated, when applicable:

(a) The financial resources of the design-builder or construction manager to complete the project, ten percent;

(b) The ability of the proposed personnel of the design-builder or construction manager to perform, thirty percent;

(c) The character, integrity, reputation, judgment, experience, and efficiency of the design-builder or construction manager, thirty percent;

(d) The quality of performance on previous projects, thirty percent;

(e) The ability of the design-builder or construction manager to perform within the time specified, thirty percent;

(f) The previous and existing compliance of the design-builder or construction manager with laws relating to the contract, ten percent; and

(g) Such other information as may be secured having a bearing on the selection, twenty percent.

(3) The records of the selection committee in evaluating proposals and making recommendations shall be considered public records for purposes of section 84-712.01.

Source: Laws 2002, LB 391, § 11; R.S.1943, (2003), § 79-2011; Laws 2008, LB889, § 11.

13-2912 Contracts; refinements; changes authorized.

A design-build contract and a construction management at risk contract may be conditioned upon later refinements in scope and price and may permit the political subdivision in agreement with the design-builder or construction manager to make changes in the project without invalidating the contract. Later refinements under this section shall not exceed the scope of the project statement contained in the request for proposals pursuant to section 13-2907 or 13-2909.

Source: Laws 2002, LB 391, § 12; R.S.1943, (2003), § 79-2012; Laws 2008, LB889, § 12.

13-2913 Act; bonding or insurance requirements.

Nothing in the Political Subdivisions Construction Alternatives Act shall limit or reduce statutory or regulatory requirements regarding bonding or insurance.

Source: Laws 2002, LB 391, § 13; R.S.1943, (2003), § 79-2013; Laws 2008, LB889, § 13.

13-2914 Road, street, or highway construction projects excluded; water, wastewater, utility, or sewer construction projects permitted.

(1) A political subdivision shall not use a design-build contract or construction management at risk contract under the Political Subdivisions Construction Alternatives Act for a project, in whole or in part, for road, street, or highway construction.

(2) A city of the metropolitan class may use a design-build contract or construction management at risk contract under the Political Subdivisions Construction Alternatives Act for the purpose of complying with state or federal requirements to control or minimize overflows from combined sewers.

(3) A political subdivision may use a design-build contract or construction management at risk contract under the Political Subdivisions Construction Alternatives Act for a project, in whole or in part, for water, wastewater, utility, or sewer construction.

Source: Laws 2008, LB889, § 14; Laws 2019, LB583, § 1; Laws 2021, LB414, § 3.

ARTICLE 30

PEACE OFFICERS

Section
13-3001. Peace officer; production or disclosure of personal financial records; restrictions.
13-3002. Peace officer; release of photograph; restrictions.
13-3003. Peace officer; disciplinary action; inclusion in personnel record; restrictions.
13-3004. Peace officer; exercise of rights; no retaliation.
13-3005. City of first class and county sheriff; adopt rules and regulations governing peace officer removal, suspension, or demotion.

13-3001 Peace officer; production or disclosure of personal financial records; restrictions.

After an applicant is hired by any municipality or county as a peace officer, no municipality or county may require the peace officer to produce or disclose the peace officer's personal financial records except pursuant to a valid search warrant or subpoena. This section does not apply to any municipality or county accredited through the Commission on Accreditation for Law Enforcement Agencies.

Source: Laws 2009, LB158, § 4.

13-3002 Peace officer; release of photograph; restrictions.

No municipality or county shall publicly release a photograph of a peace officer who is the subject of an investigation without the written permission of the peace officer, except that the municipality or county may display a photograph of a peace officer to a prospective witness as part of an investigation and the municipality or county may provide a photograph of a peace officer to the investigating individual to display to a prospective witness as part of the

investigation. This section does not apply to any municipality or county accredited through the Commission on Accreditation for Law Enforcement Agencies.

Source: Laws 2009, LB158, § 5.

13-3003 Peace officer; disciplinary action; inclusion in personnel record; restrictions.

No disciplinary action by any municipality or county may be included in a peace officer's personnel record unless such disciplinary action has been reduced to writing and the peace officer has been given a copy, and no correspondence may be included in a peace officer's personnel record unless the peace officer has been given a copy of the correspondence. The peace officer shall sign a written acknowledgment of receipt for any copy of a disciplinary action. This section does not apply to any municipality or county accredited through the Commission on Accreditation for Law Enforcement Agencies.

Source: Laws 2009, LB158, § 6.

13-3004 Peace officer; exercise of rights; no retaliation.

No peace officer of any municipality or county may be discharged, subject to disciplinary action, or threatened with discharge or disciplinary action as retaliation for or solely by reason of the peace officer's exercise of his or her rights provided in section 17-107, 17-208, or 23-1734 or sections 13-3001 to 13-3004. This section does not apply to any municipality or county accredited through the Commission on Accreditation for Law Enforcement Agencies.

Source: Laws 2009, LB158, § 7.

13-3005 City of first class and county sheriff; adopt rules and regulations governing peace officer removal, suspension, or demotion.

(1) Except as otherwise provided in a collective-bargaining agreement, Chapter 19, article 18, or Chapter 23, article 17, any city of the first class and all county sheriffs shall adopt rules and regulations governing the removal, suspension with or without pay, or demotion of any peace officer, including the chief of police. Such rules and regulations shall include: (a) Provisions for giving notice and a copy of the written accusation to the peace officer; (b) the peace officer's right to have an attorney or representative retained by the peace officer present with him or her at all hearings or proceedings regarding the written accusation; (c) the right of the peace officer or his or her attorney or representative retained by the peace officer to be heard and present evidence; (d) the right of the peace officer as well as the individual imposing the action or their respective attorneys or representatives to record all hearings or proceedings regarding the written accusation; and (e) a procedure for making application for an appeal. Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders.

(2) This section does not apply to a peace officer during his or her probationary period.

Source: Laws 2009, LB158, § 8.

ARTICLE 31

SPORTS ARENA FACILITY FINANCING ASSISTANCE ACT

Section
13-3101. Act, how cited.
13-3102. Terms, defined.
13-3103. State assistance; limitation.
13-3104. Application; contents; board; duties.
13-3105. Public hearing; notice.
13-3106. Application; approval; board; findings; temporary approval; when; board; quorum.
13-3107. Tax Commissioner; duties; Department of Revenue; rules and regulations.
13-3108. Sports Arena Facility Support Fund; created; investment; State Treasurer; duties; state assistance; use.
13-3109. Bonds and refunding bonds; issuance; procedure; security; treatment.

13-3101 Act, how cited.

Sections 13-3101 to 13-3109 shall be known and may be cited as the Sports Arena Facility Financing Assistance Act.

Source: Laws 2010, LB779, § 7.

13-3102 Terms, defined.

For purposes of the Sports Arena Facility Financing Assistance Act:

(1) Applicant means:

(a) A political subdivision; or

(b) A political subdivision and nonprofit organization that jointly submit an application under the act;

(2) Board means a board consisting of the Governor, the State Treasurer, the chairperson of the Nebraska Investment Council, the chairperson of the Nebraska State Board of Public Accountancy, and a professor of economics on the faculty of a state postsecondary educational institution appointed to a two-year term on the board by the Coordinating Commission for Postsecondary Education. For administrative and budget purposes only, the board shall be considered part of the Department of Revenue;

(3) Bond means a general obligation bond, redevelopment bond, lease-purchase bond, revenue bond, or combination of any such bonds;

(4) Court means a rectangular hard surface primarily used indoors for competitive sports, including, but not limited to, basketball, volleyball, or tennis;

(5) Date that the project commenced means the date when a project starts as specified by a contract, resolution, or formal public announcement;

(6) Economic redevelopment area means an area in the State of Nebraska in which:

(a) The average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate by the United States Bureau of the Census is at least one hundred fifty percent of the average rate of unemployment in the state during the same period; and

(b) The average poverty rate in the area is twenty percent or more for the federal census tract in the area;

(7) Eligible sports arena facility means:

(a) Any publicly owned, enclosed, and temperature-controlled building primarily used for sports that has a permanent seating capacity of at least three thousand but no more than seven thousand seats and in which initial occupancy occurs on or after July 1, 2010, including stadiums, arenas, dressing and locker facilities, concession areas, parking facilities, nearby parking facilities for the use of the eligible sports arena facility, and onsite administrative offices connected with operating the facilities;

(b) Any racetrack enclosure licensed by the State Racing and Gaming Commission in which initial occupancy occurs on or after July 1, 2010, including concession areas, parking facilities, and onsite administrative offices connected with operating the racetrack; and

(c) Any sports complex, including concession areas, parking facilities, and onsite administrative offices connected with operating the sports complex;

(8) General obligation bond means any bond or refunding bond issued by a political subdivision and which is payable from the proceeds of an ad valorem tax;

(9) Increase in state sales tax revenue means the amount of state sales tax revenue collected by a nearby retailer during the fiscal year for which state assistance is calculated minus the amount of state sales tax revenue collected by the nearby retailer in the fiscal year that ended immediately preceding the project completion date of the eligible sports arena facility, except that the amount of state sales tax revenue of a nearby retailer shall not be less than zero;

(10) Multipurpose field means a rectangular field of grass or synthetic turf which is primarily used for competitive field sports, including, but not limited to, soccer, football, flag football, lacrosse, or rugby;

(11) Nearby parking facility means any parking lot, parking garage, or other parking structure that is not directly connected to an eligible sports arena facility but which is located, in whole or in part, within seven hundred yards of an eligible sports arena facility, measured from any point of the exterior perimeter of such facility but not from any other parking facility or other structure;

(12) Nearby retailer means a retailer as defined in section 77-2701.32 that is located within the program area. The term includes a subsequent owner of a nearby retailer operating at the same location;

(13) New state sales tax revenue means:

(a) For any eligible sports arena facility that is not a sports complex:

(i) One hundred percent of the state sales tax revenue that (A) is collected by a nearby retailer that commenced collecting state sales tax during the period of time beginning twenty-four months prior to the project completion date of the eligible sports arena facility and ending forty-eight months after the project completion date of the eligible sports arena facility or, for applications for state assistance approved prior to October 1, 2016, forty-eight months after October 1, 2016, and (B) is sourced under sections 77-2703.01 to 77-2703.04 to the program area; and

(ii) The increase in state sales tax revenue that (A) is collected by a nearby retailer that commenced collecting state sales tax prior to twenty-four months

prior to the project completion date of the eligible sports arena facility and (B) is sourced under sections 77-2703.01 to 77-2703.04 to the program area; or

(b) For any eligible sports arena facility that is a sports complex, one hundred percent of the state sales tax revenue that (i) is collected by a nearby retailer that commenced collecting state sales tax during the period of time beginning on the date that the project commenced and ending forty-eight months after the project completion date of the eligible sports arena facility and (ii) is sourced under sections 77-2703.01 to 77-2703.04 to the program area;

(14) Political subdivision means any city, village, or county;

(15) Program area means:

(a) For any eligible sports arena facility that is not a sports complex:

(i) For applications for state assistance submitted prior to October 1, 2016, the area that is located within six hundred yards of an eligible sports arena facility, measured from any point of the exterior perimeter of the facility but not from any parking facility or other structure; or

(ii) For applications for state assistance submitted on or after October 1, 2016, the area that is located within six hundred yards of an eligible sports arena facility, measured from any point of the exterior perimeter of the facility but not from any parking facility or other structure, except that if twenty-five percent or more of such area is unbuildable property, then the program area shall be adjusted so that:

(A) It avoids as much of the unbuildable property as is practical; and

(B) It contains contiguous property with the same total amount of square footage that the program area would have contained had no adjustment been necessary; or

(b) For any eligible sports arena facility that is a sports complex, the area that is located within six hundred yards of an eligible sports arena facility, measured from any point of the exterior boundary or property line of the facility.

Approval of an application for state assistance by the board pursuant to section 13-3106 shall establish the program area as that area depicted in the map accompanying the application for state assistance as submitted pursuant to subdivision (2)(c) of section 13-3104;

(16) Project completion date means:

(a) For projects involving the acquisition or construction of an eligible sports arena facility, the date of initial occupancy of the facility following the completion of such acquisition or construction; or

(b) For all other projects, the date of completion of the project for which state assistance is received;

(17) Revenue bond means any bond or refunding bond issued by a political subdivision which is limited or special rather than a general obligation bond of the political subdivision and which is not payable from the proceeds of an ad valorem tax;

(18) Sports complex means a facility that:

(a) Includes indoor areas, outdoor areas, or both;

(b) Is primarily used for competitive sports; and

(c) Contains at least:

(i) Twelve separate sports venues if such facility is located in a city of the metropolitan class;

(ii) Six separate sports venues if such facility is located in a city of the primary class; or

(iii) Four separate sports venues if such facility is located (A) in a city of the first class, city of the second class, or village, (B) within a county but outside the corporate limits of any city or village, (C) in an economic redevelopment area, or (D) in an opportunity zone designated pursuant to the federal Tax Cuts and Jobs Act, Public Law 115-97;

(19) Sports venue includes, but is not limited to:

(a) A baseball field;

(b) A softball field;

(c) A multipurpose field;

(d) An outdoor stadium primarily used for competitive sports;

(e) An outdoor arena primarily used for competitive sports; or

(f) An enclosed, temperature-controlled building primarily used for competitive sports. If any such building contains more than one multipurpose field, court, swimming pool, or other facility primarily used for competitive sports, then each such multipurpose field, court, swimming pool, or facility shall count as a separate sports venue; and

(20) Unbuildable property means any real property that is located in a floodway, an environmentally protected area, a right-of-way, or a brownfield site as defined in 42 U.S.C. 9601 that the political subdivision determines is not suitable for the construction or location of residential, commercial, or other buildings or facilities.

Source: Laws 2010, LB779, § 8; Laws 2016, LB884, § 6; Laws 2021, LB39, § 2; Laws 2021, LB561, § 46; Laws 2022, LB927, § 6. Effective date July 21, 2022.

13-3103 State assistance; limitation.

(1) Any applicant that has (a) acquired, constructed, improved, or equipped, (b) approved a revenue bond issue or a general obligation bond issue to acquire, construct, improve, or equip, or (c) adopted a resolution authorizing the applicant to pursue a general obligation bond issue to acquire, construct, improve, or equip an eligible sports arena facility may apply to the board for state assistance.

(2) The state assistance shall only be used to pay back amounts expended or borrowed through one or more issues of bonds to be expended by the applicant to acquire, construct, improve, or equip the eligible sports arena facility and to acquire, construct, improve, or equip nearby parking facilities.

(3) For applications for state assistance approved on or after October 1, 2016, no more than fifty percent of the final cost of the project shall be funded by state assistance received pursuant to section 13-3108.

Source: Laws 2010, LB779, § 9; Laws 2016, LB884, § 7; Laws 2021, LB39, § 3; Laws 2022, LB927, § 7.
Effective date July 21, 2022.

13-3104 Application; contents; board; duties.

(1) All applications for state assistance under the Sports Arena Facility Financing Assistance Act shall be in writing and shall include a certified copy of the approving action of the governing body of the applicant describing the proposed project for which state assistance is requested and the anticipated financing.

(2) The application shall contain:

(a) A description of the proposed financing of the project, including the estimated principal and interest requirements for the bonds proposed to be issued in connection with the project or the amounts necessary to repay the original investment by the applicant in the project;

(b) Documentation of local financial commitment to support the project, including all public and private resources pledged or committed to the project and including a copy of any operating agreement or lease with substantial users of the eligible sports arena facility;

(c) For applications submitted on or after October 1, 2016, a map identifying the program area, including any unbuildable property within the program area or taken into account in adjusting the program area as described in subdivision (15)(a)(ii) of section 13-3102; and

(d) Any other project information deemed appropriate by the board.

(3) Upon receiving an application for state assistance, the board shall review the application and notify the applicant of any additional information needed for a proper evaluation of the application.

(4) Any state assistance received pursuant to the act shall be used only for public purposes.

Source: Laws 2010, LB779, § 10; Laws 2016, LB884, § 8; Laws 2021, LB39, § 4; Laws 2022, LB927, § 8.
Effective date July 21, 2022.

13-3105 Public hearing; notice.

(1) After reviewing an application submitted under section 13-3104, the board shall hold a public hearing on the application.

(2) The board shall give notice of the time, place, and purpose of the public hearing by publication three times in a newspaper of general circulation in the area where the political subdivision submitting the application is located. Such publication shall be not less than ten days prior to the hearing. The notice shall describe generally the project for which state assistance has been requested. The applicant shall pay the cost of the notice.

(3) At the public hearing, representatives of the applicant and any other interested persons may appear and present evidence and argument in support of or in opposition to the application or neutral testimony. The board may seek expert testimony and may require testimony of persons whom the board desires to comment on the application. The board may accept additional evidence after conclusion of the public hearing.

Source: Laws 2010, LB779, § 11; Laws 2021, LB39, § 5.

13-3106 Application; approval; board; findings; temporary approval; when; board; quorum.

(1) After consideration of the application and the evidence, if the board finds that the project described in the application is eligible and that state assistance is in the best interest of the state, the application shall be approved, except that an approval of an application submitted because of the requirement in subdivision (1)(c) of section 13-3103 is a temporary approval. If the general obligation bond issue is subsequently approved by the voters of the political subdivision, the approval by the board becomes permanent. If the general obligation bond issue is not approved by such voters, the temporary approval shall become void.

(2) In determining whether state assistance is in the best interest of the state, the board shall consider the fiscal and economic capacity of the applicant to finance the local share of the project.

(3) A majority of the board members constitutes a quorum for the purpose of conducting business. All actions of the board shall be by a majority vote of all the board members, one of whom must be the Governor.

Source: Laws 2010, LB779, § 12; Laws 2016, LB884, § 9; Laws 2021, LB39, § 6.

13-3107 Tax Commissioner; duties; Department of Revenue; rules and regulations.

(1) If an application is approved, the Tax Commissioner shall:

(a) Audit or review audits of the approved eligible sports arena facility to determine the (i) state sales tax revenue collected by retailers doing business at such facility on sales at such facility, (ii) state sales tax revenue collected on primary and secondary box office sales of admissions to such facility, and (iii) new state sales tax revenue collected by nearby retailers;

(b) Certify annually the amount of state sales tax revenue and new state sales tax revenue determined under subdivision (a) of this subsection to the Legislature; and

(c) Determine if more than one facility is eligible for state assistance from state sales tax revenue collected by the same nearby retailers. If the Tax Commissioner has made such a determination, the facility that was first determined to be eligible for state assistance shall be the only facility eligible to receive such funds.

(2) State sales tax revenue collected by retailers that are doing business at an eligible sports arena facility and new state sales tax revenue collected by nearby retailers shall be reported on informational returns developed by the Department of Revenue and provided to any such retailers by the facility. The informational returns shall be submitted to the department by the retailer by the twentieth day of the month following the month the sales taxes are collected. The Tax Commissioner shall use the data from the informational returns and sales tax returns of both such categories of retailers and the sports arena facility for purposes of the Sports Arena Facility Financing Assistance Act.

(3) On or before April 1, 2014, the Tax Commissioner shall certify to the State Treasurer, for each eligible sports arena facility for which state assistance has been approved, the total amount of state sales tax revenue and new state sales tax revenue described in subdivisions (1)(a)(i) through (iii) of this section that was collected from July 1, 2013, through December 31, 2013. The certified amount shall be used for purposes of making the transfer required under

subdivision (2)(a) of section 13-3108 and making the distribution of state assistance described in subsection (4) of section 13-3108.

(4) Beginning in 2014, the Tax Commissioner shall use data from the informational returns and sales tax returns described in subsection (2) of this section to certify quarterly, for each eligible sports arena facility for which state assistance has been approved, the total amount of state sales tax revenue and new state sales tax revenue described in subdivisions (1)(a)(i) through (iii) of this section that was collected in the preceding calendar quarter. The Tax Commissioner shall certify such amount to the State Treasurer within sixty days after the end of each calendar quarter, and such certification shall be used for purposes of making the transfers required under subdivision (2)(b) of section 13-3108 and making the quarterly distributions of state assistance described in subsection (5) of section 13-3108.

(5) The Department of Revenue may adopt and promulgate rules and regulations to carry out the Sports Arena Facility Financing Assistance Act.

Source: Laws 2010, LB779, § 13; Laws 2011, LB210, § 2; Laws 2014, LB867, § 2.

13-3108 Sports Arena Facility Support Fund; created; investment; State Treasurer; duties; state assistance; use.

(1) The Sports Arena Facility Support Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2)(a) Upon receiving the certification described in subsection (3) of section 13-3107, the State Treasurer shall transfer the amount certified to the fund.

(b) Upon receiving the quarterly certification described in subsection (4) of section 13-3107, the State Treasurer shall transfer the amount certified to the fund.

(3)(a) It is the intent of the Legislature to appropriate from the fund money to be distributed as provided in subsections (4) and (5) of this section to any political subdivision for which an application for state assistance under the Sports Arena Facility Financing Assistance Act has been approved an amount not to exceed seventy percent of the (i) state sales tax revenue collected by retailers doing business at eligible sports arena facilities on sales at such facilities, (ii) state sales tax revenue collected on primary and secondary box office sales of admissions to such facilities, and (iii) new state sales tax revenue collected by nearby retailers and sourced under sections 77-2703.01 to 77-2703.04 to the program area.

(b) The amount to be appropriated for distribution as state assistance to a political subdivision under this subsection for any one year after the tenth year shall not exceed the highest such amount appropriated under subdivision (3)(a) of this section during any one year of the first ten years of such appropriation. If seventy percent of the state sales tax revenue as described in subdivision (3)(a) of this section exceeds the amount to be appropriated under this subdivision, such excess funds shall be transferred to the General Fund.

(4) The amount certified under subsection (3) of section 13-3107 shall be distributed as state assistance on or before April 15, 2014.

(5) Beginning in 2014, quarterly distributions and associated transfers of state assistance shall be made. Such quarterly distributions and transfers shall be based on the certifications provided under subsection (4) of section 13-3107 and shall occur within fifteen days after receipt of such certification.

(6) The total amount of state assistance approved for an eligible sports arena facility shall not exceed one hundred million dollars.

(7) State assistance to the political subdivision shall no longer be available upon the retirement of the bonds issued to acquire, construct, improve, or equip the facility or any subsequent bonds that refunded the original issue or when state assistance reaches the amount determined under subsection (6) of this section, whichever comes first.

(8) State assistance shall not be used for an operating subsidy.

(9) The thirty percent of state sales tax revenue remaining after the appropriation and transfer in subsection (3) of this section shall be appropriated by the Legislature and transferred quarterly as follows:

(a) If the revenue relates to an eligible sports arena facility that is a sports complex and that is approved for state assistance under section 13-3106 on or after May 26, 2021, eighty-three percent of such revenue shall be transferred to the Support the Arts Cash Fund and seventeen percent of such revenue shall be transferred to the Convention Center Support Fund; and

(b) If the revenue relates to any other eligible sports arena facility, such revenue shall be transferred to the Civic and Community Center Financing Fund.

(10) Except as provided in subsection (11) of this section for a city of the primary class, any municipality that has applied for and received a grant of assistance under the Civic and Community Center Financing Act shall not receive state assistance under the Sports Arena Facility Financing Assistance Act for the same project for which the grant was awarded under the Civic and Community Center Financing Act.

(11) A city of the primary class shall not be eligible to receive a grant of assistance from the Civic and Community Center Financing Act if the city has applied for and received a grant of assistance under the Sports Arena Facility Financing Assistance Act.

Source: Laws 2010, LB779, § 14; Laws 2011, LB297, § 9; Laws 2012, LB426, § 2; Laws 2014, LB867, § 3; Laws 2015, LB170, § 1; Laws 2016, LB884, § 10; Laws 2021, LB39, § 7; Laws 2022, LB927, § 9.
Effective date July 21, 2022.

Cross References

Civic and Community Center Financing Act, see section 13-2701.
Nebraska Capital Expansion Act, see section 72-1269.
Nebraska State Funds Investment Act, see section 72-1260.

13-3109 Bonds and refunding bonds; issuance; procedure; security; treatment.

(1) A political subdivision that applies for state assistance under the Sports Arena Facility Financing Assistance Act may issue from time to time its bonds and refunding bonds to finance and refinance the acquisition, construction, improving, and equipping of eligible sports arena facilities. The bonds may be

sold by the political subdivision in such manner and for such price as the political subdivision determines, at a discount, at par, or at a premium, at private negotiated sale or at public sale, after notice published prior to the sale in a legal newspaper having general circulation in the political subdivision or in such other medium of publication as the political subdivision deems appropriate. The bonds shall have a stated maturity of twenty years or less and shall bear interest at such rate or rates and otherwise be issued in accordance with the respective procedures and with such other terms and provisions as are established, permitted, or authorized by applicable state laws and home rule charters for the type of bonds to be issued. Such bonds may be secured as to payment in whole or in part by a pledge, as shall be determined by the political subdivision, from the income, proceeds, and revenue of the eligible sports arena facilities financed with proceeds of such bonds, from the income, proceeds, and revenue of any of its eligible sports arena facilities, or from its revenue and income, including its sales, use, or occupation tax revenue, fees, or receipts, as may be determined by the political subdivision. The political subdivision may further secure the bonds by a mortgage or deed of trust encumbering all or any portion of the eligible sports arena facilities and by a bond insurance policy or other credit support facility. No general obligation bonds, except refunding bonds, shall be issued until authorized by greater than fifty percent of the political subdivision's electors voting on the question as to their issuance at any election as defined in section 32-108. The face of the bonds shall plainly state that the bonds and the interest thereon shall not constitute nor give rise to an indebtedness, obligation, or pecuniary liability of the state nor a charge against the general credit, revenue, or taxing power of the state. Bonds of the political subdivision are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all state income taxes.

(2) All payments to political subdivisions under the Sports Arena Facility Financing Assistance Act are made subject to specific appropriation for such purpose.

Source: Laws 2010, LB779, § 15; Laws 2021, LB39, § 8.

ARTICLE 32

PROPERTY ASSESSED CLEAN ENERGY ACT

Section

13-3201. Act, how cited.
13-3202. Legislative findings.
13-3203. Terms, defined.
13-3204. Clean energy assessment district; creation; procedures; governing body; public hearing; notice; ordinance; resolution; contents; assessment contracts.
13-3205. Assessment contract; contents; recorded with register of deeds; municipality; duties; annual assessments; copy to county assessor and register of deeds.
13-3206. Annual assessment; PACE lien; notice of lien; contents; priority; sale of property; use of proceeds; release of lien; recording.
13-3207. Municipality; raise capital; sources; bonds; issuance; statutory lien; vote; when required.
13-3208. Loss reserve fund; created; funding; use.
13-3209. Debt service reserve fund.
13-3210. Use of Interlocal Cooperation Act; public hearing; contract authorized.
13-3211. Report; required, when; contents.

13-3201 Act, how cited.

Sections 13-3201 to 13-3211 shall be known and may be cited as the Property Assessed Clean Energy Act.

Source: Laws 2016, LB1012, § 1; R.S.Supp.,2016, § 18-3201; Laws 2017, LB625, § 1.

13-3202 Legislative findings.

The Legislature finds that:

(1) Energy efficiency and the use of renewable energy are important for preserving the health and economic well-being of Nebraska's citizens. Using less energy decreases the cost of living and keeps the cost of public power low by delaying the need for additional power plants. By building the market for energy efficiency and renewable energy products, economic development will be encouraged and new jobs will be created for Nebraskans in the energy efficiency and renewable energy job sectors;

(2) To further these goals, the state should promote energy efficiency improvements and renewable energy systems;

(3) The upfront costs for energy efficiency improvements and renewable energy systems prohibit many property owners from making improvements. Therefore, it is necessary to authorize municipalities to implement an alternative financing method through the creation of clean energy assessment districts; and

(4) Public purposes will be served by providing municipalities with the authority to finance the installation of energy efficiency improvements and renewable energy systems through the creation of clean energy assessment districts. Such public purposes include, but are not limited to, reduced energy and water costs, reduced greenhouse gas emissions, economic stimulation and development, improved property valuation, and increased employment.

Source: Laws 2016, LB1012, § 2; R.S.Supp.,2016, § 18-3202; Laws 2017, LB625, § 2; Laws 2019, LB23, § 1.

13-3203 Terms, defined.

For purposes of the Property Assessed Clean Energy Act:

(1) Assessment contract means a contract entered into between a municipality, a property owner, and, if applicable, a third-party lender under which the municipality agrees to provide financing for an energy project in exchange for a property owner's agreement to pay an annual assessment for a period not to exceed the weighted average useful life of the energy project;

(2) Clean energy assessment district means a district created by a municipality to provide financing for energy projects;

(3) Energy efficiency improvement means any acquisition, installation, or modification benefiting publicly or privately owned property that is designed to reduce the electric, gas, water, or other utility demand or consumption of the buildings on or to be constructed on such property or to promote the efficient and effective management of natural resources or storm water, including, but not limited to:

(a) Insulation in walls, roofs, floors, foundations, or heating and cooling distribution systems;

(b) Storm windows and doors; multiglazed windows and doors; heat-absorbing or heat-reflective glazed and coated window and door systems; and additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(c) Automated energy control systems;

(d) Heating, ventilating, or air conditioning and distribution system modifications or replacements;

(e) Caulking, weatherstripping, and air sealing;

(f) Replacement or modification of lighting fixtures to reduce the energy use of the lighting system;

(g) Energy recovery systems, including, but not limited to, cogeneration and trigeneration systems;

(h) Daylighting systems;

(i) Installation or upgrade of electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity;

(j) Facilities providing for water conservation or pollutant control;

(k) Roofs designed to reduce energy consumption or support additional loads necessitated by other energy efficiency improvements;

(l) Installation of energy-efficient fixtures, including, but not limited to, water heating systems, escalators, and elevators;

(m) Energy efficiency related items so long as the cost of the energy efficiency related items financed by the municipality does not exceed twenty-five percent of the total cost of the energy project; and

(n) Any other installation or modification of equipment, devices, or materials approved as a utility cost-saving measure by the municipality;

(4) Energy efficiency related item means any repair, replacement, improvement, or modification to real property that is necessary or desirable in conjunction with an energy efficiency improvement, including, but not limited to, structural support improvements and the repair or replacement of any building components, paved surfaces, or fixtures disrupted or altered by the installation of an energy efficiency improvement;

(5) Energy project means the installation or modification of an energy efficiency improvement or the acquisition, installation, or improvement of a renewable energy system;

(6) Municipality means any county, city, or village in this state;

(7) Qualifying property means any of the following types of property located within a municipality:

(a) Agricultural property;

(b) Commercial property, including multifamily residential property comprised of more than four dwelling units;

(c) Industrial property; or

(d) Single-family residential property, which may include up to four dwelling units;

(8)(a) Renewable energy resource means a resource that naturally replenishes over time and that minimizes the output of toxic material in the conversion to energy. Renewable energy resource includes, but is not limited to, the following:

(i) Nonhazardous biomass;

(ii) Solar and solar thermal energy;

(iii) Wind energy;

(iv) Geothermal energy;

(v) Methane gas captured from a landfill or elsewhere; and

(vi) Photovoltaic systems; and

(b) Renewable energy resource does not include petroleum, nuclear power, natural gas, coal, or hazardous biomass; and

(9) Renewable energy system means a fixture, product, device, or interacting group of fixtures, products, or devices on the customer's side of the meter that uses one or more renewable energy resources to generate electricity. Renewable energy system includes a biomass stove but does not include an incinerator.

Source: Laws 2016, LB1012, § 3; R.S.Supp.,2016, § 18-3203; Laws 2017, LB625, § 3; Laws 2019, LB23, § 2.

13-3204 Clean energy assessment district; creation; procedures; governing body; public hearing; notice; ordinance; resolution; contents; assessment contracts.

(1) Pursuant to the procedures provided in this section, a municipality may, from time to time, create one or more clean energy assessment districts. Such districts may be separate, overlapping, or coterminous and may be created anywhere within the municipality or its extraterritorial zoning jurisdiction, except that a county shall not create a district that includes any area within the corporate boundaries or extraterritorial zoning jurisdiction of any city or village located in whole or in part within such county. The governing body of the municipality shall be the governing body for any district so created.

(2) Prior to creating any clean energy assessment district, the municipality shall hold a public hearing at which the public may comment on the creation of such district. Notice of the public hearing shall be given by publication in a legal newspaper in or of general circulation in the municipality at least ten days prior to the hearing.

(3) After the public hearing, the municipality may create a clean energy assessment district by ordinance or, for counties, by resolution. The ordinance or resolution shall include:

(a) A finding that the financing of energy projects is a valid public purpose;

(b) A contract form to be used for assessment contracts between the municipality, the owner of the qualifying property, and, if applicable, a third-party lender governing the terms and conditions of financing and annual assessments;

(c) Identification of an official authorized to enter into assessment contracts on behalf of the municipality;

(d) An application process and eligibility requirements for financing energy projects;

(e) An explanation of how annual assessments will be made and collected;

(f) For energy projects involving residential property, a requirement that any interest rate on assessment installments must be a fixed rate;

(g) For energy projects involving residential property, a requirement that the repayment period for assessments must be according to a fixed repayment schedule;

(h) Information regarding the following, to the extent known, or procedures to determine the following in the future:

(i) Provisions for an adequate debt service reserve fund created under section 13-3209, if applicable;

(ii) Provisions for an adequate loss reserve fund created under section 13-3208; and

(iii) Any application, administration, or other program fees to be charged to owners participating in the program that will be used to finance costs incurred by the municipality as a result of the program;

(i) A requirement that the term of the annual assessments not exceed the weighted average useful life of the energy project paid for by the annual assessments;

(j) A requirement that any energy efficiency improvement that is not permanently affixed to the qualifying property upon which an annual assessment is imposed to repay the cost of such energy efficiency improvement must be conveyed with the qualifying property if a transfer of ownership of the qualifying property occurs;

(k) A requirement that, prior to the effective date of any contract that binds the purchaser to purchase qualifying property upon which an annual assessment is imposed, the owner shall provide notice to the purchaser that the purchaser assumes responsibility for payment of the annual assessment as provided in subdivision (3)(d) of section 13-3205;

(l) Provisions for marketing and participant education;

(m) A requirement that the municipality obtain verification that the renewable energy system or energy efficiency improvement was properly installed and is operating as intended; and

(n) A requirement that the clean energy assessment district, with respect to single-family residential property, comply with the Property Assessed Clean Energy Act and with directives or guidelines issued by the Federal Housing Administration and the Federal Housing Finance Agency on or after January 1, 2016, relating to property assessed clean energy financing.

Source: Laws 2016, LB1012, § 4; R.S.Supp.,2016, § 18-3204; Laws 2017, LB625, § 4; Laws 2019, LB23, § 3.

13-3205 Assessment contract; contents; recorded with register of deeds; municipality; duties; annual assessments; copy to county assessor and register of deeds.

(1) After passage of an ordinance or resolution under section 13-3204, a municipality may enter into an assessment contract with the record owner of qualifying property within a clean energy assessment district and, if applicable, with a third-party lender to finance an energy project on the qualifying property. The costs financed under the assessment contract may include the

cost of materials and labor necessary for installation, permit fees, inspection fees, application and administrative fees, bank fees, and all other fees incurred by the owner pursuant to the installation. The assessment contract shall provide for the repayment of all such costs through annual assessments upon the qualifying property benefited by the energy project. A municipality may not impose an annual assessment under the Property Assessed Clean Energy Act unless such annual assessment is part of an assessment contract entered into under this section.

(2) Before entering into an assessment contract with an owner and, if applicable, a third-party lender under this section, the municipality shall verify:

(a) In all cases involving qualifying property other than single-family residential property, that the owner has obtained an acknowledged and verified written consent and subordination agreement executed by each mortgage holder or trust deed beneficiary stating that the mortgagee or beneficiary consents to the imposition of the annual assessment and that the priority of the mortgage or trust deed is subordinated to the PACE lien established in section 13-3206. The consent and subordination agreement shall be in a form and substance acceptable to each mortgagee or beneficiary and shall be recorded in the office of the register of deeds of the county in which the qualifying property is located;

(b) That there are no delinquent taxes, special assessments, water or sewer charges, or any other assessments levied on the qualifying property; that there are no involuntary liens, including, but not limited to, construction liens, on the qualifying property; and that the owner of the qualifying property is current on all debt secured by a mortgage or trust deed encumbering or otherwise securing the qualifying property;

(c) That there are no delinquent annual assessments on the qualifying property which were imposed to pay for a different energy project under the Property Assessed Clean Energy Act; and

(d) That there are sufficient resources to complete the energy project and that the energy project creates an estimated economic benefit, including, but not limited to, energy and water cost savings, maintenance cost savings, and other property operating savings expected during the financing period, which is equal to or greater than the principal cost of the energy project. The estimated economic benefit may be derived from federal, state, or third-party engineer certifications or from standards of energy or water savings associated with a particular energy efficiency improvement or set of energy efficiency improvements. A municipality may waive the requirements of this subdivision upon request of the owner of the qualifying property, and, if such request is denied, the owner may appeal the denial as provided by the ordinance or resolution adopted pursuant to section 13-3204 or as otherwise provided by local ordinance or resolution.

(3) Upon completion of the verifications required under subsection (2) of this section, an assessment contract may be executed by the municipality, the owner of the qualifying property, and, if applicable, a third-party lender and shall provide:

(a) A description of the energy project, including the estimated cost of the energy project and a description of the estimated savings prepared in accordance with standards acceptable to the municipality;

(b) A mechanism for:

(i) Verifying the final costs of the energy project upon its completion; and

(ii) Ensuring that any amounts advanced, financed, or otherwise paid by the municipality toward the costs of the energy project will not exceed the final cost of the energy project;

(c) An agreement by the property owner to pay annual assessments for a period not to exceed the weighted average useful life of the energy project;

(d) A statement that the obligations set forth in the assessment contract, including the obligation to pay annual assessments, are a covenant that shall run with the land and be obligations upon future owners of the qualifying property; and

(e) An acknowledgment that no subdivision of qualifying property subject to the assessment contract shall be valid unless the assessment contract or an amendment to such contract divides the total annual assessment due between the newly subdivided parcels pro rata to the special benefit realized by each subdivided parcel.

(4) The total annual assessments levied against qualifying property under an assessment contract shall not exceed the sum of the cost of the energy project, including any energy audits or inspections or portion thereof financed by the municipality, plus such administration fees, interest, and other financing costs reasonably required by the municipality.

(5) Nothing in the Property Assessed Clean Energy Act shall be construed to prevent a municipality from entering into more than one assessment contract with respect to a single parcel of real property so long as each assessment contract relates to a separate energy project and subdivision (2)(c) of this section is not violated.

(6) The municipality shall provide a copy of each signed assessment contract to the county assessor and register of deeds of the county in which the qualifying property is located, and the register of deeds shall record the assessment contract with the qualifying property.

(7) Annual assessments agreed to under an assessment contract shall be levied against the qualifying property and collected at the same time and in the same manner as property taxes are levied and collected, except that an assessment contract for qualifying property other than single-family residential property may allow third-party lenders to collect annual assessments directly from the owner of the qualifying property in a manner prescribed in the assessment contract. Any third-party lender collecting annual assessments directly from the owner of the qualifying property shall notify the municipality within three business days if an annual assessment becomes delinquent.

(8) Collection of annual assessments shall only be sought from the original owners or subsequent purchasers of qualifying property subject to an assessment contract.

Source: Laws 2016, LB1012, § 5; R.S.Supp.,2016, § 18-3205; Laws 2017, LB625, § 5; Laws 2019, LB23, § 4.

13-3206 Annual assessment; PACE lien; notice of lien; contents; priority; sale of property; use of proceeds; release of lien; recording.

(1)(a) For qualifying property other than single-family residential property, any annual assessment imposed on such qualifying property that becomes delinquent, including any interest on the annual assessment and any penalty,

shall constitute a PACE lien against the qualifying property on which the annual assessment is imposed until the annual assessment, including any interest and penalty, is paid in full. Any annual assessment that is not paid within the time period set forth in the assessment contract shall be considered delinquent. The municipality shall, within fourteen days after an annual assessment becomes delinquent, record a notice of such lien in the office of the register of deeds of the county in which the qualifying property is located.

(b) For qualifying property that is single-family residential property, all annual assessments imposed on such qualifying property, including any interest on the annual assessments and any penalty, shall, upon the initial annual assessment, constitute a PACE lien against the qualifying property on which the annual assessments are imposed until all annual assessments, including any interest and penalty, are paid in full. Any annual assessment that is not paid within the time period set forth in the assessment contract shall be considered delinquent. The municipality shall, upon imposition of the initial annual assessment, record a notice of such lien in the office of the register of deeds of the county in which the qualifying property is located.

(2) A notice of lien filed under this section shall, at a minimum, include:

(a) The amount of funds disbursed or to be disbursed pursuant to the assessment contract;

(b) The names and addresses of the current owners of the qualifying property subject to the annual assessment;

(c) The legal description of the qualifying property subject to the annual assessment;

(d) The duration of the assessment contract; and

(e) The name and address of the municipality filing the notice of lien.

(3) The PACE lien created under this section shall:

(a) For qualifying property that is single-family residential property, (i) be subordinate to all liens on the qualifying property recorded prior to the time the notice of the PACE lien is recorded, (ii) be subordinate to a first mortgage or trust deed on the qualifying property recorded after the notice of the PACE lien is recorded, and (iii) have priority over any other lien on the qualifying property recorded after the notice of the PACE lien is recorded; and

(b) For qualifying property other than single-family residential property and subject to the requirement in subdivision (2)(a) of section 13-3205 to obtain and record an executed consent and subordination agreement, have the same priority and status as real property tax liens.

(4)(a) Notwithstanding any other provision of law, in the event of a sale pursuant to a foreclosure or a sale pursuant to the exercise of a power of sale under a trust deed relating to qualifying property that is single-family residential property, the holders of any mortgages, trust deeds, or other liens, including delinquent annual assessments secured by PACE liens, shall receive proceeds in accordance with the priorities established under subdivision (3)(a) of this section. In the event there are insufficient proceeds from such a sale, from the loss reserve fund established pursuant to section 13-3208, or from any other means to satisfy the delinquent annual assessments, such delinquent annual assessments shall be extinguished. Any annual assessment that has not yet become delinquent shall not be accelerated or extinguished in the event of a sale pursuant to a foreclosure or a sale pursuant to the exercise of a power of

sale under a trust deed relating to qualifying property that is single-family residential property. Upon the transfer of ownership of qualifying property that is single-family residential property, including a sale pursuant to a foreclosure or a sale pursuant to the exercise of a power of sale under a trust deed, the nondelinquent annual assessments shall continue as a lien on the qualifying property, subject to the priorities established under subdivision (3)(a) of this section.

(b) Upon the transfer of ownership of qualifying property other than single-family residential property, including a sale pursuant to a foreclosure or a sale pursuant to the exercise of a power of sale under a trust deed, the obligation to pay annual assessments shall run with the qualifying property.

(5)(a) For qualifying property other than single-family residential property, when the delinquent annual assessment, including any interest and penalty, is paid in full, a release of the PACE lien shall be recorded in the office of the register of deeds of the county in which the notice of the PACE lien was recorded.

(b) For qualifying property that is single-family residential property, when all annual assessments, including any interest and penalty, are paid in full, a release of the PACE lien shall be recorded in the office of the register of deeds of the county in which the notice of the PACE lien was recorded.

(6) If the holder or loan servicer of any existing mortgage or trust deed that encumbers or that is otherwise secured by the qualifying property has established a payment schedule or escrow account to accrue property taxes or insurance, such holder or loan servicer may increase the required monthly payment, if any, by an amount necessary to pay the annual assessment imposed under the Property Assessed Clean Energy Act.

Source: Laws 2016, LB1012, § 6; R.S.Supp.,2016, § 18-3206; Laws 2017, LB625, § 6.

13-3207 Municipality; raise capital; sources; bonds; issuance; statutory lien; vote; when required.

(1) A municipality may raise capital to finance energy projects undertaken pursuant to an assessment contract entered into under the Property Assessed Clean Energy Act. Such capital may come from any of the following:

(a) The sale of bonds;

(b) Amounts to be advanced by the municipality through funds available to it from any other source; or

(c) Third-party lending.

(2) Bonds issued under subsection (1) of this section shall not be general obligations of the municipality, shall be nonrecourse, and shall not be backed by the full faith and credit of the issuer, the municipality, or the state, but shall only be secured by payments of annual assessments by owners of qualifying property within the clean energy assessment district or districts specified who are subject to an assessment contract under section 13-3205.

(3) Any single bond issuance by a municipality for purposes of the Property Assessed Clean Energy Act shall not exceed five million dollars without a vote of the registered voters of such municipality.

(4) A pledge of annual assessments, funds, or contractual rights made in connection with the issuance of bonds by a municipality constitutes a statutory lien on the annual assessments, funds, or contractual rights so pledged in favor of the person or persons to whom the pledge is given without further action by the municipality. The statutory lien is valid and binding against all other persons, with or without notice.

(5) Bonds of one series issued under the Property Assessed Clean Energy Act may be secured on a parity with bonds of another series issued by the municipality pursuant to the terms of a master indenture or master resolution entered into or adopted by the municipality.

(6) Bonds issued under the act, and interest payable on such bonds, are exempt from all taxation by this state and its political subdivisions.

(7) Bonds issued under the act further essential public and governmental purposes, including, but not limited to, reduced energy costs, reduced greenhouse gas emissions, economic stimulation and development, improved property valuation, and increased employment.

(8) The Property Assessed Clean Energy Act shall not be used to finance an energy project on qualifying property owned by a municipality or any other political subdivision of the State of Nebraska without having first been approved by a vote of the registered voters of such municipality or political subdivision owning the qualifying property. Such vote shall be taken at a special election called for such purpose or at an election held in conjunction with a statewide or local primary or general election.

Source: Laws 2016, LB1012, § 7; R.S.Supp.,2016, § 18-3207; Laws 2017, LB625, § 7.

13-3208 Loss reserve fund; created; funding; use.

(1) A municipality that has created a clean energy assessment district shall create a loss reserve fund for:

(a) The payment of any delinquent annual assessments for qualifying property that is single-family residential property in the event that there is a sale pursuant to a foreclosure or a sale pursuant to the exercise of a power of sale under a trust deed of such qualifying property and the proceeds resulting from such a sale are, after all superior liens have been satisfied, insufficient to pay the delinquent annual assessments. Payments from the loss reserve fund under this subdivision may only be made with respect to delinquent annual assessments imposed upon qualifying property that is single-family residential property, with no more than one such payment to be made for the same qualifying property; and

(b) The payment of annual assessments imposed upon qualifying property that is single-family residential property subsequent to a sale pursuant to a foreclosure or a sale pursuant to the exercise of a power of sale under a trust deed in which the mortgagee or beneficiary becomes the owner of such qualifying property. Payments from the loss reserve fund under this subdivision may only be made with respect to annual assessments imposed upon qualifying property that is single-family residential property subsequent to the date on which the mortgagee or beneficiary became the owner of such qualifying property and until the qualifying property is conveyed by the mortgagee or

beneficiary, with no more than one such payment to be made for the same qualifying property.

(2) The loss reserve fund may be funded by state and federal sources, the proceeds of bonds issued pursuant to the Property Assessed Clean Energy Act, third-party capital, and participating property owners. The loss reserve fund shall only be used to provide payment of annual assessments as provided in this section and for the costs of administering the loss reserve fund.

(3) The loss reserve fund shall not be funded by, and payment of annual assessments and costs of administering the loss reserve fund shall not be made from, the general fund of any municipality.

Source: Laws 2016, LB1012, § 8; R.S.Supp.,2016, § 18-3208; Laws 2017, LB625, § 8.

13-3209 Debt service reserve fund.

A municipality that has created a clean energy assessment district may create a debt service reserve fund to be used as security for capital raised under section 13-3207.

Source: Laws 2016, LB1012, § 9; R.S.Supp.,2016, § 18-3209; Laws 2017, LB625, § 9.

13-3210 Use of Interlocal Cooperation Act; public hearing; contract authorized.

(1) Two or more municipalities may enter into an agreement pursuant to the Interlocal Cooperation Act to jointly create, administer, or create and administer clean energy assessment districts. Notwithstanding subsection (1) of section 13-3204, the following provisions shall apply to jointly created districts:

(a) Such districts may be separate, overlapping, or coterminous and may be created anywhere within the municipalities that entered into the agreement or within their extraterritorial zoning jurisdictions, except that such districts shall not include any area within the corporate boundaries or extraterritorial zoning jurisdiction of any city or village unless such city or village is one of the municipalities that entered into the agreement; and

(b) The agreement shall provide for a governing body for any such district, which shall be made up of members of the governing bodies of the municipalities that entered into the agreement.

(2) If the creation of clean energy assessment districts is implemented jointly by two or more municipalities, a single public hearing held jointly by the cooperating municipalities is sufficient to satisfy the requirements of subsection (2) of section 13-3204.

(3) A municipality or municipalities may contract with a third party for the administration of clean energy assessment districts.

Source: Laws 2016, LB1012, § 10; R.S.Supp.,2016, § 18-3210; Laws 2017, LB625, § 10; Laws 2019, LB124, § 1.

Cross References

Interlocal Cooperation Act, see section 13-801.

13-3211 Report; required, when; contents.

(1) Except as provided in subsection (3) of this section, any municipality that creates a clean energy assessment district under the Property Assessed Clean Energy Act shall, on or before January 31 of each year, electronically submit a report to the Urban Affairs Committee of the Legislature on the following:

(a) The number of clean energy assessment districts in the municipality and their location;

(b) The total dollar amount of energy projects undertaken pursuant to the act;

(c) The total dollar amount of outstanding bonds issued under the act;

(d) The total dollar amount of annual assessments collected as of the end of the most recently completed calendar year and the total amount of annual assessments yet to be collected pursuant to assessment contracts signed under the act; and

(e) A description of the types of energy projects undertaken pursuant to the act.

(2) If a clean energy assessment district is administered jointly by two or more municipalities, a single report submission by the cooperating municipalities is sufficient to satisfy the requirements of subsection (1) of this section.

(3) This section shall not apply to any municipality that has created a clean energy assessment district but does not have any active energy projects pursuant to the act.

Source: Laws 2016, LB1012, § 11; R.S.Supp.,2016, § 18-3211; Laws 2017, LB625, § 11; Laws 2021, LB265, § 1.

ARTICLE 33

MUNICIPAL INLAND PORT AUTHORITY ACT

Section

13-3301. Act, how cited.
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13-3312. Board; subject to Open Meetings Act and public records provisions.
13-3313. Inland port authority; dissolution; procedure.

13-3301 Act, how cited.

Sections 13-3301 to 13-3313 shall be known and may be cited as the Municipal Inland Port Authority Act.

Source: Laws 2021, LB156, § 1; Laws 2022, LB998, § 1.
Effective date April 19, 2022.

13-3302 Legislative findings and declarations.

The Legislature finds and declares as follows:

(1) Nebraska is ideally situated as a potential industrial and logistical hub for multiple industries across the rest of the country. The state is home to major railroads and trucking firms, and is within a two-day drive to major cities on the east coast, west coast, Mexico, and Canada;

(2) Increasingly, major companies looking to locate their headquarters or expand operations seek large shovel-ready commercial and industrial sites, commonly referred to as mega sites;

(3) Nebraska currently lacks the economic development tools necessary to acquire and develop large shovel-ready commercial and industrial sites, and the creation of one or more inland port authorities in Nebraska could serve as a mechanism to develop such sites; and

(4) In addition to the development of large shovel-ready commercial and industrial sites, the creation of one or more inland port authorities could serve as a regional merging point for multi-modal transportation and distribution of goods to and from ports and other locations in other regions.

Source: Laws 2021, LB156, § 2.

13-3303 Terms, defined.

For purposes of the Municipal Inland Port Authority Act:

(1) Board means the board of commissioners of an inland port authority;

(2) City means any city of the metropolitan class, city of the primary class, or city of the first class which contains an area eligible to be designated as an inland port district;

(3) Direct financial benefit means any form of financial benefit that accrues to an individual directly, including compensation, commission, or any other form of a payment or increase of money, or an increase in the value of a business or property. Direct financial benefit does not include a financial benefit that accrues to the public generally;

(4) Family member means a spouse, parent, sibling, child, or grandchild;

(5) Inland port authority means an authority created by a city, county, or a city and one or more counties under the Municipal Inland Port Authority Act to manage an inland port district;

(6) Inland port district means an area within the corporate boundaries or extraterritorial zoning jurisdiction or both of a city, within the boundaries of one or more counties, or within both the corporate boundaries or extraterritorial zoning jurisdiction or both of a city and the boundaries of one or more counties, and which meets at least two of the following criteria:

(a) Is located within one mile of a navigable river or other navigable waterway;

(b) Is located within one mile of a major rail line;

(c) Is located within two miles of any portion of the federally designated National System of Interstate and Defense Highways or any other four-lane divided highway; or

(d) Is located within two miles of a major airport;

(7) Intermodal facility means a hub or other facility for trade combining any combination of rail, barge, trucking, air cargo, or other transportation services;

(8) Major airport means an airport with commercial service as defined by the Federal Aviation Administration;

(9) Major rail line means a rail line that is accessible to a Class I railroad as defined by the federal Surface Transportation Board; and

(10) Nonprofit economic development corporation means a chamber of commerce or other mutual benefit or public benefit corporation organized under the Nebraska Nonprofit Corporation Act to assist economic development.

Source: Laws 2021, LB156, § 3; Laws 2022, LB998, § 2.
Effective date April 19, 2022.

Cross References

Nebraska Nonprofit Corporation Act, see section 21-1901.

13-3304 Inland port authority; creation; limitation; criteria; certification; procedure.

(1) Any city which encompasses an area greater than three hundred acres eligible to be designated as an inland port district may propose to create an inland port authority by ordinance, subject to the cap on the total number of inland port districts provided in subsection (4) of this section. In determining whether to propose the creation of an inland port authority, the city shall consider the following criteria:

(a) The desirability and economic feasibility of locating an inland port district within the corporate boundaries, extraterritorial zoning jurisdiction, or both of the city;

(b) The technical and economic capability of the city and any other public and private entities to plan and carry out development within the proposed inland port district;

(c) The strategic location of the proposed inland port district in proximity to existing and potential transportation infrastructure that is conducive to facilitating regional, national, and international trade and the businesses and facilities that promote and complement such trade;

(d) The potential impact that development of the proposed inland port district will have on the immediate area; and

(e) The regional and statewide economic impact of development of the proposed inland port district.

(2) Any city and one or more counties in which a city of the metropolitan class, city of the primary class, or city of the first class is located, or in which the extraterritorial zoning jurisdiction of such city is located, which encompass an area greater than three hundred acres eligible to be designated as an inland port district may enter into an agreement pursuant to the Interlocal Cooperation Act to propose joint creation of an inland port authority, subject to the cap on the total number of inland port districts provided in subsection (4) of this section. In determining whether to propose the creation of an inland port authority, the city and counties shall consider the following criteria:

(a) The desirability and economic feasibility of locating an inland port district within the corporate boundaries or extraterritorial zoning jurisdiction or both of the city, or within both the corporate boundaries or extraterritorial zoning jurisdiction or both of a city and the boundaries of one or more counties;

(b) The technical and economic capability of the city and county or counties and any other public and private entities to plan and carry out development within the proposed inland port district;

(c) The strategic location of the proposed inland port district in proximity to existing and potential transportation infrastructure that is conducive to facilitating regional, national, and international trade and the businesses and facilities that promote and complement such trade;

(d) The potential impact that development of the proposed inland port district will have on the immediate area; and

(e) The regional and statewide economic impact of development of the proposed inland port district.

(3) Any county with a population greater than twenty thousand inhabitants according to the most recent federal census or the most recent revised certified count by the United States Bureau of the Census which encompasses an area greater than three hundred acres eligible to be designated as an inland port district may propose to create an inland port authority by resolution, subject to the cap on the total number of inland port districts provided in subsection (4) of this section. In determining whether to propose the creation of an inland port authority, the county shall consider the following criteria:

(a) The desirability and economic feasibility of locating an inland port district within the county;

(b) The technical and economic capability of the county and any other public or private entities to plan and carry out development within the proposed inland port district;

(c) The strategic location of the proposed inland port district in proximity to existing and potential transportation infrastructure that is conducive to facilitating regional, national, and international trade and the businesses and facilities that promote and complement such trade;

(d) The potential impact that development of the proposed inland port district will have on the immediate area; and

(e) The regional and statewide economic impact of development of the proposed inland port district.

(4) No more than five inland port districts may be designated statewide. No inland port authority shall designate more than one inland port district, and no inland port authority may be created without also designating an inland port district.

(5) Following the adoption of an ordinance, resolution, or execution of an agreement pursuant to the Interlocal Cooperation Act proposing creation of an inland port authority, the city clerk or county clerk shall transmit a copy of such ordinance, resolution, or agreement to the Department of Economic Development along with an application for approval of the proposal. Upon receipt of such ordinance, resolution, or agreement and application, the department shall evaluate the proposed inland port authority to determine whether the proposal meets the criteria in subsection (1), (2), or (3) of this section, whichever is applicable, as well as any prioritization criteria developed by the department. Upon a determination that the proposed inland port authority sufficiently meets such criteria, the Director of Economic Development shall certify to the city clerk or county clerk whether the proposed creation of such inland port authority exceeds the cap on the total number of inland port

districts pursuant to subsection (4) of this section. If the department determines that the proposed inland port authority sufficiently meets such criteria and does not exceed such cap, the inland port authority shall be deemed created. If the proposed inland port authority does not sufficiently meet such criteria or exceeds such cap, the city shall repeal such ordinance, the county shall repeal such resolution, or the city and county or counties shall rescind such agreement and the proposed inland port authority shall not be created.

Source: Laws 2021, LB156, § 4; Laws 2022, LB998, § 3.
Effective date April 19, 2022.

Cross References

Interlocal Cooperation Act, see section 13-801.

13-3304.01 Inland port authority; creation by nonprofit economic development corporation; procedure.

(1) In the event that a city, a city and one or more counties, or a county, as such are described in subsections (1), (2), and (3) of section 13-3304, has or have not proposed to create an inland port authority as provided in such section, a nonprofit economic development corporation which serves such city, such city and one or more counties, or such county may propose to create an inland port authority using the criteria in subsection (1), (2), or (3) of section 13-3304, whichever is applicable, by submitting an application to the Department of Economic Development.

(2) Following the submission of an application from a nonprofit economic development corporation proposing the creation of an inland port authority, the Department of Economic Development shall evaluate the proposed inland port authority to determine whether the proposal meets the criteria in subsection (1), (2), or (3) of section 13-3304, whichever is applicable, as well as any prioritization criteria developed by the department. Upon a determination that the proposed inland port authority sufficiently meets such criteria, the Director of Economic Development shall certify to the nonprofit economic development corporation and the city clerk or county clerk or clerks whether the proposed creation of such inland port authority exceeds the cap on the total number of inland port districts pursuant to subsection (4) of section 13-3304. If the proposed inland port authority sufficiently meets such criteria and does not exceed such cap, such city, such city and one or more counties, or such county shall create an inland port authority pursuant to subsection (1), (2), or (3) of section 13-3304, whichever is applicable, based on the criteria utilized by the nonprofit economic development corporation pursuant to subsection (1) of this section.

Source: Laws 2022, LB998, § 4.
Effective date April 19, 2022.

13-3305 Designation of area; criteria; procedure.

(1) The city council of any city which has created an inland port authority pursuant to subsection (1) of section 13-3304 shall designate what areas within the corporate limits, extraterritorial zoning jurisdiction, or both of the city shall comprise the inland port district, subject to the limitations of the Municipal Inland Port Authority Act. The boundaries of any inland port district shall be filed with the city clerk and shall become effective upon approval of the city council. The city council may from time to time enlarge or reduce the area

comprising any inland port district, except that such district shall not be reduced to an area less than three hundred acres. Any change of boundaries shall be filed with the city clerk and become effective upon such filing.

(2) The city council of any city and county board or boards of any county or counties which have created an inland port authority pursuant to subsection (2) of section 13-3304 shall designate what areas within the corporate limits, extraterritorial zoning jurisdiction, or both of the city or within the county or counties shall comprise the inland port district, subject to the limitations of the Municipal Inland Port Authority Act. The boundaries of any inland port district shall be filed with the city clerk and the county clerk or clerks and shall become effective upon approval of the city council and the county board or boards. The city council and the county board or boards may from time to time enlarge or reduce the area comprising any inland port district, except that such district shall not be reduced to an area less than three hundred acres. Any change of boundaries shall be filed with the city clerk and the county clerk or clerks and become effective upon such filing.

(3) The county board of any county which has created an inland port authority pursuant to subsection (3) of section 13-3304 shall designate what areas within the county shall comprise the inland port district, subject to the limitations of the Municipal Inland Port Authority Act. The boundaries of any inland port district shall be filed with the county clerk and shall become effective upon approval of the county board. The county board may from time to time enlarge or reduce the area comprising any inland port district, except that such district shall not be reduced to an area less than three hundred acres. Any change of boundaries shall be filed with the county clerk and become effective upon such filing.

(4) Not more than twenty-five percent of the area within an inland port district designated pursuant to this section may be noncontiguous with the remaining portions of such inland port district. Such noncontiguous area shall be no more than one-quarter mile from the remaining portions of such inland port district.

(5) Nothing in this section shall require that any real property located within the boundaries of an inland port district be owned by an inland port authority or the city or county or counties in which such real property is located.

Source: Laws 2021, LB156, § 5; Laws 2022, LB998, § 5.
Effective date April 19, 2022.

13-3306 Inland port authority; powers.

(1) An inland port authority shall have the power to:

(a) Plan, facilitate, and develop the inland port district in conjunction with the city, the county or counties, and other public and private entities, including the development of publicly owned infrastructure and improvements within the inland port district;

(b) Engage in marketing and business recruitment activities and efforts to encourage and facilitate development of the inland port district;

(c) Apply for and take all other necessary actions for the establishment of a foreign trade zone, as provided under federal law, within the inland port district;

(d) Issue and sell revenue bonds as provided in section 13-3308;

(e) Acquire, own, lease, sell, or otherwise dispose of interest in and to any real property and improvements located thereon, and in any personal property, and construct buildings and other structures necessary to fulfill the purposes of the inland port authority;

(f) Acquire rights-of-way and property of any kind or nature within the inland port district necessary for its purposes by purchase or negotiation;

(g) Enter into lease agreements for real or personal property, either as lessee or lessor;

(h) Sue and be sued in its own name;

(i) Enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, agreements under the Interlocal Cooperation Act with the city, the county or counties, or any other political subdivision of this or any other state;

(j) Borrow money from private lenders, from the state, or from the federal government as may be necessary for the operation and work of the inland port authority;

(k) Accept appropriations, including funds transferred by the Legislature pursuant to section 81-12,146, contributions, gifts, grants, or loans from the United States, the State of Nebraska, political subdivisions, or other public and private agencies, individuals, partnerships, or corporations;

(l) Employ such managerial, engineering, legal, technical, clerical, accounting, advertising, administrative, or other assistance as may be deemed advisable, or to contract with independent contractors for any such assistance;

(m) Adopt, alter, or repeal its own bylaws, rules, and regulations governing the manner in which its business may be transacted, except that such bylaws, rules, and regulations shall not exceed the powers granted to the inland port authority by the Municipal Inland Port Authority Act;

(n) Enter into agreements with private operators or public entities for the joint development, redevelopment, reclamation, and other uses of property within the inland port district;

(o) Own and operate an intermodal facility and other publicly owned infrastructure and improvements within the boundaries of the inland port district; and

(p) Establish and charge fees to businesses and customers utilizing the services offered by the inland port authority within the inland port district as required for the proper maintenance, development, operation, and administration of the inland port authority.

(2) An inland port authority shall neither possess nor exercise the power of eminent domain.

Source: Laws 2021, LB156, § 6.

Cross References

Interlocal Cooperation Act, see section 13-801.

13-3307 Real property; state or political subdivision; transfer, lease, contract, or agreement; effect.

(1) The State of Nebraska and any municipality, county, or other political subdivision of the state may, in its discretion, with or without consideration,

transfer or cause to be transferred to any inland port authority or place in its possession or control, by lease or other contract or agreement, either for a limited period or in fee, any real property within its inland port district.

(2) Nothing in this section shall:

(a) In any way impair, alter, or change any obligations of such entities, contractual or otherwise, existing prior to August 28, 2021; or

(b) Require that any real property located within the boundaries of an inland port district be owned by an inland port authority or the city or county or counties in which such real property is located.

Source: Laws 2021, LB156, § 7; Laws 2022, LB998, § 6.
Effective date April 19, 2022.

13-3308 Bonds; issuance; pledge of revenue; liability.

(1) An inland port authority created under the Municipal Inland Port Authority Act may issue and sell revenue bonds necessary to provide sufficient funds for achieving its purposes, including the construction of intermodal facilities, buildings, and infrastructure and the financing of port improvement projects, except that such authority shall not issue or sell general obligation bonds. An inland port authority may pledge any revenue derived from the sale or lease of property of such authority to the payment of such revenue bonds.

(2) The State of Nebraska shall not be liable for any bonds of any inland port authority. Any such bonds shall not be a debt of the state and shall contain on the faces thereof a statement to such effect.

(3) No commissioner of any board of any inland port authority or any other authorized person executing inland port authority bonds shall be personally liable on such bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Source: Laws 2021, LB156, § 8.

13-3309 Inland port authority; bonds; exempt from taxes and assessments; exception.

No inland port authority shall be required to pay any taxes or any assessments whatsoever to the State of Nebraska or to any political subdivision of the state, except for assessments under the Nebraska Workers' Compensation Act and any combined tax due or payments in lieu of contributions as required under the Employment Security Law. The bonds of every inland port authority and the income therefrom shall, at all times, be exempt from any taxes and any assessments, except for inheritance and gift taxes and taxes on transfers.

Source: Laws 2021, LB156, § 9.

Cross References

Employment Security Law, see section 48-601.
Nebraska Workers' Compensation Act, see section 48-1,110.

13-3310 Board; members; appointment; term; vacancy, how filled.

(1) An inland port authority shall be administered by the board which shall consist of:

(a) If created by a city of the metropolitan class, nine members;

(b) If created by a city of the primary class, seven members;

(c) If created by a city of the first class, five members;

(d) If jointly created by a city of the metropolitan class and one or more counties, eleven members;

(e) If jointly created by a city of the primary class and one or more counties, nine members;

(f) If jointly created by a city of the first class and one or more counties, seven members; or

(g) If created by a county, nine members.

(2) Upon the creation of an inland port authority under subsection (1) or (2) of section 13-3304, the mayor of the city that created the authority, with the approval of the city council, and, if the authority is created under subsection (2) of section 13-3304, with the approval of the county board or boards, shall appoint a board to govern the authority. Members of the board shall be residents of the city, or, if the authority is created under subsection (2) of section 13-3304, members of the board shall be residents of the county or counties.

(3) Upon the creation of an inland port authority under subsection (3) of section 13-3304, the chairperson of the county board, with the approval of the county board, shall appoint a board to govern the authority. Members of the board shall be residents of the county.

(4) The members of the board of any inland port authority created under section 13-3304 shall be appointed to staggered terms of four years in such a manner to ensure that the terms of no more than three members expire in any one year.

(5) Any vacancy on the board of an inland port authority shall be filled in the same manner as the vacating board member was appointed to serve the unexpired portion of the board member's term.

Source: Laws 2021, LB156, § 10.

13-3311 Commissioner; employee; eligibility to serve; acts prohibited.

(1) No individual may serve as a commissioner or an employee of an inland port authority if:

(a) The individual or a family member of the individual owns an interest in any real property located within the boundaries of the inland port district; or

(b) The individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, company, or other entity that the individual reasonably believes is likely to:

(i) Participate in or receive a direct financial benefit from the development of the inland port district; or

(ii) Acquire an interest in any facility located within the inland port district.

(2) Before taking office as a commissioner or accepting employment with an inland port authority, an individual shall submit to the authority a statement verifying that the individual's service as a commissioner or an employee will not violate subsection (1) of this section.

(3) An individual shall not, at any time during the individual's service as a commissioner or an employee of an inland port authority, acquire or take any action to initiate, negotiate, or otherwise arrange for the acquisition of an

interest in any real property located within the boundaries of the inland port district.

(4) A commissioner or an employee of an inland port authority shall not receive a direct financial benefit from the development of any real property located within the boundaries of the inland port district.

Source: Laws 2021, LB156, § 11.

13-3312 Board; subject to Open Meetings Act and public records provisions.

(1) The board shall cause minutes of meetings and a record to be kept of all its proceedings. Meetings of the board shall be subject to the Open Meetings Act.

(2) An inland port authority's records and documents, except those which may be lawfully excluded, shall be considered public records for purposes of sections 84-712 to 84-712.09.

Source: Laws 2021, LB156, § 12.

Cross References

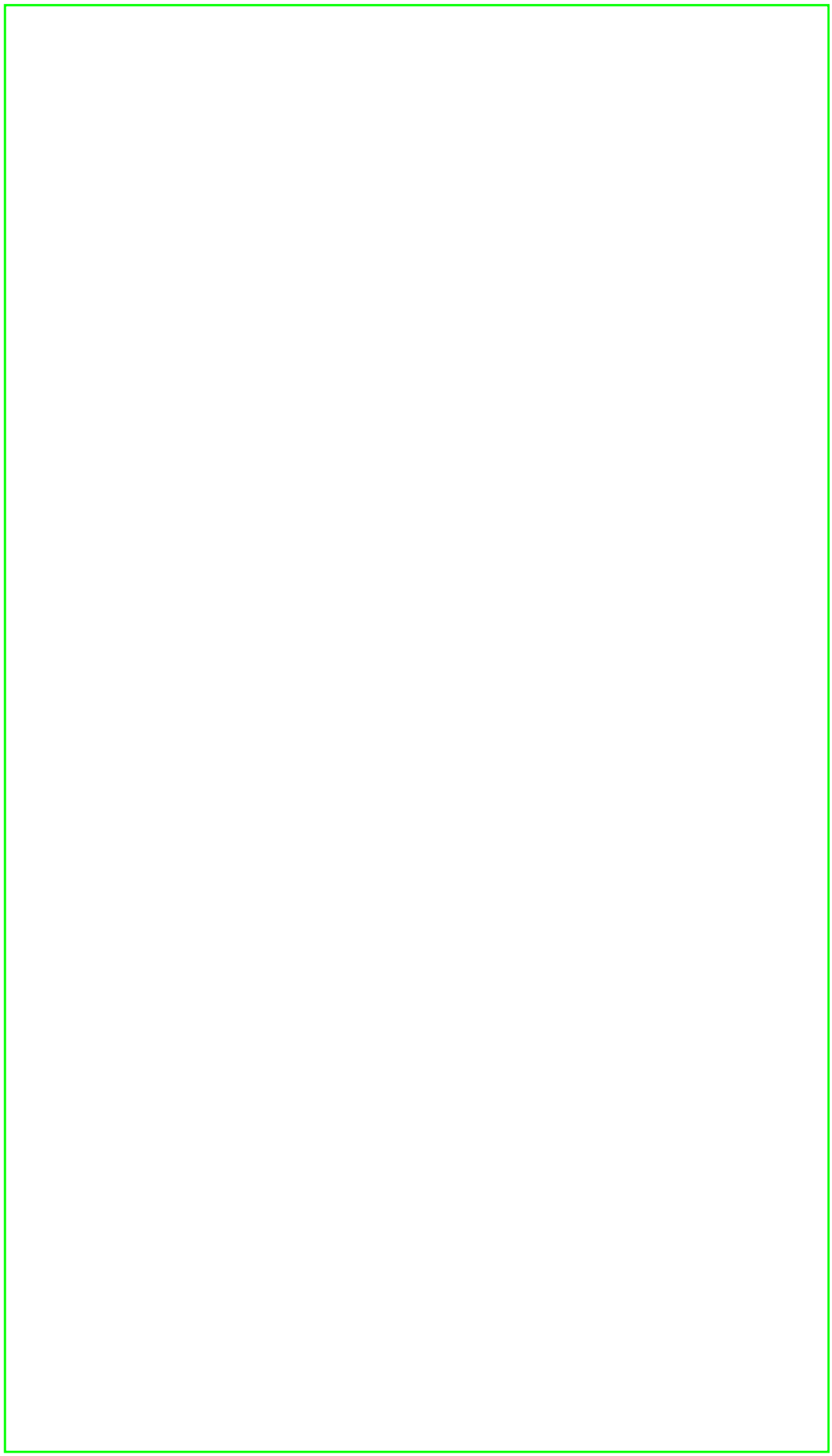
Open Meetings Act, see section 84-1407.

13-3313 Inland port authority; dissolution; procedure.

(1) The city council of a city that created an inland port authority under subsection (1) of section 13-3304 or the county board of a county that created an inland port authority under subsection (3) of section 13-3304 may dissolve such inland port authority if such inland port authority has no outstanding obligations. The inland port authority shall be dissolved as of the date of approval by the city council or county board. All funds and other assets of the inland port authority shall be transferred upon dissolution to the city or county, as applicable.

(2) The city council of a city and the county board or boards of a county or counties that created an inland port authority under subsection (2) of section 13-3304 may dissolve such inland port authority if such inland port authority has no outstanding obligations. The inland port authority shall be dissolved as of the date of approval by the city council and the county board or boards. Upon dissolution, all funds and other assets of the inland port authority shall be transferred to the city or the county or counties as agreed upon by the city and county or counties.

Source: Laws 2021, LB156, § 13.



CHAPTER 14
CITIES OF THE METROPOLITAN CLASS

Article.

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ARTICLE 1
GENERAL POWERS

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14-130. Repealed. Laws 1981, LB 497, § 1.
14-131. Repealed. Laws 1955, c. 20, § 7.
14-132. Repealed. Laws 1981, LB 497, § 1.
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14-134. Repealed. Laws 1981, LB 497, § 1.
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14-101 Cities of the metropolitan class, defined; population required; general powers.

All cities in this state which have attained a population of four hundred thousand inhabitants or more as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census shall be cities of the metropolitan class and governed by sections 14-101 to 14-2004. The population of a city of the metropolitan class shall consist of the people residing within the territorial boundaries of such city and the residents of any territory duly and properly annexed to such city. Each city of the metropolitan class shall be a body corporate and politic and shall have power (1) to sue and be sued, (2) to purchase, lease, lease with option to buy, acquire by gift or devise, and hold real and personal property within or

without the limits of the city for the use of the city, and real estate sold for taxes, (3) to sell, exchange, lease, and convey any real or personal property owned by the city, in such manner and upon such terms as may be in the best interests of the city, except that real estate acquired for state armory sites shall be conveyed strictly in the manner provided in sections 18-1001 to 18-1006, (4) to make all contracts and do all other acts in relation to the property and concerns of the city necessary for the exercise of its corporate or administrative powers, and (5) to exercise such other and further powers as may be conferred by law. The powers granted under this section shall be exercised by the mayor and city council of such city except when otherwise specifically provided.

Source: Laws 1921, c. 116, art. I, § 1, p. 398; C.S.1922, § 3488; C.S.1929, § 14-101; Laws 1935, Spec. Sess., c. 10, § 2, p. 72; Laws 1941, c. 130, § 8, p. 494; C.S.Supp.,1941, § 14-101; R.S.1943, § 14-101; Laws 1947, c. 50, § 1, p. 170; Laws 1961, c. 58, § 1, p. 215; Laws 1963, c. 43, § 1, p. 218; Laws 1965, c. 85, § 1, p. 327; Laws 1967, c. 40, § 1, p. 170; Laws 1993, LB 726, § 3; Laws 2017, LB113, § 4; Laws 2022, LB800, § 7; Laws 2022, LB820, § 1.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB800, section 7, with LB820, section 1, to reflect all amendments.

Note: Changes made by LB800 became operative July 21, 2022. Changes made by LB820 became effective July 21, 2022.

1. Home rule charter
2. Powers
3. Miscellaneous

1. Home rule charter

The chapter of which this section is the beginning section was adopted in toto in 1922 as the Omaha home rule charter. Ash v. City of Omaha, 152 Neb. 393, 41 N.W.2d 386 (1950).

This chapter includes legislative act adopted as home rule charter of Omaha. Reid v. City of Omaha, 150 Neb. 286, 34 N.W.2d 375 (1948).

City of Omaha became, on July 18, 1922, a home rule city by adopting the existing charter governing it as its home rule charter. Carlberg v. Metcalfe, 120 Neb. 481, 234 N.W. 87 (1930).

2. Powers

Under this section and section 14-102, a city of the metropolitan class has the power to provide firefighting services to an airport authority. Professional Firefighters of Omaha v. City of Omaha, 243 Neb. 166, 498 N.W.2d 325 (1993).

The Legislature has impliedly empowered the City of Omaha to obtain a decree in equity abating a public nuisance without proving special damage to city. City of Omaha v. Danner, 186 Neb. 701, 185 N.W.2d 869 (1971).

This section recognizes that metropolitan cities have powers provided by law in addition to those prescribed by charter, and levy may be made to pay judgments when amount of revenue to be derived from maximum levy for general municipal purposes is insufficient. Benner v. County Board of Douglas County, 121 Neb. 773, 238 N.W. 735 (1931).

City has no implied power to license or regulate business of constructing artificial stone walks. Gray v. City of Omaha, 80 Neb. 526, 114 N.W. 600 (1908), 14 L.R.A.N.S. 1033 (1908).

Title to act of 1905 was broad enough to cover all subjects of legislation contained in act, and was sustained as constitutional. Cathers v. Hennings, 76 Neb. 295, 107 N.W. 586 (1906).

Constitutionality of 1897 act sustained incorporating cities of metropolitan class. State ex rel. Wheeler v. Stuht, 52 Neb. 209, 71 N.W. 941 (1897).

3. Miscellaneous

Courts should not interfere with enforcement of ordinance unless its unreasonableness, or want of necessity for such measure, is shown by satisfactory evidence. State ex rel. Krittenbrink v. Withnell, 91 Neb. 101, 135 N.W. 376 (1912), 40 L.R.A.N.S. 898 (1912).

City warrant is not invalidated by recital that it is to be paid out of special unauthorized fund or fund which city negligently fails to provide. Rogers v. City of Omaha, 82 Neb. 118, 117 N.W. 119 (1908).

Act incorporating a city must be accepted as a whole, and the city accepting benefits derived therefrom must perform the duties required by law. City of Omaha v. Olmstead, 5 Neb. 446 (1877).

Nebraska private citizens cannot maintain action under Clayton Act for alleged injury to municipality arising from alleged Sherman Act violations. Cosentino v. Carver-Greenfield Corp., 433 F.2d 1274 (8th Cir. 1970).

14-101.01 Declaration as city of the metropolitan class; when.

Whenever any city of the primary class shall attain a population of four hundred thousand inhabitants or more as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, the mayor of such city shall certify such fact to the Secretary of State, who upon the filing of such certificate shall by proclamation declare such city to be a city of the metropolitan class.

Source: Laws 2017, LB113, § 5; Laws 2022, LB800, § 8; Laws 2022, LB820, § 2.

Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB800, section 8, with LB820, section 2, to reflect all amendments.

Note: Changes made by LB800 became operative July 21, 2022. Changes made by LB820 became effective July 21, 2022.

14-102 Additional powers.

In addition to the powers granted in section 14-101, cities of the metropolitan class shall have power by ordinance:

(1) To levy any tax or special assessment authorized by law;

(2) To provide a corporate seal for the use of the city, and also any official seal for the use of any officer, board, or agent of the city, whose duties require an official seal to be used. Such corporate seal shall be used in the execution of municipal bonds, warrants, conveyances, and other instruments and proceedings as required by law;

(3) To provide all needful rules and regulations for the protection and preservation of health within the city, including providing for the enforcement of the use of water from public water supplies when the use of water from other sources shall be deemed unsafe;

(4) To appropriate money and provide for the payment of debts and expenses of the city;

(5) To adopt all such measures as may be deemed necessary for the accommodation and protection of strangers and the traveling public in person and property;

(6) To punish and prevent the carrying of concealed weapons, except the carrying of a concealed handgun in compliance with the Concealed Handgun Permit Act, and the discharge of firearms, fireworks, or explosives of any description within the city, other than the discharge of firearms at a shooting range pursuant to the Nebraska Shooting Range Protection Act;

(7) To regulate the inspection and sale of meats, flour, poultry, fish, milk, vegetables, and all other provisions or articles of food exposed or offered for sale in the city;

(8) To require all elected or appointed officers to give bond and security for the faithful performance of their duties, except that no officer shall become bonded and secured upon the official bond of another or upon any bond executed to the city;

(9) To require from any officer of the city at any time a report, in detail, of the transactions of his or her office or any matter connected with such office;

(10) To provide for the prevention of cruelty to children and animals;

(11) To regulate, license, or prohibit the running at large of dogs and other animals within the city as well as in areas within the extraterritorial zoning jurisdiction of the city; to guard against injuries or annoyance from such dogs and other animals; and to authorize the destruction of such dogs and other animals when running at large contrary to the provisions of any ordinance. Any licensing provision shall comply with subsection (2) of section 54-603 for service animals;

(12) To provide for keeping sidewalks clean and free from obstructions and accumulations; to provide for the assessment and collection of taxes on real estate and for the sale and conveyance thereof; and to pay the expenses of keeping the sidewalk adjacent to such real estate clean and free from obstructions and accumulations as provided by law;

(13) To provide for the planting and protection of shade or ornamental and useful trees upon streets or boulevards; to assess the cost of such trees to the extent of benefits upon the abutting property as a special assessment; to provide for the protection of birds and animals and their nests; to provide for the trimming of trees located upon streets and boulevards or when the branches of trees overhang streets and boulevards when in the judgment of the mayor and city council such trimming is made necessary to properly light such street or boulevard or to furnish proper police protection; and to assess the cost of such trimming upon the abutting property as a special assessment;

(14) To provide for, regulate, and require the numbering or renumbering of houses along public streets or avenues; and to care for and control and to name and rename streets, avenues, parks, and squares within the city;

(15) To require weeds and worthless vegetation growing upon any lot or piece of ground within the city or its extraterritorial zoning jurisdiction to be cut and destroyed so as to abate any nuisance occasioned by such vegetation; to prohibit and control the throwing, depositing, or accumulation of litter on any lot or piece of ground within the city or its extraterritorial zoning jurisdiction; to require the removal of such litter so as to abate any nuisance occasioned thereby. If the owner fails to cut and destroy weeds and worthless vegetation or remove litter, or both, after notice as required by ordinance, the city may assess the cost of such destruction or removal upon the lots or lands as a special assessment. The required notice may be by publication in the official newspaper of the city and may be directed in general terms to the owners of lots and lands affected without naming such owners;

(16) To prohibit and regulate the running at large or the herding or driving of domestic animals, such as hogs, cattle, horses, sheep, goats, fowls, or animals of any kind or description within the corporate limits; to provide for the impounding of all animals running at large, herded, or driven contrary to such prohibition and regulations; and to provide for the forfeiture and sale of animals impounded to pay the expense of taking up, caring for, and selling such impounded animals, including the cost of advertising and fees of officers;

(17) To regulate the transportation of articles through the streets and to prevent injuries to the streets from overloaded vehicles;

(18) To prevent or regulate any amusement or practice having a tendency to annoy persons passing in the streets or on the sidewalks; and to regulate the use of vehicles propelled by steam, gas, electricity, or other motive power, operated on the streets of the city;

(19) To regulate or prohibit the transportation and keeping of gunpowder, oils, and other combustible and explosive articles;

(20) To regulate, license, or prohibit the sale of domestic animals or of goods, wares, and merchandise at public auction on the streets, alleys, highways, or any public ground within the city;

(21) To regulate and prevent the use of streets, sidewalks, and public grounds for signs, posts, awnings, awning posts, scales, or other like purposes; and to regulate and prohibit the exhibition or carrying or conveying of banners, placards, advertisements, or the distribution or posting of advertisements or handbills in the streets or public grounds or upon the sidewalks;

(22) To provide for the punishment of persons disturbing the peace by noise, intoxication, drunkenness, or fighting, or otherwise violating the public peace by indecent or disorderly conduct or by lewd and lascivious behavior;

(23) To provide for the punishment of vagrants, tramps, street beggars, prostitutes, disturbers of the peace, pickpockets, gamblers, burglars, thieves, persons who practice any game, trick, or device with intent to swindle, and trespassers upon private property;

(24) To prohibit, restrain, and suppress houses of prostitution, opium joints, gambling houses, prize fighting, dog fighting, cock fighting, and other disorderly houses and practices, all games and gambling, and all kinds of indecencies; to regulate and license or prohibit the keeping and use of billiard tables, bowling alleys, shooting galleries except as provided in the Nebraska Shooting Range Protection Act, and other similar places of amusement; and to prohibit and suppress all lotteries and gift enterprises of all kinds under whatsoever name carried on, except that nothing in this subdivision shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act;

(25) To make and enforce all police regulations for the good government, general welfare, health, safety, and security of the city and the citizens of the city in addition to the police powers expressly granted by law; in the exercise of the police power, to pass all needful and proper ordinances and impose fines, forfeitures, and penalties for the violation of any ordinance; to provide for the recovery, collection, and enforcement of such fines; and in default of payment to provide for confinement in the city or county prison or other place of confinement as may be provided by ordinance;

(26) To prevent immoderate driving on the street;

(27) To establish and maintain public libraries, art galleries, and museums and to provide the necessary grounds or buildings for such libraries, galleries, and museums; to purchase books, papers, maps, manuscripts, works of art, and objects of natural or of scientific curiosity and instruction for such libraries, galleries, and museums; to receive donations and bequests of money or property for such libraries, galleries, and museums in trust or otherwise; and to pass necessary bylaws and regulations for the protection and government of such libraries, art galleries, and museums;

(28) To erect, designate, establish, maintain, and regulate hospitals, houses of correction, jails, station houses, fire engine houses, asphalt repair plants, and other necessary buildings; to erect, designate, establish, maintain, and regulate plants for the removal, disposal, or recycling of garbage and refuse or to make contracts for garbage and refuse removal, disposal, or recycling, or all of the same; and to charge equitable fees for such removal, disposal, or recycling, or all of the same, except as provided by law. The fees collected pursuant to this subdivision shall be credited to a single fund to be used exclusively by the city for the removal, disposal, or recycling of garbage and refuse, or all of the same, including any costs incurred for collecting the fee. Before any contract for such removal, disposal, or recycling is let, the city council shall make specifications for such contract, bids shall be advertised for as now provided by law, and the contract shall be let to the lowest and best bidder, who shall furnish bond to the city conditioned upon his or her carrying out the terms of the contract, the

bond to be approved by the city council. Nothing in this section, and no contract or regulation made by the city council, shall be so construed as to prohibit any person, firm, or corporation engaged in any business in which garbage or refuse accumulates as a byproduct from selling, recycling, or otherwise disposing of his, her, or its garbage or refuse or hauling such garbage or refuse through the streets and alleys under such uniform and reasonable regulations as the city council may by ordinance prescribe for the removal and hauling of garbage or refuse;

(29) To erect and establish market houses and market places and to provide for the erection of all other useful and necessary buildings for the use of the city and for the protection and safety of all property owned by the city. Such market houses, market places, and buildings may be located on any street, alley, or public ground or on land purchased for such purpose;

(30) To prohibit the establishment of additional cemeteries within the limits of the city; to regulate the registration of births and deaths; to direct the keeping and returning of bills of mortality; and to impose penalties on physicians, sextons, and others for any default in the premises;

(31) To provide for the inspection of steam boilers, electric light appliances, pipefittings, and plumbings; to regulate their erection and construction; to appoint inspectors; and to declare their powers and duties, except as otherwise provided by law;

(32) To enact a fire code and regulate the erection of all buildings and other structures within the corporate limits; to provide for the removal of any buildings or structures or additions to buildings or structures erected contrary to such code or regulations and to provide for the removal of dangerous buildings; but no such code or regulation shall be suspended or modified by resolution, nor shall exceptions be made by ordinance or resolution in favor of any person, firm, or corporation or concerning any particular lot or building; to direct that when any building has been damaged by fire, decay, or otherwise, to the extent of fifty percent of the value of a similar new building above the foundation, shall be torn down or removed; to prescribe the manner of ascertaining such damages and to assess the cost of removal of any building erected or existing contrary to such code or regulations against the lot or real estate upon which such building or structure is located or shall be erected or to collect such costs from the owner of any such building or structure; and to enforce the collection of such costs by civil action in any court of competent jurisdiction;

(33) To regulate the construction, use, and maintenance of party walls, to prescribe and regulate the thickness, strength, and manner of constructing stone, brick, wood, or other buildings and the size and shape of brick and other material placed in such buildings; to prescribe and regulate the construction and arrangement of fire escapes and the placing of iron and metallic shutters and doors in or on such fire escapes; to provide for the inspection of elevators; to prescribe, regulate, and provide for the inspection of all plumbing, pipefitting, or sewer connections in all houses or buildings now or hereafter erected; to regulate the size, number, and manner of construction of halls, doors, stairways, seats, aisles, and passageways of theaters and buildings of a public character, whether now built or hereafter to be built, so that there may be convenient, safe, and speedy exit in case of fire; to prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stovepipes,

ovens, boilers, and heating appliances used in or about any building and to cause such appliances to be removed or placed in safe condition when they are considered dangerous; to prevent the deposit of ashes in unsafe places and to cause such buildings and enclosures as may be in a dangerous state to be put in a safe condition; to prevent the disposing of and delivery or use in any building or other structure of unsuitable building material within the city limits and provide for the inspection of building materials; to provide for the abatement of dense volumes of smoke; to regulate the construction of areaways, stairways, and vaults and to regulate partition fences; and to enforce proper heating and ventilation of buildings used for schools or other buildings where large numbers of persons are liable to congregate;

(34) To regulate levees, depots and depot grounds, and places for storing freight and goods and to provide for and regulate the laying of tracks and the passage of railways through the streets, alleys, and public grounds of the city;

(35) To require the lighting of any railway within the city and to fix and determine the number, size, and style of all fixtures and apparatus necessary for such lighting and the points of location for such lampposts. If any company owning or operating such railways shall fail to comply with such requirements, the city council may cause such lighting to be done and may assess the expense of such lighting against such company. Such expense shall constitute a lien upon any real estate belonging to such company and lying within such city and may be collected in the same manner as taxes for general purposes;

(36) To provide for necessary publicity and to appropriate money for the purpose of advertising the resources and advantages of the city;

(37) To erect, establish, and maintain offstreet parking areas on publicly owned property located beneath any elevated segment of the National System of Interstate and Defense Highways or portion thereof, or public property title to which is in the city on May 12, 1971, or property owned by the city and used in conjunction with and incidental to city-operated facilities; and to regulate parking on such property by time limitation devices or by lease;

(38) To acquire, by the exercise of the power of eminent domain or otherwise, lease, purchase, construct, own, maintain, operate, or contract for the operation of public passenger transportation systems, excluding taxicabs, transportation network companies and railroad systems, including all property and facilities required for such public passenger transportation systems, within and without the limits of the city; to redeem such property from prior encumbrance in order to protect or preserve the interest of the city in such property; to exercise all powers granted by the Constitution of Nebraska and laws of the State of Nebraska or exercised by or pursuant to a home rule charter adopted pursuant thereto, including, but not limited to, receiving and accepting from the government of the United States or any agency thereof, from the State of Nebraska or any subdivision thereof, and from any person or corporation donations, devises, gifts, bequests, loans, or grants for or in aid of the acquisition, operation, and maintenance of such public passenger transportation systems; to administer, hold, use, and apply such donations, devises, gifts, bequests, loans, or grants for the purposes for which such donations, devises, gifts, bequests, loans, or grants may have been made; to negotiate with employees and enter into contracts of employment; to employ by contract or otherwise individuals singularly or collectively; to enter into agreements authorized under the Interlocal Cooperation Act or the Joint Public Agency Act; to

contract with an operating and management company for the purpose of operating, servicing, and maintaining any public passenger transportation systems the city shall acquire; and to exercise such other and further powers as may be necessary, incident, or appropriate to the powers of the city; and

(39) In addition to powers conferred elsewhere in the laws of the state, to implement and enforce an air pollution control program within the corporate limits of the city under subdivision (23) of section 81-1504 or subsection (1) of section 81-1528, which program shall be consistent with the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq. Such powers shall include without limitation those involving injunctive relief, civil penalties, criminal fines, and burden of proof. Nothing in this section shall preclude the control of air pollution by resolution, ordinance, or regulation not in actual conflict with state air pollution control regulations.

Source: Laws 1921, c. 116, art. I, § 2, p. 398; C.S.1922, § 3489; C.S.1929, § 14-102; R.S.1943, § 14-102; Laws 1963, c. 314, § 1, p. 945; Laws 1971, LB 237, § 1; Laws 1972, LB 1274, § 1; Laws 1974, LB 768, § 1; Laws 1981, LB 501, § 1; Laws 1986, LB 1027, § 186; Laws 1991, LB 356, § 1; Laws 1991, LB 849, § 59; Laws 1992, LB 1257, § 63; Laws 1993, LB 138, § 61; Laws 1993, LB 623, § 1; Laws 1997, LB 814, § 2; Laws 1999, LB 87, § 59; Laws 2008, LB806, § 1; Laws 2009, LB430, § 1; Laws 2009, LB503, § 11; Laws 2015, LB266, § 1; Laws 2022, LB800, § 9.
Operative date July 21, 2022.

Cross References

Concealed Handgun Permit Act, see section 69-2427.
Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.
Nebraska Bingo Act, see section 9-201.
Nebraska Lottery and Raffle Act, see section 9-401.
Nebraska Pickle Card Lottery Act, see section 9-301.
Nebraska Shooting Range Protection Act, see section 37-1301.
Nebraska Small Lottery and Raffle Act, see section 9-501.
State Lottery Act, see section 9-801.

1. Use of streets
2. Health and safety
3. Occupations
4. Miscellaneous

1. Use of streets

This section does not deprive the State Railway Commission of jurisdiction over the regulation of taxicabs in a metropolitan city. In re Yellow Cab & Baggage Company, 126 Neb. 138, 253 N.W. 80 (1934).

A metropolitan city may impose a tax for use of streets upon a ''rolling store'' as a means of regulating transportation through its streets. Erwin v. City of Omaha, 118 Neb. 331, 224 N.W. 692 (1929).

City has authority to regulate the use of autobuses upon its streets. Omaha & C. B. Street Ry. Co. v. City of Omaha, 114 Neb. 483, 208 N.W. 123 (1926).

City cannot authorize construction in a public street of a canopy that deprives abutting property owner of light, air or view. World Realty Co. v. City of Omaha, 113 Neb. 396, 203 N.W. 574 (1925).

City may regulate housemoving upon its streets, and can compel street railway to pay expense of removal of wires so houses can be moved. State ex rel. Barnum v. Omaha & C. B. Street Ry. Co., 100 Neb. 716, 161 N.W. 170 (1916).

An ordinance prohibiting distribution of dodgers, handbills or circulars upon streets, alleys or sidewalks or public grounds of the city does not violate state Constitution. In re Anderson, 69 Neb. 686, 96 N.W. 149 (1903).

City could not prohibit transportation of munitions by interstate motor carrier. Watson Bros. Transp. Co. v. City of Omaha, 132 F. Supp. 6 (D. Neb. 1955).

2. Health and safety

City is authorized to provide for detention of persons infected with communicable venereal disease. Brown v. Manning, 103 Neb. 540, 172 N.W. 522 (1919).

City cannot arbitrarily classify ashes, manure, or other rubbish having some value as garbage, and grant an exclusive contract for removal. Iler v. Ross, 64 Neb. 710, 90 N.W. 869 (1902).

Authority is conferred to license and regulate the production and sale of milk within the corporate limits, and a reasonable license fee may be exacted. Littlefield v. State, 42 Neb. 223, 60 N.W. 724 (1894).

City can make exclusive contract with party for removing garbage and other noxious and unwholesome matter amounting to nuisances. Smiley v. MacDonald, 42 Neb. 5, 60 N.W. 355 (1894).

3. Occupations

Metropolitan city was authorized to enact ordinance prohibiting sale or exchange of motor vehicles and keeping open a place of business for that purpose on Sunday. Stewart Motor Co. v. City of Omaha, 120 Neb. 776, 235 N.W. 332 (1931).

City ordinance requiring closing grocery and meat markets on Sunday is valid. State v. Somberg, 113 Neb. 761, 204 N.W. 788 (1925).

4. Miscellaneous

Under section 14-101 and this section, a city of the metropolitan class has the power to provide firefighting services to an airport authority. Professional Firefighters of Omaha v. City of Omaha, 243 Neb. 166, 498 N.W.2d 325 (1993).

Public officials of cities of the metropolitan class are vested with the power to provide for keeping sidewalks clean and free from obstructions and accumulation. Hartford v. Womens Services, P.C., 239 Neb. 540, 477 N.W.2d 161 (1991).

Under subsection (25) of this section, zoning ordinances enacted by a city, as a lawful exercise of police power, must be consistent with public health, safety, morals, and the general welfare. Giger v. City of Omaha, 232 Neb. 676, 442 N.W.2d 182 (1989).

Ordinance regulating advertising signs held not unreasonable or discriminatory. Schaffer v. City of Omaha, 197 Neb. 328, 248 N.W.2d 764 (1977).

This section discussed in connection with expenditure of municipal or county funds, for public purpose, through private agency. Chase v. County of Douglas, 195 Neb. 838, 241 N.W.2d 334 (1976).

City empowered hereunder to require bonds of police officers, and recovery may be had thereon by persons injured as result of negligent acts of policeman in discharge of municipal duties, although bond runs to city as obligee. Curnyn v. Kinney, 119 Neb. 478, 229 N.W. 894 (1930).

Mayor and city council are given ample power to make and enforce regulations for the good government, general welfare, health, safety, and security of the city and citizens thereof. State ex rel. Thompson v. Donahue, 91 Neb. 311, 135 N.W. 1030 (1912).

Metropolitan city may enact ordinance forbidding construction of brick kilns within city. State ex rel. Krittenbrink v. Withnell, 91 Neb. 101, 135 N.W. 376 (1912), 40 L.R.A.N.S. 898 (1912).

City is not liable in negligence action on account of original construction of viaduct where plan designed by competent engineers was carried out. Watters v. City of Omaha, 86 Neb. 722, 126 N.W. 308 (1910); Watters v. City of Omaha, 76 Neb. 855, 107 N.W. 1007 (1906), affirmed on rehearing, 76 Neb. 859, 110 N.W. 981 (1907).

Power to establish fire-engine houses, under this section, together with section conferring power to issue bonds for construction and purchase of needful buildings for use of the city, conferred authority upon metropolitan city to issue bonds to pay cost of construction of fire-engine houses. Linn v. City of Omaha, 76 Neb. 552, 107 N.W. 983 (1906).

Unless reasonable notice is given to owner to perform work, all proceedings and assessments by city are void. Shannon v. City of Omaha, 72 Neb. 281, 100 N.W. 298 (1904); Albers v. City of Omaha, 56 Neb. 357, 76 N.W. 911 (1898).

City was not liable for acts of building inspector. Murray v. City of Omaha, 66 Neb. 279, 92 N.W. 299 (1902).

Charter granting power to impound animals running at large is not in conflict with state herd law which is not applicable to cultivated lands within limits of cities. Lingonner v. Ambler, 44 Neb. 316, 62 N.W. 486 (1895).

14-102.01 Cities of the metropolitan class; ordinances, bylaws, rules, regulations, and resolutions; powers.

A city of the metropolitan class may enact any ordinances, bylaws, rules, regulations, and resolutions not inconsistent with the general laws of the state, as may be necessary or expedient, in addition to specific powers otherwise granted by law, for maintaining the peace, good government, and welfare of the city and for preserving order, securing persons or property from violence, danger, and destruction, for protecting public and private property, and for promoting the public health, safety, convenience, comfort, general interests, and welfare of the inhabitants of the city.

Source: Laws 1967, c. 40, § 2, p. 171; Laws 2022, LB800, § 10. Operative date July 21, 2022.

Under this section the city of Omaha is given power by the State of Nebraska to enact ordinances relating to the safety and security of its citizens and to impose fines, forfeitures, penalties, and imprisonment for violation thereof. State v. Belitz, 203 Neb. 375, 278 N.W.2d 769 (1979).

The Legislature has impliedly empowered the city of Omaha to obtain a decree in equity abating a public nuisance without proving special damage to city. City of Omaha v. Danner, 186 Neb. 701, 185 N.W.2d 869 (1971).

14-102.02 Fire department and police department; rules and regulations; adoption; duty of city council.

All powers and duties connected with and incident to the appointment, removal, government, and discipline of the officers and members of the fire department and police department of any city of the metropolitan class in the State of Nebraska, under such rules and regulations as may be adopted by the city council, shall be vested in and exercised by the city council. Rules and regulations for the guidance of the officers and members of such departments,

and for the appointment, promotion, removal, trial, or discipline of such officers and members, shall be such as the city council shall consider proper and necessary.

Source: Laws 1921, c. 116, art. VI, § 1, p. 504; C.S.1922, § 3701; C.S.1929, § 14-701; R.S.1943, § 14-701; Laws 1961, c. 30, § 8, p. 150; R.S.1943, (1983), § 14-701; Laws 2022, LB800, § 11.
Operative date July 21, 2022.

Under this and other sections in this article, firemen are officers and come under workmen's compensation law, even though receiving pension from city. Shandy v. City of Omaha, 127 Neb. 406, 255 N.W. 477 (1934).

14-103 City council; powers; health regulation; jurisdiction.

The city council of a city of the metropolitan class shall have power to define, regulate, suppress, and prevent nuisances. The city council may create a board of health in cases of a general epidemic or may cooperate with the boards of health provided by the laws of this state. The city council may provide rules and regulations for the care, treatment, regulation, and prevention of all contagious and infectious diseases, for the regulation of all hospitals, dispensaries, and places for the treatment of the sick, for the sale of dangerous drugs, for the regulation of cemeteries, and for the burial of the dead. The jurisdiction of the city council in enforcing such regulations shall extend over such city and within its extraterritorial zoning jurisdiction.

Source: Laws 1921, c. 116, art. I, § 3, p. 406; C.S.1922, § 3490; C.S.1929, § 14-103; R.S.1943, § 14-103; Laws 2015, LB266, § 2; Laws 2022, LB800, § 12.
Operative date July 21, 2022.

The Legislature has impliedly empowered the city of Omaha to obtain a decree in equity abating a public nuisance without proving special damage to city. City of Omaha v. Danner, 186 Neb. 701, 185 N.W.2d 869 (1971).

14-104 City council; powers; bridges; construction; licensing and regulation of toll bridges; jurisdiction.

The city council of a city of the metropolitan class shall have power to construct any bridge declared by ordinance necessary and proper for the passage of railway trains, street cars, motor vehicles, and pedestrians across any stream either adjacent to or wholly within the city at any point on such stream or within two miles from the corporate limits of the city, with such conditions and regulations concerning the use of such bridge as may be deemed proper. The city council shall have the power to license and regulate the keeping of toll bridges within or terminating within the city for the passage of persons and property over any river passing wholly or in part within or running by and adjoining the corporate limits of the city; to fix and determine the rates of toll over any such bridge, or over the part of such bridge within the city; and to authorize the owner or owners of any such bridge to charge and collect the rates of toll so fixed and determined, from all persons passing over or using such bridge.

Source: Laws 1921, c. 116, art. I, § 4, p. 407; C.S.1922, § 3491; C.S.1929, § 14-104; R.S.1943, § 14-104; Laws 2022, LB800, § 13.
Operative date July 21, 2022.

14-105 City council; powers; drainage of lots; duty of owner; special assessment.

The city council of a city of the metropolitan class may require any and all lots or pieces of ground within the city to be drained, filled, or graded, and upon the failure of the owners of such lots or pieces of ground to comply with such requirements, after thirty days' notice in writing, the city council may cause the lots or pieces of ground to be drained, filled, or graded, and the cost and expense of such work shall be levied upon the property so filled, drained, or graded and shall be equalized, assessed, and collected as a special assessment.

Source: Laws 1921, c. 116, art. I, § 5, p. 407; C.S.1922, § 3492; C.S.1929, § 14-105; R.S.1943, § 14-105; Laws 2015, LB361, § 1; Laws 2022, LB800, § 14.
Operative date July 21, 2022.

Owner of lot must have been requested to fill lot and failed to comply before cost of drainage can be assessed against lot. If nuisance is caused by negligence of city in grading, cost of filling or drainage cannot be assessed against the lot. Lasbury v. McCague, 56 Neb. 220, 76 N.W. 862 (1898).

This section in charter of 1887, authorizing cost of filling and draining to be assessed where nuisance existed, was held constitutional, and a valid exercise of police power. Horbach v. City of Omaha, 54 Neb. 83, 74 N.W. 434 (1898).

It is within police power of state to authorize a municipal corporation to fill lots within its limits so as to prevent stagnant water thereon and to assess cost against lots so filled. Patrick v. City of Omaha, 1 Neb. Unof. 250, 95 N.W. 477 (1901).

14-106 City council; powers; regulation of utilities; rates.

The city council of a city of the metropolitan class shall have the power to regulate and provide for the lighting of streets, laying down gas and other pipes, and erection of lampposts, electric towers, or other apparatus; to regulate the sale and use of gas and electric lights; to fix and determine from time to time the price of gas, the charge of electric lights and power, and the rents of gas meters within the city, when not furnished by public authority, and regulate the inspection of such gas meters; to prohibit or regulate the erection of telegraph, telephone, or electric wire poles or other poles for whatsoever purpose desired or used in the public grounds, streets, or alleys and the placing of wires on such poles; to require the removal from the public grounds, streets, or alleys, of any or all such poles; and to require the removal and placing under ground of any or all telegraph, telephone, or electric wires.

Source: Laws 1921, c. 116, art. I, § 6, p. 407; C.S.1922, § 3493; C.S.1929, § 14-106; R.S.1943, § 14-106; Laws 2022, LB800, § 15.
Operative date July 21, 2022.

Proper for city to grant permits for defendant's private use of streets. Dunmar Inv. Co. v. Northern Nat. Gas Co., 185 Neb. 400, 176 N.W.2d 4 (1970).

Under power conferred by this section, city could grant franchise for distribution of electric current for power and heating purposes as well as lighting purposes. Old Colony Trust Co. v. City of Omaha, 230 U.S. 100 (1913).

Mayor and council were authorized to grant a franchise for twenty-five years to furnish gas at a fixed rate. Omaha Gas Co. v. City of Omaha, 249 F. 350 (D. Neb. 1914).

14-107 City council; powers; public utility plants, subways, landing fields; construction and maintenance; rates and charges.

The city council of a city of the metropolitan class may erect, construct, purchase, maintain, and operate subways or conduits, waterworks, gas works, electric light and power plants; provide and equip aerial landing fields; determine, fix, and charge rentals for subways and conduits; and fix rates to be charged by such enterprises, except as otherwise provided by law. The city council may adopt and promulgate and enforce all needful and proper rules and regulations in connection with the operation of any such enterprises.

Source: Laws 1921, c. 116, art. I, § 7, p. 408; C.S.1922, § 3494; C.S.1929, § 14-107; R.S.1943, § 14-107; Laws 2022, LB800, § 16.
Operative date July 21, 2022.

Proper for city to grant permits for defendant's private use of streets. Dunmar Inv. Co. v. Northern Nat. Gas Co., 185 Neb. 400, 176 N.W.2d 4 (1970).

Mayor and council were authorized to grant a franchise for twenty-five years to furnish gas at a fixed rate. Omaha Gas Co. v. City of Omaha, 249 F. 350 (D. Neb. 1914).

14-108 City council; powers; utilities; contracts; terms; limitation.

The city council of a city of the metropolitan class shall have power by ordinance to contract with any competent party for the supplying and furnishing of electric light, electric heat or power, or other similar service for the use of the city on its streets and public places. Any such ordinance shall specify the rates, terms, and conditions upon which such service shall be supplied and furnished during the period named in the contract. Any such contract exceeding the term of forty years shall be void.

Source: Laws 1921, c. 116, art. I, § 8, p. 408; C.S.1922, § 3495; C.S.1929, § 14-108; R.S.1943, § 14-108; Laws 1967, c. 41, § 1, p. 172; Laws 2022, LB800, § 17.
Operative date July 21, 2022.

14-109 City council; powers; occupation and license taxes; motor vehicle fee; conditions; limitations.

(1)(a) The city council of a city of the metropolitan class shall have power to tax for revenue, license, and regulate any person within the limits of the city by ordinance except as otherwise provided in this section. Such tax may include both a tax for revenue and license. The city council may raise revenue by levying and collecting a tax on any occupation or business within the limits of the city. After March 27, 2014, any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under section 77-2704.24. The occupation tax shall be imposed in the manner provided in section 18-1208, except that section 18-1208 does not apply to an occupation tax subject to section 86-704. All such taxes shall be uniform in respect to the class upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from taxation, as well as concerts and all other musical entertainments given exclusively by the citizens of the city. It shall be the duty of the city clerk to deliver to the city treasurer a copy of the ordinance levying such tax.

(b) For purposes of this subsection, limits of the city does not include the extraterritorial zoning jurisdiction of such city.

(2)(a) Except as otherwise provided in subdivision (c) of this subsection, the city council shall also have the power to require any individual whose primary residence or person who owns a place of business which is within the limits of the city and that owns and operates a motor vehicle within such limits to annually register such motor vehicle in such manner as may be provided and to require such person to pay an annual motor vehicle fee therefor and to require the payment of such fee upon the change of ownership of such vehicle. All such fees which may be provided for under this subsection shall be credited to a separate fund of the city, thereby created, to be used exclusively for constructing, repairing, maintaining, or improving streets, roads, alleys, public ways, or

parts of such streets, roads, alleys, or ways or for the amortization of bonded indebtedness when created for such purposes.

(b) No motor vehicle fee shall be required under this subsection if (i) a vehicle is used or stored but temporarily in such city for a period of six months or less in a twelve-month period, (ii) an individual does not have a primary residence or a person does not own a place of business within the limits of the city and does not own and operate a motor vehicle within the limits of the city, or (iii) an individual is a full-time student attending a postsecondary institution within the limits of the city and the motor vehicle's situs under the Motor Vehicle Certificate of Title Act is different from the place at which he or she is attending such institution.

(c) After December 31, 2012, no motor vehicle fee shall be required of any individual whose primary residence is within the extraterritorial zoning jurisdiction of such city or any person who owns a place of business within such jurisdiction.

(d) For purposes of this subsection, limits of the city includes the extraterritorial zoning jurisdiction of such city.

(3) For purposes of this section, person includes bodies corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, cooperatives, and associations. Person does not include any federal, state, or local government or any political subdivision thereof.

Source: Laws 1921, c. 116, art. I, § 9, p. 408; C.S.1922, § 3496; C.S.1929, § 14-109; R.S.1943, § 14-109; Laws 1997, LB 752, § 73; Laws 2011, LB81, § 1; Laws 2012, LB745, § 2; Laws 2014, LB474, § 1; Laws 2022, LB800, § 18.
Operative date July 21, 2022.

Cross References

Motor Vehicle Certificate of Title Act, see section 60-101.

An occupation tax is a tax upon the privilege of doing business in a particular jurisdiction or upon the act of exercising, undertaking, or operating a given occupation, trade, or profession. Anthony, Inc. v. City of Omaha, 283 Neb. 868, 813 N.W.2d 467 (2012).

Both occupation taxes and sales taxes can be ''gross receipts taxes.'' Anthony, Inc. v. City of Omaha, 283 Neb. 868, 813 N.W.2d 467 (2012).

The legal incidence of an occupation tax falls upon the retailer, because it is a tax upon the act or privilege of engaging in business activities. Anthony, Inc. v. City of Omaha, 283 Neb. 868, 813 N.W.2d 467 (2012).

There is no statutory limit on the amount of municipal occupation taxes. Anthony, Inc. v. City of Omaha, 283 Neb. 868, 813 N.W.2d 467 (2012).

Statute does not deprive State Railway Commission of jurisdiction to control operation of taxicab companies in city of Omaha. In re Yellow Cab and Baggage Co., 126 Neb. 138, 253 N.W. 80 (1934).

City may, by ordinance, define ''peddlers'' and include in such term a ''rolling store'', and impose a permit fee and occupation tax. Erwin v. City of Omaha, 118 Neb. 331, 224 N.W. 692 (1929).

The municipal year may be declared coextensive with the fiscal year. Johnson v. Leidy, 86 Neb. 818, 126 N.W. 514 (1910).

License tax cannot be exacted from persons, the regulation of whose compensation is not permitted, and the attempt to tax vehicles rented out by the month is not authorized by this section. McCauley v. State, 83 Neb. 431, 119 N.W. 675 (1909).

An ordinance imposing an occupation tax is void if it can only be enforced by illegal methods. City of Omaha v. Harmon, 58 Neb. 339, 78 N.W. 623 (1899).

14-110 City council; supplemental powers; authorized.

If the manner of exercising any power conferred upon the city council of a city of the metropolitan class is not prescribed, the city council may provide by ordinance for the exercise of such power.

Source: Laws 1921, c. 116, art. I, § 10, p. 409; C.S.1922, § 3947; C.S. 1929, § 14-110; R.S.1943, § 14-110; Laws 2022, LB800, § 19.
Operative date July 21, 2022.

Right to levy taxes having been conferred on municipal authorities, they have power to supply the details necessary to full exercise of such right. Chicago & N. W. Ry. Co. v. Bauman, 132 Neb. 67, 271 N.W. 256 (1937).

This section does not deprive State Railway Commission of jurisdiction to control operation of taxicab companies in city of Omaha. In re Yellow Cab & Baggage Co., 126 Neb. 138, 253 N.W. 80 (1934).

City may provide for notice to property owners of a hearing of claims for damages arising from grading of a street. Burkley v. City of Omaha, 102 Neb. 308, 167 N.W. 72 (1918).

In absence of constitutional or statutory restrictions upon its power, city may prescribe by ordinance means of acquiring jurisdiction of a certain subject. Ives v. Irey, 51 Neb. 136, 70 N.W. 961 (1897).

City has only such powers as are expressly conferred upon it by statute, or as are necessary to carry into effect some enumerated power. State ex rel. Ransom v. Irey, 42 Neb. 186, 60 N.W. 601 (1894).

14-111 City council; powers; city property and finances.

The city council of a city of the metropolitan class shall have the care, management, and control of the city and its property and finances, and shall have power to pass, amend, or repeal any and all ordinances necessary or proper to execute or carry into effect any of the provisions of sections 14-101 to 14-2004, or any of the powers granted in such sections, except as otherwise provided by law.

Source: Laws 1921, c. 116, art. I, § 11, p. 409; C.S.1922, § 3498; C.S. 1929, § 14-111; R.S.1943, § 14-111; Laws 2022, LB800, § 20. Operative date July 21, 2022.

An ordinance, providing that it shall be unlawful to erect a gas reservoir without written consent of all property owners within radius of one thousand feet, is void. State ex rel. Omaha Gas Co. v. Withnell, 78 Neb. 33, 110 N.W. 680 (1907).

14-112 City council; powers; public comfort stations.

In each city of the metropolitan class, the city shall have power by ordinance to erect, establish, and maintain public comfort stations. Such public comfort stations may be located on any street, alley, public grounds, or on any lands acquired for such purpose.

Source: Laws 1921, c. 116, art. I, § 12, p. 409; C.S.1922, § 3499; C.S. 1929, § 14-112; R.S.1943, § 14-112; Laws 2022, LB800, § 21. Operative date July 21, 2022.

14-113 City council; powers; armory; establishment; lease to state authorized.

In each city of the metropolitan class, the city council shall have power by ordinance to erect, establish, and maintain an armory in such city, and may rent or lease such armory to the State of Nebraska for the purpose of housing the National Guard and State Guard of the state, or any unit thereof, under such terms and conditions as the city council may deem proper.

Source: Laws 1921, c. 116, art. I, § 12 1/2, p. 410; C.S.1922, § 3500; C.S.1929, § 14-113; Laws 1935, Spec. Sess., c. 10, § 3, p. 73; Laws 1941, c. 130, § 9, p. 495; C.S.Supp.,1941, § 14-113; R.S. 1943, § 14-113; Laws 1972, LB 1046, § 1; Laws 2022, LB800, § 22.
Operative date July 21, 2022.

14-114 Repealed. Laws 2022, LB800, § 349.
Operative date July 21, 2022.

14-115 Real estate; subdividing; procedure; conditions; replatting; powers of city council; vacation of street or alley; effect.

(1)(a) No owner of real estate within the corporate limits of a city of the metropolitan class shall be permitted to subdivide the real estate into blocks and lots or parcels without first having obtained from the city engineer a plat or plan for the avenues, streets, and alleys to be laid out within or across such real estate and, when applicable, having complied with sections 39-1311 to 39-1311.05.

(b) A copy of such plat must be filed in the office of the city clerk for at least two weeks before such plat can be approved. Public notice must be given for two weeks of the filing of the plat.

(2) The city council shall have the power to:

(a) Order such plat be made so that such avenues, streets, and alleys so far as practicable, correspond in width, name, and direction and are continuous of the avenues, streets, and alleys in the city contiguous to or near the real estate to be subdivided;

(b) Compel the owner of such real estate, in subdividing such real estate, to lay out and dedicate to the public the avenues, streets, and alleys, to be within or across such real estate in accordance with the plat;

(c) Prohibit the selling or offering for sale of any lots or parts of such real estate not subdivided and platted pursuant to this section; and

(d) Establish the grade of all such streets and alleys and to require such streets and alleys to be graded to such established grade before selling or offering for sale any of the lots or parts of the real estate.

(3) Any and all additions to be made to the city shall be made so far as such additions relate to the avenues, streets, and alleys in such additions under and in accordance with this section.

(4)(a) Whenever the owners of all the lots and lands, except streets and alleys, embraced and included in any existing plat or subdivision shall desire to vacate the plat or subdivision for the purpose of replatting the land embraced in the plat or subdivision, and shall present a petition praying for such vacation to the city council, and submit with such petition a proposed replat of such lots and lands, which shall in all things be in conformity with the requirements of this section, the city council may, by concurrent resolution, declare the existing plat and the streets and alleys in such plat vacated and approve the proposed replat.

(b) Upon such approval, the existing plat or subdivision shall be vacated and the land comprised within the streets and alleys so vacated shall revert to, and the title to such streets and alleys vest in, the owners of the abutting property and become a part of such property, each owner taking title to the centerline of the vacated street or alley adjacent to his or her property. When a portion of a street or alley is vacated only on one side of the center of such street or alley, the title to such land shall vest in the owner of the abutting property and become a part of such property.

(c) It shall require a two-thirds vote of all the members of the city council to adopt such resolution.

(5) Upon the vacation of any plat as provided in this section, it shall be the duty of the owners petitioning for such vacation to cause to be recorded in the office of the register of deeds and county assessor of the county a duly certified

copy of the petition, the action of the city council on such petition, and the resolution vacating the plat.

Source: Laws 1921, c. 116, art. I, § 14, p. 410; C.S.1922, § 3502; C.S. 1929, § 14-115; R.S.1943, § 14-115; Laws 1969, c. 58, § 1, p. 362; Laws 1974, LB 757, § 1; Laws 2003, LB 187, § 1; Laws 2022, LB800, § 23.
Operative date July 21, 2022.

Dedication and plat of addition operated to ratify and confirm a preexisting title of city in certain streets as shown on plat. McCague v. Miller, 55 Neb. 762, 76 N.W. 422 (1898).

Acknowledgment and recording of plat is equivalent to a deed in fee simple to city of the streets and parks therein platted. Jaynes v. Omaha St. Ry. Co., 53 Neb. 631, 74 N.W. 67 (1898).

14-116 Real estate within the extraterritorial zoning jurisdiction of city; subdividing; platting; conditions; powers of city council; requirements.

(1) No owner of any real estate located in an area which is within the extraterritorial zoning jurisdiction of any city of the metropolitan class, when such real estate is located in any county in which such city is located, and is outside of any other organized city or village, shall be permitted to subdivide, plat, or lay out the real estate in building lots and streets or other portions of such real estate intended to be dedicated for public use or for the use of the purchasers or owners of lots fronting on or adjacent to such real estate without first having obtained the approval by the city council of such city and, when applicable, having complied with sections 39-1311 to 39-1311.05. No plat of such real estate shall be recorded in the office of the register of deeds or have any force or effect unless such plat shall have been first approved by the city council of such city.

(2) The city shall have the authority within its extraterritorial zoning jurisdiction to:

(a) Regulate the subdivision of land for the purpose, whether immediate or future, of transfer of ownership or building development;

(b) Prescribe standards for laying out subdivisions in harmony with a comprehensive plan;

(c) Require the installation of improvements by the owner or by the creation of public improvement districts, by requiring a good and sufficient bond guaranteeing installation of such improvement or by requiring the execution of a contract with the city insuring the installation of such improvements; and

(d) Require the dedication of land for adequate streets, drainage ways, and easements for sewers and utilities.

(3) All such requirements for improvements shall operate uniformly throughout the extraterritorial zoning jurisdiction of such city.

(4) For purposes of this section, subdivision shall mean the division of a lot, tract, or parcel of land into two or more lots, blocks, or other divisions of lands for the purpose, whether immediate or future, of ownership or building developments except that the division of land shall not be considered to be subdivision when the smallest parcel created is more than ten acres in size.

(5) The city council may withhold approval of a plat until the appropriate department of the city has certified that the improvements required by ordinance have been satisfactorily installed, until a sufficient bond guaranteeing installation of the improvements has been posted with the city, until public

improvement districts have been created, or until a contract has been executed insuring the installation of such improvements.

Source: Laws 1921, c. 116, art. I, § 15, p. 411; C.S.1922, § 3503; C.S. 1929, § 14-116; R.S.1943, § 14-116; Laws 1961, c. 29, § 1, p. 144; Laws 1980, LB 61, § 1; Laws 2003, LB 187, § 2; Laws 2022, LB800, § 24.
Operative date July 21, 2022.

This section does not govern the subdivision of property within an organized city or village, nor does it apply to the doctrine of adverse possession. Wanha v. Long, 255 Neb. 849, 587 N.W.2d 531 (1998).

This section gives the city of Omaha the power to accept dedication of streets in subdivisions within three miles of its corporate limits. Baker v. Buglewicz, 205 Neb. 656, 289 N.W.2d 519 (1980).

Power of city over platting is restricted to county in which property is located. Barton v. City of Omaha, 180 Neb. 752, 145 N.W.2d 444 (1966).

14-117 Corporate limits; how fixed; annexation of cities or villages; limitation; powers and duties of city council.

The corporate limits of any city of the metropolitan class shall be fixed and determined by ordinance by the city council. The city council of any city of the metropolitan class may at any time extend the corporate limits of such city over any contiguous or adjacent lands, lots, tracts, streets, or highways, such distance as may be deemed proper in any direction, and may include, annex, merge, or consolidate with such city of the metropolitan class, by such extension of its limits, any adjoining city of the first class having a population of less than ten thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census or any adjoining city of the second class or village. Any other laws and limitations defining the boundaries of cities or villages or the increase of area or extension of limits of such boundaries shall not apply to lots, lands, cities, or villages annexed, consolidated, or merged under this section.

Source: Laws 1921, c. 116, art. I, § 16, p. 412; C.S.1922, § 3504; C.S. 1929, § 14-117; R.S.1943, § 14-117; Laws 1998, LB 611, § 1; Laws 2017, LB113, § 6; Laws 2022, LB800, § 25.
Operative date July 21, 2022.

1. Powers of city
2. Constitutionality
3. Miscellaneous

1. Powers of city

Under this section, the Legislature intended to permit a metropolitan city to extend its corporate limits so that it adjoins the corporate limits of a city to be annexed. City of Elkhorn v. City of Omaha, 272 Neb. 867, 725 N.W.2d 792 (2007).

The act of annexation is a matter of statewide concern, and therefore the state statutes, not the city charter provisions, are controlling. S.I.D. No. 95 v. City of Omaha, 221 Neb. 272, 376 N.W.2d 767 (1985).

No restriction on right to extend corporate limits of metropolitan city when properly exercised, and when proper procedures followed taxpayers have no right to intervene in legal actions involving annexation proceedings. Airport Authority of City of Millard v. City of Omaha, 185 Neb. 623, 177 N.W.2d 603 (1970).

Annexation pursuant to this section is a legislative matter, however, courts have power to inquire into and determine whether conditions exist which authorize the annexation. Sullivan v. City of Omaha, 183 Neb. 511, 162 N.W.2d 227 (1968).

This section does not confer power upon a city of the metropolitan class to annex property in an adjoining county. Barton v. City of Omaha, 180 Neb. 752, 145 N.W.2d 444 (1966).

This section governs the annexation of territory by a city of the metropolitan class. Bierschenk v. City of Omaha, 178 Neb. 715, 135 N.W.2d 12 (1965).

Annexation of rural lands was denied. Wagner v. City of Omaha, 156 Neb. 163, 55 N.W.2d 490 (1952).

This section authorized merger and consolidation of cities, towns and villages with metropolitan city. Omaha Water Co. v. City of Omaha, 162 F. 225 (8th Cir. 1908).

2. Constitutionality

Constitutional for metropolitan city to annex city of first class operating under home rule charter. City of Millard v. City of Omaha, 185 Neb. 617, 177 N.W.2d 576 (1970).

Annexation ordinance extending corporate limits of metropolitan city was not unconstitutional. Buller v. City of Omaha, 164 Neb. 435, 82 N.W.2d 578 (1957).

3. Miscellaneous

The ''contiguous or adjacent'' standard for annexations also applies to ''adjoining city.'' City of Elkhorn v. City of Omaha, 272 Neb. 867, 725 N.W.2d 792 (2007).

The terms ''contiguous'' and ''adjoining'' in this section are synonymous. City of Elkhorn v. City of Omaha, 272 Neb. 867, 725 N.W.2d 792 (2007).

Under the ''contiguous or adjacent'' standard in annexation statutes, municipalities are not required to have common boundaries with the territory to be annexed, and they may annex territory nearby in proximity through the simultaneous annexation of a substantial link of connecting territory. City of Elkhorn v. City of Omaha, 272 Neb. 867, 725 N.W.2d 792 (2007).

Use of land for agricultural purposes does not mean, by itself, that it is rural in character. Location as well as use must be considered in making the determination. Omaha Country Club v. City of Omaha, 214 Neb. 3, 332 N.W.2d 206 (1983).

Method of annexation under this section compared with method of annexation prescribed for cities of the first class. State ex rel. City of Grand Island v. Tillman, 174 Neb. 23, 115 N.W.2d 796 (1962).

14-118 Annexation or merger of city or village; rights and liabilities; rights of franchise holders and licensees.

(1) Whenever any city of the metropolitan class shall extend its boundaries so as to annex or merge with it any city or village, the laws, ordinances, powers, and government of such city of the metropolitan class shall extend over the territory embraced within such annexed or merged city or village from and after the date of annexation or merger. The date of annexation or merger shall be set forth in the ordinance providing for such annexation or merger.

(2) After such date, the city of the metropolitan class shall:

(a) Succeed to all the property and property rights of every kind, contracts, obligations, and choses in action of every kind held by or belonging to the annexed or merged city or village; and

(b) Be liable for and recognize, assume, and carry out all valid contracts, obligations, and licenses of the annexed or merged city or village.

(3) Any city or village so annexed or merged with the city of the metropolitan class shall be deemed fully compensated by virtue of such annexation or merger and assumption of its obligations and contracts, for all its properties and property rights of every kind so acquired.

(4) Any public franchise, license, or privilege granted to or held by any person or corporation from any of the cities or villages annexed or merged with any city of the metropolitan class, before such annexation or merger shall not, by virtue of such annexation or merger, be extended into, upon, or over the streets, alleys, or public places of the city of the metropolitan class involved in such annexation or merger.

Source: Laws 1921, c. 116, art. I, § 17, p. 412; C.S.1922, § 3505; C.S. 1929, § 14-118; R.S.1943, § 14-118; Laws 2022, LB800, § 26. Operative date July 21, 2022.

Property and obligations of airport authority belonging to annexed city become property and obligation of annexing city. Airport Authority of City of Millard v. City of Omaha, 185 Neb. 623, 177 N.W.2d 603 (1970).

Consolidated city is required to perform all valid, unperformed, subsisting contracts made by city of South Omaha. State ex rel. Parks Co. v. Dahlman, 100 Neb. 416, 160 N.W. 117 (1916).

14-119 Repealed. Laws 1972, LB 1032, § 287.

14-120 Annexed or merged city or village; taxes; fines; fees; claims; payment; collection.

All taxes, assessments, fines, license fees, claims and demands of every kind, due or to become due or owing to any city or village annexed or merged with any city of the metropolitan class as provided in sections 14-117 to 14-125, shall be paid to and collected by the city of the metropolitan class.

Source: Laws 1921, c. 116, art. I, § 19, p. 413; C.S.1922, § 3507; C.S. 1929, § 14-120; R.S.1943, § 14-120; Laws 2022, LB800, § 27. Operative date July 21, 2022.

14-121 Annexed or merged city or village; authorized taxes or assessments; city of the metropolitan class; powers.

All taxes or special assessments which any city or village annexed or merged with a city of the metropolitan class as provided in sections 14-117 to 14-125 was authorized to levy or assess, but which are not levied or assessed at the time of such annexation or merger for any kind of public improvements made by such city or village or in process of construction or contracted for, may be levied or assessed by such city of the metropolitan class. The city of the metropolitan class shall have the power to reassess all special assessments or taxes levied or assessed by such city or village thus consolidated with such city in all cases where any city or village was authorized to make reassessments or relevies of such taxes or assessments.

Source: Laws 1921, c. 116, art. I, § 20, p. 413; C.S.1922, § 3508; Laws 1925, c. 166, § 2, p. 434; C.S.1929, § 14-121; R.S.1943, § 14-121; Laws 1953, c. 278, § 1, p. 905; Laws 1961, c. 30, § 1, p. 146; Laws 1971, LB 4, § 1; Laws 2022, LB800, § 28.
Operative date July 21, 2022.

Metropolitan city had authority to levy special assessments after annexation and consolidation with city of smaller class to carry out paving contracts entered into by latter city prior to consolidation. State ex rel. Parks Co. v. Dahlman, 100 Neb. 416, 160 N.W. 117 (1916).

14-122 Annexed or merged city or village; licenses; extension for remainder of license year; city of the metropolitan class; powers.

Where, at the time of any annexation or merger as provided in sections 14-117 to 14-125, the municipal license year, for any kind of license, of any city or village annexed or merged with a city of the metropolitan class as provided in such sections extends beyond or overlaps the municipal license year of the city of the metropolitan class, then the proper authorities of the city of the metropolitan class may issue to the lawful holder of any yearly license issued by any such city or village annexed or merged with the city of the metropolitan class, or to any new applicants applying for license to continue the business at the place covered by such expiring city or village license, a new license under such conditions as may be provided in the laws or ordinances governing the city of the metropolitan class for the remainder of the city of the metropolitan class license year, extending from the expiration of such city or village license up to the end of the city of the metropolitan class license year, and charging and collecting for such license only such portion of the yearly amount fixed for such license by the laws or ordinances governing the city of the metropolitan class as will represent proportionately the time for which the new license shall be granted.

Source: Laws 1921, c. 116, art. I, § 21, p. 413; C.S.1922, § 3509; C.S. 1929, § 14-122; R.S.1943, § 14-122; Laws 2022, LB800, § 29.
Operative date July 21, 2022.

14-123 Annexed or merged city or village; actions pending; claims; claimants' rights.

All actions in law or in equity pending in any court in favor of or against any city or village annexed or merged with a city of the metropolitan class as provided in sections 14-117 to 14-125 at the time such annexation or merger takes effect shall be prosecuted by or defended by such city of the metropolitan class. All rights of action existing against any city or village consolidated with

such city of the metropolitan class at the time of such consolidation, or accruing thereafter on account of any transaction had with or under any law or ordinance of such city or village, may be prosecuted against such city of the metropolitan class as existing after annexation or merger.

Source: Laws 1921, c. 116, art. I, § 22, p. 414; C.S.1922, § 3510; C.S. 1929, § 14-123; R.S.1943, § 14-123; Laws 2022, LB800, § 30. Operative date July 21, 2022.

14-124 Annexed or merged city or village; books, records, or property; transfer to city of the metropolitan class; offices; termination.

All officers of any city or village annexed or merged with a city of the metropolitan class as provided in sections 14-117 to 14-125, having books, papers, bonds, funds, effects, or property of any kind in their hands or under their control belonging to any such city or village shall, upon the taking effect of such consolidation, deliver such books, papers, bonds, funds, effects, or property to the respective officers of the city of the metropolitan class entitled or authorized to receive such books, papers, bonds, funds, effects, or property. Upon such annexation and merger taking effect, the terms and tenure of all offices and officers of any city or village so consolidated with the city of the metropolitan class shall terminate and entirely cease except as otherwise provided by law.

Source: Laws 1921, c. 116, art. I, § 23, p. 414; C.S.1922, § 3511; C.S. 1929, § 14-124; R.S.1943, § 14-124; Laws 2022, LB800, § 31. Operative date July 21, 2022.

14-125 Annexed or merged city or village; rights acquired under earlier consolidation; continuance.

Any rights, power, or authority acquired, granted, received, or possessed by any person, city, or village through consolidation effectuated under the terms of Chapter 212 of the Session Laws of Nebraska for 1915, are hereby granted and continued.

Source: Laws 1921, c. 116, art. I, § 24, p. 414; C.S.1922, § 3512; C.S. 1929, § 14-125; R.S.1943, § 14-125; Laws 2022, LB800, § 32. Operative date July 21, 2022.

14-126 Repealed. Laws 2022, LB800, § 349.
Operative date July 21, 2022.

14-127 Repealed. Laws 1981, LB 497, § 1.

14-128 Repealed. Laws 1981, LB 497, § 1.

14-129 Repealed. Laws 1981, LB 497, § 1.

14-130 Repealed. Laws 1981, LB 497, § 1.

14-131 Repealed. Laws 1955, c. 20, § 7.

14-132 Repealed. Laws 1981, LB 497, § 1.

14-133 Repealed. Laws 1981, LB 497, § 1.

14-134 Repealed. Laws 1981, LB 497, § 1.

14-135 Repealed. Laws 1981, LB 497, § 1.

14-135.01 Repealed. Laws 1981, LB 497, § 1.

14-135.02 Repealed. Laws 1981, LB 497, § 1.

14-135.03 Repealed. Laws 1981, LB 497, § 1.

14-135.04 Repealed. Laws 1981, LB 497, § 1.

14-135.05 Repealed. Laws 1981, LB 497, § 1.

14-136 City council; investigations; attendance and examination of witnesses; power to compel; oaths.

The city council of a city of the metropolitan class, or any committee of the members of the city council, shall have the power to compel the attendance of witnesses for the investigation of matters that may come before them. The presiding officer of the city council or the chairperson of such committee may administer the requisite oaths, and the city council or committee shall have the same authority to compel the giving of testimony as is conferred on courts of justice.

Source: Laws 1921, c. 116, art. I, § 35, p. 418; C.S.1922, § 3523; C.S. 1929, § 14-136; R.S.1943, § 14-136; Laws 2022, LB800, § 33. Operative date July 21, 2022.

14-137 Ordinances; how enacted.

The style of ordinances of a city of the metropolitan class shall be as follows: Be it ordained by the city council of the city of . . . . All ordinances of the city shall be passed pursuant to such rules and regulations as the city council may prescribe. Upon the passage of all ordinances the yeas and nays shall be recorded in the minutes of the city council, and a majority of the votes of all the members of the city council shall be necessary for passage. No ordinance shall be passed within a week after its introduction, except the general appropriation ordinances for salaries and wages. Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the city council vote to suspend this requirement, except that such requirement shall not be suspended (1) for any ordinance for the annexation of territory or the redrawing of boundaries for city council election districts or wards or (2) as otherwise provided by law.

Source: Laws 1921, c. 116, art. I, § 36, p. 418; C.S.1922, § 3524; C.S. 1929, § 14-137; R.S.1943, § 14-137; Laws 2018, LB865, § 1; Laws 2021, LB131, § 9; Laws 2022, LB800, § 34. Operative date July 21, 2022.

An ordinance pending and previously twice read may be passed at special meeting, call for which specifies consideration of ordinance. National Life Ins. Co. v. City of Omaha, 73 Neb. 41, 102 N.W. 73 (1905).

14-138 Ordinances; how proved.

All ordinances of a city of the metropolitan class may be proved by a certificate of the city clerk under the seal of the city, and when printed or published in book, pamphlet, or electronic form, and purporting to be published or printed by authority of the city council, shall be read and received in all courts and places without further proof.

Source: Laws 1921, c. 116, art. I, § 37, p. 419; C.S.1922, § 3525; C.S. 1929, § 14-138; R.S.1943, § 14-138; Laws 2021, LB159, § 1.

ARTICLE 2

OFFICERS, ELECTIONS, BONDS, SALARIES, RECALL OF OFFICERS, INITIATIVE, REFERENDUM

Section
14-201. City council members; election; term.
14-201.01. Repealed. Laws 1994, LB 76, § 615.
14-201.02. Legislative findings.
14-201.03. City council districts; duties.
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14-202. Special election; notice; vote; requirements.
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14-217.01. Mayor; election.
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14-225. City council, officers, employees; solicitation of political support; persons, corporations furnishing same; violations; penalties.
14-226. City council, officers, employees; extortion; soliciting bribe; violations; penalty.
14-227. Fines, penalties, and forfeitures; collection; duty to pay to city treasurer; violation; penalty; duty of comptroller to audit.
14-228. Officers; reports at expiration of term; requirements.
14-229. Officers, employees; exercise of political influence; violations; penalty.
14-230. City council; mayor; candidate; public officeholder not disqualified from candidacy.

14-201 City council members; election; term.

In each city of the metropolitan class, seven city council members shall be elected to the city council as provided in section 32-536. The general city election for the election of elective officers of cities of the metropolitan class shall be held on the first Tuesday after the second Monday in May 1993 and every four years thereafter. The terms of office of such city council members shall commence on the fourth Monday after such election.

Source: Laws 1921, c. 116, art. II, § 1, p. 419; C.S.1922, § 3526; C.S. 1929, § 14-201; Laws 1935, c. 78, § 1, p. 264; C.S.Supp.,1941,

§ 14-201; R.S.1943, § 14-201; Laws 1951, c. 30, § 1, p. 128; Laws 1979, LB 80, § 1; Laws 1979, LB 329, § 2; Laws 1982, LB 807, § 38; Laws 1989, LB 165, § 3; Laws 1994, LB 76, § 469; Laws 2022, LB800, § 35.
Operative date July 21, 2022.

14-201.01 Repealed. Laws 1994, LB 76, § 615.

14-201.02 Legislative findings.

The Legislature finds and declares that the election of the city council at large in cities of the metropolitan class denies representation to some socioeconomic segments of the population. The Legislature further finds and declares that fair and adequate representation of all areas and all socioeconomic segments of the population of cities of the metropolitan class is a matter of general statewide concern, the provisions of any home rule charter notwithstanding.

Source: Laws 1979, LB 329, § 1.

The primary concern of this statute is to insure proportionate representation to every socioeconomic segment of the population of a metropolitan class city. This statute was enacted to protect the right to vote, which is a legitimate matter of statewide concern for which the Legislature may act without violating Neb. Const., art. XI, § 5, concerning home rule charters. Jacobberger v. Terry, 211 Neb. 878, 320 N.W.2d 903 (1982).

14-201.03 City council districts; duties.

The election commissioner in any county in which is situated a city of the metropolitan class shall divide the city into seven city council districts of compact and contiguous territory. Such districts shall be numbered consecutively from one to seven. One city council member shall be elected from each district. The city council shall be responsible for redrawing the city council district boundaries pursuant to section 32-553.

Source: Laws 1979, LB 329, § 3; Laws 1989, LB 165, § 4; Laws 1994, LB 76, § 470; Laws 2001, LB 71, § 1; Laws 2022, LB800, § 36.
Operative date July 21, 2022.

14-201.04 Repealed. Laws 1994, LB 76, § 615.

14-202 Special election; notice; vote; requirements.

The city council of a city of the metropolitan class is authorized to call, by ordinance, special elections and to submit at such elections such questions and propositions as may be authorized by law to be submitted to the electors at a special election. Unless otherwise specifically directed, it shall be sufficient to give, in the manner required by law, thirty days' notice of the time and place of holding such special election. Unless otherwise specifically designated, a majority vote of the electors voting on any proposition shall be regarded sufficient to approve or carry such proposition. The vote at such special election shall be canvassed by the authority or officer authorized to canvass the vote at the general city election and the result of such election certified or declared and certificate of election, if required, shall be issued.

Source: Laws 1921, c. 116, art. II, § 2, p. 419; C.S.1922, § 3527; C.S. 1929, § 14-202; R.S.1943, § 14-202; Laws 1949, c. 16, § 1, p. 81; Laws 1967, c. 42, § 1, p. 172; Laws 2022, LB800, § 37.
Operative date July 21, 2022.

Requirement of sixty percent of vote to carry proposition submitted does not apply where specific statute authorizing submission requires majority only. Rasp v. City of Omaha, 113 Neb. 463, 203 N.W. 588 (1925).

14-203 Repealed. Laws 1979, LB 329, § 13.

14-204 City council; candidates; qualifications; primary election; filing.

(1) A candidate for city council member of a city of the metropolitan class shall be a registered voter and a resident of the district from which he or she seeks election and shall have been a resident in the city and district or any area annexed by the city for six months. The primary election for nomination of city council members shall be held on the first Tuesday of April preceding the date of the general city election.

(2) Any person desiring to become a candidate for city council member shall file a candidate filing form pursuant to sections 32-606 and 32-607.

Source: Laws 1921, c. 116, art. II, § 4, p. 420; C.S.1922, § 3529; C.S. 1929, § 14-204; R.S.1943, § 14-204; Laws 1949, c. 16, § 2, p. 81; Laws 1953, c. 21, § 1, p. 91; Laws 1979, LB 80, § 3; Laws 1979, LB 329, § 5; Laws 1982, LB 807, § 39; Laws 1994, LB 76, § 471; Laws 2022, LB800, § 38.
Operative date July 21, 2022.

14-205 City council; primary election; ballot; form.

Notwithstanding any more general law respecting primary elections in force in this state, the official ballot to be prepared and used at the primary election under section 14-204 shall be in substantially the form provided in this section. The names of all candidates shall be placed upon the ballot without any party designation.

Candidate for Nomination for City Council Member from City Council District No. . . . . , of the City of . . . . . , at the Primary Election

Vote for only one:

. . . . . .
(Names of candidates)

In all other respects the general character of the ballot to be used shall be the same as authorized by the Election Act.

In printing, the names shall not be arranged alphabetically but shall be rotated according to the following plan: The form shall be set up by the printer, with the names in the order in which they are placed upon the sample ballot prepared by the officer authorized to conduct the general city election. In printing the ballots for the various election districts or precincts, the position of the names shall be changed for each election district, and in making the change of position the printer shall take the line of type containing the name at the head of the form and place it at the bottom, shoving up the column so that the name that was second before the change shall be the first after the change. The primary election shall be conducted pursuant to the Election Act except as provided in section 14-204 and unless otherwise provided in the home rule charter or city code.

Source: Laws 1921, c. 116, art. II, § 5, p. 421; C.S.1922, § 3530; C.S. 1929, § 14-205; R.S.1943, § 14-205; Laws 1949, c. 17, § 1, p. 83;

Laws 1979, LB 80, § 4; Laws 1979, LB 329, § 6; Laws 1994, LB 76, § 472; Laws 2022, LB800, § 39.
Operative date July 21, 2022.

Cross References

Election Act, see section 32-101.

14-206 City council; election; candidates; number.

The two candidates receiving the highest number of votes in each city council district at the primary election under section 14-204 shall be the candidates and the only candidates whose names shall be placed upon the official ballot for city council members in such city council district at the general city election in such city.

Source: Laws 1921, c. 116, art. II, § 6, p. 422; C.S.1922, § 3531; C.S. 1929, § 14-206; R.S.1943, § 14-206; Laws 1979, LB 80, § 5; Laws 1979, LB 329, § 7; Laws 1994, LB 76, § 473; Laws 2022, LB800, § 40.
Operative date July 21, 2022.

14-207 City council; general election; ballot; form; applicable law.

At the general city election at which city council members are to be elected, the ballot shall be prepared in substantially the same form as provided in section 14-205, and the person receiving the highest number of votes in each of the city council districts shall be the city council member elected. The general city election shall be conducted pursuant to the Election Act unless otherwise provided in the home rule charter or city code.

Source: Laws 1921, c. 116, art. II, § 7, p. 422; C.S.1922, § 3532; C.S. 1929, § 14-207; R.S.1943, § 14-207; Laws 1979, LB 80, § 6; Laws 1979, LB 329, § 8; Laws 2022, LB800, § 41.
Operative date July 21, 2022.

Cross References

Election Act, see section 32-101.

14-208 City council; members; bond or insurance.

All members of the city council of a city of the metropolitan class shall qualify and give bond or evidence of equivalent insurance in the sum of five thousand dollars.

Source: Laws 1921, c. 116, art. II, § 8, p. 423; C.S.1922, § 3533; C.S. 1929, § 14-208; R.S.1943, § 14-208; Laws 1979, LB 80, § 7; Laws 1994, LB 76, § 475; Laws 2007, LB347, § 2.

This section does not apply to ''holdover officers'', as they are governed by section 11-117. State ex rel. Shaw v. Rosewater, 79 Neb. 450, 113 N.W. 206 (1907).

14-209 Repealed. Laws 1984, LB 975, § 14.

14-210 Ordinances; adoption by initiative; procedure.

(1) The right to enact ordinances for any city of the metropolitan class is hereby granted to the qualified electors of such city, but such grant is made

upon the following conditions and in addition to the right granted to the city council to legislate as provided in this section.

(2)(a) Whenever qualified electors of any city of the metropolitan class equal in number to fifteen percent of the vote cast at the last preceding city election petition the city council to enact a proposed ordinance, it shall be the duty of the city council to either enact such ordinance without amendment within thirty days or submit such ordinance to a vote of the people at the next election held within such city regardless of whether such election be a city, county, or state election.

(b) Whenever such proposed ordinance is petitioned for by qualified electors equal in number to twenty-five percent of the votes cast at the last preceding city election and such petition requests that a special election be called to submit the proposed ordinance to a vote of the people in the event that the city council shall fail to enact such ordinance, the city council shall either enact such ordinance without amendment within thirty days or submit such ordinance to a vote of the people at a special election called by the city council for that purpose. The date of such election shall not be less than fifty days nor more than seventy days after the filing of the petition for the proposed ordinance.

(3) The petition provided for in this section shall be in the general form and as to signatures and verification as provided in section 14-212 and shall be filed with the city clerk. Upon the filing of a petition, the city clerk and the county clerk or election commissioner of the county in which the city is located may by mutual agreement provide that the county clerk or election commissioner shall ascertain whether the petition is signed by the requisite number of voters. When the verifying official has ascertained the percent of the voters signing such petition, such official shall transmit his or her findings, together with such petition, to the city council.

(4) In the event the city council shall fail to enact such ordinance, the city council shall submit such ordinance to a vote of the people of such city as provided in this section. The mayor shall notify the electors of such election at least fifteen days prior to such election, and the city council shall cause to have published a notice of the election and a copy of such proposed ordinance once in each of the daily legal newspapers in or of general circulation in the city, or, if there is no such newspaper, then once in each weekly legal newspaper in or of general circulation in such city. Such publication shall be not more than twenty nor less than five days prior to such election.

(5) All proposed ordinances shall have a title which shall state in a general way the purpose and intent of such ordinance.

(6) The ballots used when voting upon such proposed ordinance shall contain the following: For the ordinance (set forth the title thereof) and Against the ordinance (set forth the title thereof).

(7) If a majority of the electors voting on the proposed ordinance shall vote in favor of the question such ordinance shall become a valid and binding ordinance of the city. An ordinance adopted as provided in this section shall not be altered or modified by the city council within one year after such adoption.

(8) Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this section except that the same

measure, either in form or essential substance, shall not be submitted more often than once every two years.

Source: Laws 1921, c. 116, art. II, § 10, p. 425; C.S.1922, § 3535; C.S.1929, § 14-210; R.S.1943, § 14-210; Laws 2022, LB800, § 42.
Operative date July 21, 2022.

Electors of a city cannot, under the initiative law, propose an ordinance which the city council does not have the power to enact. State ex rel. Andersen v. Leahy, 189 Neb. 92, 199 N.W.2d 713 (1972).

14-211 Ordinances; when effective; repeal by referendum; procedure.

(1)(a) No ordinance passed by the city council of a city of the metropolitan class, except when otherwise required by the general laws of the state, by other provisions of sections 14-201 to 14-229, or as provided in subdivision (1)(b) of this section, shall go into effect before fifteen days from the time of its final passage.

(b) An ordinance passed by the city council of a city of the metropolitan class may take effect sooner than fifteen days from the time of its final passage if the ordinance is:

(i) For the appropriation of money to pay the salary of officers or employees of the city; or

(ii) An emergency ordinance that is for the preservation of the public peace, health, or safety and that contains a statement of such emergency.

(2)(a) If during such fifteen days a petition, signed and verified as provided in this section by electors of the city equal in number to at least fifteen percent of the highest number of votes cast for any city council member at the last preceding general city election, protesting against the passage of such ordinance, shall be presented to the city council, then such ordinance shall be suspended from going into operation, and it shall be the duty of the city council to reconsider such ordinance.

(b) If such ordinance is not repealed by the city council, then the city council shall proceed to submit to the voters such ordinance at a special election to be called for such purpose or at a general city election, and such ordinance shall not go into effect or become operative unless a majority of the qualified electors voting on such ordinance shall vote in favor of the question.

(3) Such petition shall be in all respects in accordance with the provisions of section 14-212 relating to signatures, verification, inspection, and certification.

Source: Laws 1921, c. 116, art. II, § 11, p. 426; C.S.1922, § 3536; C.S.1929, § 14-211; R.S.1943, § 14-211; Laws 2022, LB800, § 43.
Operative date July 21, 2022.

Where no referendum petition is filed as prescribed herein, it appears under the express terms of the statute that no action was taken to delay the effectiveness of the ordinance. State ex rel. Andersen v. Leahy, 189 Neb. 92, 199 N.W.2d 713 (1972).

Referendum did not apply to ordinance establishing location of city auditorium. State ex rel. Ballantyne v. Leeman, 149 Neb. 847, 32 N.W.2d 918 (1948).

14-212 Petitions; signatures; verification.

All petitions provided for in sections 14-204, 14-210, and 14-211 shall be signed by none but legal voters of the city and each petition shall contain, in addition to the names of the petitioners, the street and house number where the petitioner resides. The signatures to such petition need not all be appended in a

single sheet, and at least one of the signatories of each sheet shall make oath before some officer, competent to administer oaths, that the statements made in any such petition are true and that the signatories were, at the time of signing such petition, legal voters of the city. He or she shall also state in the affidavit the number of signatories upon the petition, or part of such petition, sworn to or affirmed by him or her, at the time he or she makes such affidavit.

Source: Laws 1921, c. 116, art. II, § 12, p. 427; C.S.1922, § 3537; C.S.1929, § 14-212; R.S.1943, § 14-212; Laws 1984, LB 975, § 9; Laws 2022, LB800, § 44.
Operative date July 21, 2022.

14-213 City council; departments; distribution of powers; duties of officers and employees.

(1) The executive and administrative powers, authorities, and duties in a city of the metropolitan class shall be distributed among the following departments:

(a) Finance;

(b) Fire;

(c) Human Resources;

(d) Human Rights and Relations;

(e) Law;

(f) Parks, Recreation, and Public Property;

(g) Planning;

(h) Police; and

(i) Public Works.

(2) The city council shall determine the powers and duties to be exercised and performed by such departments, and assign such powers and duties accordingly. The city council may prescribe the powers and duties of all officers and employees of the city and may assign particular officers or employees to more than one of the city departments. The city council may require any officer or employee to perform duties in two or more of the departments, and may make such other rules and regulations as may be necessary or proper for the efficient and economical management of the business affairs of the city.

Source: Laws 1921, c. 116, art. II, § 13, p. 427; C.S.1922, § 3538; C.S.1929, § 14-213; R.S.1943, § 14-213; Laws 2022, LB800, § 45.
Operative date July 21, 2022.

14-214 City council; powers; how exercised; officers and employees; appointment; removal.

The city council of a city of the metropolitan class shall possess and exercise, by itself or through such methods as the city council may provide, all executive, legislative, or judicial powers of the city, except as otherwise expressly provided by general law or sections 14-101 to 14-2004. The city council shall have the power to elect or appoint any officer and define such officer's duties, or any employee deemed necessary, and any such officer or employee elected or

appointed by the city council may be removed by the city council at any time, except as otherwise provided by law.

Source: Laws 1921, c. 116, art. II, § 13 1/2, p. 428; C.S.1922, § 3539; C.S.1929, § 14-214; R.S.1943, § 14-214; Laws 2022, LB800, § 46.
Operative date July 21, 2022.

The city council of a metropolitan city may exercise executive, legislative and judicial powers. Horbach v. Butler, 135 Neb. 394, 281 N.W. 804 (1938).

Where right of removal is reserved in the appointing power, without necessity of making charges, it may be exercised in discretion of appointing power, even before expiration of term. State ex rel. Gapen v. Somers, 35 Neb. 322, 53 N.W. 146 (1892).

14-215 City council; powers; offices, boards, employment; officers and employees; salaries.

The city council of a city of the metropolitan class shall have power to:

(1) Create any office or board deemed necessary;

(2) Discontinue any employment or abolish any office at any time when, in the judgment of the city council, such employment or office is no longer necessary;

(3) Fix the salary and compensation of all city officers and employees where such salary or compensation is not fixed or established by law; and

(4) Create a board of three or more members and confer upon such board powers not required to be exercised by the city council itself. The city council may require such other officers to serve upon any such board and perform the services required of it, with or without any compensation or additional compensation for such services or additional services.

Source: Laws 1921, c. 116, art. II, § 14, p. 428; C.S.1922, § 3540; C.S.1929, § 14-215; R.S.1943, § 14-215; Laws 2022, LB800, § 47.
Operative date July 21, 2022.

Salary of an officer created by the Constitution cannot be increased or diminished during his official term. This applies to police judge. State ex rel. Gordon v. Moores, 61 Neb. 9, 84 N.W. 399 (1900).

14-216 City council; meetings; quorum; majority vote; veto; override.

The regular meetings of the city council of a city of the metropolitan class shall be held once each week upon such day and hour as the city council may designate. Special meetings of the city council may be called from time to time by the mayor or three city council members, giving notice in such manner as may be fixed or determined by ordinance or resolution. A majority of such city council shall constitute a quorum for the transaction of any business, but it shall require a majority vote of the whole city council to pass any measure or transact any business. The vote of five members of the city council shall be required to override any veto by the mayor.

Source: Laws 1921, c. 116, art. II, § 15, p. 429; C.S.1922, § 3541; C.S.1929, § 14-216; R.S.1943, § 14-216; Laws 1979, LB 80, § 9; Laws 1979, LB 329, § 12; Laws 2022, LB800, § 48.
Operative date July 21, 2022.

No particular form for notice of special meeting of city council is required, nor is it required that object of the meeting shall be stated in call. Call set out in opinion was sufficient. Richardson v. City of Omaha, 74 Neb. 297, 104 N.W. 172 (1905); National Life Ins. Co. v. City of Omaha, 73 Neb. 41, 102 N.W. 73 (1905).

14-217 Repealed. Laws 1979, LB 329, § 13.

14-217.01 Mayor; election.

A city of the metropolitan class shall elect a mayor for such term as may be provided by the laws and ordinances of such city.

Source: Laws 1979, LB 329, § 10.

14-217.02 Mayor or city council members; vacancy; how filled; salaries.

Vacancies in the office of mayor or city council in a city of the metropolitan class shall be filled as provided in section 32-568. Salaries of the mayor and members of the city council shall be determined by ordinance.

Source: Laws 1979, LB 329, § 11; Laws 1994, LB 76, § 476; Laws 2022, LB800, § 49.
Operative date July 21, 2022.

14-218 Mayor; general powers and duties.

The mayor of a city of the metropolitan class shall, in a general way, constantly investigate all public affairs concerning the interest of the city, and shall investigate and ascertain in a general way the efficiency and manner in which all departments of the city government are being conducted. The mayor shall recommend to the city council all such matters as in the mayor's judgment should receive the investigation, consideration, or action of the city council.

Source: Laws 1921, c. 116, art. II, § 17, p. 430; C.S.1922, § 3543; C.S.1929, § 14-218; R.S.1943, § 14-218; Laws 2022, LB800, § 50.
Operative date July 21, 2022.

14-219 Mayor; executive powers; jurisdiction within the extraterritorial zoning jurisdiction.

The mayor of a city of the metropolitan class shall be the chief executive officer and conservator of the peace throughout the city. The mayor shall have such jurisdiction as may be vested in such office by ordinance over all places within the extraterritorial zoning jurisdiction of the city, for the enforcement of any health and quarantine ordinance or regulations.

Source: Laws 1921, c. 116, art. II, § 18, p. 430; C.S.1922, § 3544; C.S.1929, § 14-219; R.S.1943, § 14-219; Laws 1976, LB 782, § 10; Laws 2022, LB800, § 51.
Operative date July 21, 2022.

14-220 Mayor; executive, administrative powers; absence from city; notice.

The mayor of a city of the metropolitan class shall have the superintending control of all officers and affairs of the city except when otherwise provided by law. The mayor may, when deemed necessary, require any officer of the city to exhibit such officer's accounts or any other papers and to make report to the city council, in writing, touching any subject or matter the mayor may require pertaining to such office. The mayor shall, from time to time, communicate to the city council such information and recommend such measures as, in the

mayor's opinion, may tend to the improvement of the finances, police, health, security, ornament, comfort, and general prosperity of the city. The mayor shall be active and vigilant in enforcing all laws and ordinances of the city and shall cause all subordinate officers to be dealt with promptly in any neglect or violation of duty. The mayor shall give written notice to the city clerk of the mayor's intended absence from the city.

Source: Laws 1921, c. 116, art. II, § 19, p. 430; C.S.1922, § 3545; C.S.1929, § 14-220; R.S.1943, § 14-220; Laws 2022, LB800, § 52.
Operative date July 21, 2022.

It is duty of mayor and chief of police to interfere for the prevention of public violation of law, such as pool room used for gambling. Moores v. State ex rel. Dunn, 71 Neb. 522, 99 N.W. 249 (1904).

14-221 Mayor; law, ordinances; duty to enforce; cooperation with county sheriff.

It shall be the duty of the mayor of a city of the metropolitan class to:

(1) Enforce the laws of the state and the ordinances of the city;

(2) Order, direct, and enforce, through the officers of the police department, the arrest and prosecution of persons violating such laws and ordinances; and

(3) Cooperate with and assist the county sheriff in suppressing riots and mobs and in the arrest and prosecution of persons charged with crimes.

Source: Laws 1921, c. 116, art. II, § 20, p. 430; C.S.1922, § 3546; C.S.1929, § 14-221; R.S.1943, § 14-221; Laws 2022, LB800, § 53.
Operative date July 21, 2022.

Mayor is required to assist sheriff of county in certain cases. Barton v. City of Omaha, 180 Neb. 752, 145 N.W.2d 444 (1966).

14-222 Repealed. Laws 1979, LB 329, § 13.

14-223 Repealed. Laws 2022, LB800, § 349.
Operative date July 21, 2022.

14-224 City council, officers, employees; receipt or solicitation of gifts; violations; penalty.

The mayor and city council members and all other officers, agents, and employees of a city of the metropolitan class are prohibited from soliciting or receiving, directly or indirectly, for any purpose whatsoever, any contribution of money or supplies of whatsoever kind, or any valuable or special privilege at the hands of any city contractor, or his or her agents, or from any franchised municipal corporation. Such conduct shall constitute malfeasance in office. No officer, appointee, agent, or employee shall directly or indirectly solicit or receive any gift or contribution of money or supplies, or any valuable service, from any appointee, agent, or employee of such city, for the benefit of the person asking for such gift or contribution or for the benefit of another. A violation of this section is a Class III misdemeanor.

Source: Laws 1921, c. 116, art. II, § 22, p. 431; C.S.1922, § 3548; C.S.1929, § 14-223; R.S.1943, § 14-224; Laws 1979, LB 80, § 13; Laws 2022, LB800, § 54.
Operative date July 21, 2022.

This section condemns the action of the city official and not the donor to a fund with which the city may acquire by gift real estate for establishing parks and playgrounds. Ash v. City of Omaha, 152 Neb. 393, 41 N.W.2d 386 (1950).

This section condemns the act of the city official, and not the purpose of the donor. Reid v. City of Omaha, 150 Neb. 286, 34 N.W.2d 375 (1948).

14-225 City council, officers, employees; solicitation of political support; persons, corporations furnishing same; violations; penalties.

No officer or agent of a city of the metropolitan class shall solicit, directly or indirectly, the political support of any contractor, municipal franchised corporation, or railway company, or the officials or agents of such companies, for any municipal election or for any other election held in the city. No franchised corporation or railway company, through its agents or officials or by any other means, shall furnish or appropriate any money, directly or indirectly, to promote the success or defeat of any person in any election held in such city or to promote or prevent the appointment or confirmation of any appointive officer of such city. A violation of any of this section on the part of any officer or agent of the city shall be deemed malfeasance in office, and upon conviction of such violation such officer shall be removed from office by the order of the court and fined in any sum not to exceed five hundred dollars. A violation of this section on the part of any franchised corporation through its officials or agents, upon conviction by any court of competent jurisdiction, shall subject such corporation to forfeiture of its franchise and the imposition of a fine of not exceeding five hundred dollars upon every officer or agent of such company who shall have been proved guilty of such violation.

Source: Laws 1921, c. 116, art. II, § 23, p. 431; C.S.1922, § 3549; C.S.1929, § 14-224; R.S.1943, § 14-225; Laws 2022, LB800, § 55.
Operative date July 21, 2022.

14-226 City council, officers, employees; extortion; soliciting bribe; violations; penalty.

(1) An officer or agent of a city of the metropolitan class shall not:

(a) Make a demand for money or other consideration of a franchised corporation or public contractor, or such corporation's or contractor's agents, with a threat to introduce or support a measure, or vote for or propose a resolution or ordinance, adverse to their interests, if such demand be not complied with; or

(b) Offer to prepare or introduce or support a resolution or ordinance favorable to such company or contractor for valuable consideration.

(2) A violation of this section shall be deemed a malfeasance in office, and upon conviction such offender shall be fined in any sum not exceeding five hundred dollars, and such officer shall be removed from office by direction of the court.

Source: Laws 1921, c. 116, art. II, § 23, p. 432; C.S.1922, § 3549; C.S.1929, § 14-224; R.S.1943, § 14-226; Laws 2022, LB800, § 56.
Operative date July 21, 2022.

14-227 Fines, penalties, and forfeitures; collection; duty to pay to city treasurer; violation; penalty; duty of comptroller to audit.

(1) Unless otherwise provided by law, when an officer or agent of a city of the metropolitan class collects a fine, penalty, or forfeiture imposed for a violation of city ordinance or for a misdemeanor violation of state law committed within the city, such officer or agent shall remit such fine, penalty, or forfeiture to the city treasurer no later than thirty days after collection of such fine, penalty, or forfeiture or within ten days after being requested to do so by the mayor.

(2) A violation of this section is a Class II misdemeanor. Upon conviction, such officer or agent shall be guilty of malfeasance in office and shall be removed from office.

(3) The city comptroller shall audit the accounts of all such officers and agents at least once each month and approve or disapprove their reports.

Source: Laws 1921, c. 116, art. II, § 24, p. 432; C.S.1922, § 3550; C.S.1929, § 14-225; R.S.1943, § 14-227; Laws 2022, LB800, § 57.
Operative date July 21, 2022.

The disposition of forfeited cash bail bonds is controlled by the Constitution and not this section. School Dist. of Omaha v. City of Omaha, 175 Neb. 21, 120 N.W.2d 267 (1963).

This section did not control disposition of fines, penalties, and license money under general laws of the state. School Dist. No. 54 v. School Dist. of Omaha, 171 Neb. 769, 107 N.W.2d 744 (1961).

In charging violation of this section, the time elapsing during which failure to pay over existed, is material and must be stated. Grier v. State, 81 Neb. 129, 115 N.W. 551 (1908).

14-228 Officers; reports at expiration of term; requirements.

It shall be the duty of all officers of a city of the metropolitan class at the expiration of their terms of office to prepare written detailed abstracts of all books, documents, tools, implements, and materials of every kind belonging to the city in their trust and care, and to certify as members of such boards to the correctness of such books, documents, tools, implements, and materials. Such certified abstracts shall be delivered to the mayor, who shall file one copy each for record with the city clerk, and with the heads of the respective departments.

Source: Laws 1921, c. 116, art. II, § 25, p. 433; C.S.1922, § 3551; C.S.1929, § 14-226; R.S.1943, § 14-228; Laws 2022, LB800, § 58.
Operative date July 21, 2022.

14-229 Officers, employees; exercise of political influence; violations; penalty.

Any officer or employee of a city of the metropolitan class who, by solicitation or otherwise, shall influence directly or indirectly any other officers or employees of such city to adopt such person's political views shall be guilty of a Class IIIA misdemeanor.

Source: Laws 1921, c. 116, art. II, § 26, p. 433; C.S.1922, § 3552; C.S.1929, § 14-227; R.S.1943, § 14-229; Laws 2022, LB800, § 59.
Operative date July 21, 2022.

14-230 City council; mayor; candidate; public officeholder not disqualified from candidacy.

The Legislature, recognizing the importance to the entire State of Nebraska of sound and stable government in cities of the metropolitan class, hereby declares that the qualifications for candidacy for the office of mayor and city

council member of such cities, whether any such city is governed by a home rule charter or not, are matters of general statewide concern. The provisions of any ordinance or home rule charter of any such city to the contrary notwithstanding, no person shall be disqualified from candidacy for the office of mayor or city council member of any such city because of the fact that such person holds any other public office, either elective or appointive, except any office subordinate to the mayor and city council of such city, and no holder of any such other office shall be required to resign such other office in order to become and remain a candidate for the office of mayor or city council member of any such city.

Source: Laws 1965, c. 162, § 1, p. 513; Laws 1979, LB 80, § 14; Laws 2022, LB800, § 60.
Operative date July 21, 2022.

ARTICLE 3

PUBLIC IMPROVEMENTS

(a) STREETS AND SIDEWALKS

Section
14-301. Repealed. Laws 1959, c. 36, § 46.
14-302. Repealed. Laws 1959, c. 36, § 46.
14-303. Repealed. Laws 1959, c. 36, § 46.
14-304. Repealed. Laws 1959, c. 36, § 46.
14-305. Repealed. Laws 1959, c. 36, § 46.
14-306. Repealed. Laws 1959, c. 36, § 46.
14-307. Repealed. Laws 1959, c. 36, § 46.
14-308. Repealed. Laws 1959, c. 36, § 46.
14-309. Repealed. Laws 1959, c. 36, § 46.
14-310. Repealed. Laws 1959, c. 36, § 46.
14-311. Repealed. Laws 1959, c. 36, § 46.
14-312. Repealed. Laws 1959, c. 36, § 46.
14-313. Repealed. Laws 1959, c. 36, § 46.
14-314. Repealed. Laws 1959, c. 36, § 46.
14-315. Repealed. Laws 1959, c. 36, § 46.
14-316. Repealed. Laws 1959, c. 36, § 46.
14-317. Repealed. Laws 1959, c. 36, § 46.
14-318. Repealed. Laws 1959, c. 36, § 46.
14-319. Repealed. Laws 1959, c. 36, § 46.
14-320. Repealed. Laws 1959, c. 36, § 46.
14-321. Repealed. Laws 1959, c. 36, § 46.
14-322. Repealed. Laws 1959, c. 36, § 46.
14-323. Repealed. Laws 1959, c. 36, § 46.
14-324. Repealed. Laws 1959, c. 36, § 46.
14-325. Repealed. Laws 1959, c. 36, § 46.
14-326. Repealed. Laws 1959, c. 36, § 46.
14-327. Repealed. Laws 1959, c. 36, § 46.
14-328. Repealed. Laws 1959, c. 36, § 46.
14-329. Repealed. Laws 1959, c. 36, § 46.
14-330. Repealed. Laws 1959, c. 36, § 46.
14-331. Repealed. Laws 1959, c. 36, § 46.
14-332. Repealed. Laws 1959, c. 36, § 46.
14-333. Repealed. Laws 1959, c. 36, § 46.
14-334. Repealed. Laws 1959, c. 36, § 46.
14-335. Repealed. Laws 1959, c. 36, § 46.
14-336. Repealed. Laws 1959, c. 36, § 46.
14-337. Repealed. Laws 1959, c. 36, § 46.
14-338. Repealed. Laws 1959, c. 36, § 46.
14-339. Repealed. Laws 1959, c. 36, § 46.

Section
14-340. Repealed. Laws 1959, c. 36, § 46.
14-341. Repealed. Laws 1959, c. 36, § 46.
14-342. Repealed. Laws 1959, c. 36, § 46.
14-343. Repealed. Laws 1959, c. 36, § 46.
14-344. Repealed. Laws 1959, c. 36, § 46.
14-345. Repealed. Laws 1959, c. 36, § 46.
14-346. Repealed. Laws 1959, c. 36, § 46.
14-347. Repealed. Laws 1959, c. 36, § 46.
14-348. Repealed. Laws 1963, c. 339, § 1.
14-349. Repealed. Laws 1963, c. 339, § 1.
14-350. Repealed. Laws 1963, c. 339, § 1.
14-351. Repealed. Laws 1963, c. 339, § 1.
14-352. Repealed. Laws 1963, c. 339, § 1.
14-353. Repealed. Laws 1963, c. 339, § 1.
14-354. Repealed. Laws 1963, c. 339, § 1.

(b) VIADUCTS

14-355. Repealed. Laws 1949, c. 28, § 20.
14-356. Repealed. Laws 1949, c. 28, § 20.
14-357. Repealed. Laws 1949, c. 28, § 20.
14-358. Repealed. Laws 1949, c. 28, § 20.
14-359. Repealed. Laws 1949, c. 28, § 20.

(c) SEWERAGE, DRAINAGE, SPRINKLING, PAVING REPAIR, AND CONTRACTORS' BONDS

14-360. Sewerage and drainage; regulations; creation of districts; powers of city; territory outside corporate limits.
14-361. Sewerage and drainage; connections; city may require; notice to property owners; construction by city; assessment of cost.
14-362. Sewerage and drainage; connections; permit required; assessment of cost; conditions.
14-363. Street sprinkling or armor-coating districts; creation; contracts; bids; special assessments; collection.
14-364. Paving repair plant; establishment; cost of operation; payment.
14-365. Public contractors; bonds required.
14-365.01. Sewerage systems and sewage disposal plants; construction; operation; territorial limits; tax authorized.
14-365.02. Sewerage systems and sewage disposal plants; revenue bonds.
14-365.03. Sewerage systems and sewage disposal plants; rules and regulations; rates or charges; collection; special assessments.
14-365.04. Sewerage systems and sewage disposal plants; revenue bonds; payment.
14-365.05. Sewerage systems and sewage disposal plants; franchises; power to grant; service; payment.
14-365.06. Sewerage systems and sewage disposal plants; general obligation bonds; interest; power to issue.
14-365.07. Sewerage systems and sewage disposal plants; revenue bonds; ordinance; general obligation bonds; election; amount.
14-365.08. Sewerage systems and sewage disposal plants; minutes; plans; contracts; bids.
14-365.09. Sewerage systems and sewage disposal plants; service beyond corporate limits.
14-365.10. Sewerage systems and sewage disposal plants; rental or use charges; collection; lien; proceeds; disposition.
14-365.11. Sewerage systems and sewage disposal plants; terms, defined; powers construed.
14-365.12. Sewerage systems and sewage disposal plants; tax levy; general obligation bonds; limitation.
14-365.13. Sewerage systems and sewage disposal plants; sections; cumulative.

Section

(d) EMINENT DOMAIN; CITY PLANNING BOARD

14-366. Property; purchase or acquisition by eminent domain; scope of power; exercise beyond corporate limits.
14-367. Property; acquisition by eminent domain; procedure.
14-368. Repealed. Laws 1969, c. 59, § 1.
14-369. Repealed. Laws 1969, c. 59, § 1.
14-370. Repealed. Laws 1969, c. 59, § 1.
14-371. Repealed. Laws 1969, c. 59, § 1.
14-372. Utilities; acquisition by eminent domain; funds; title.
14-373. City plan; planning board; scope; lands outside corporate limits.
14-373.01. Planning board; legislative findings.
14-373.02. Planning board; extraterritorial member; vacancy; how filled; procedure.
14-374. City plan; acquisition and disposition of property; public purposes.
14-375. City planning board; vacation of streets or alleys; procedure; appointment of committees; effect; appeal.
14-376. Public utilities; acquisition by eminent domain; procedure.
14-377. Repealed. Laws 1951, c. 101, § 127.
14-378. Repealed. Laws 1951, c. 101, § 127.
14-379. Repealed. Laws 1951, c. 101, § 127.
14-380. Repealed. Laws 1951, c. 101, § 127.
14-381. Repealed. Laws 1951, c. 101, § 127.

(e) BUILDING RESTRICTIONS

14-382. Repealed. Laws 1959, c. 37, § 4.

(f) PARKS, RECREATIONAL AREAS, AND PLAYGROUNDS

14-383. Parks, recreational areas, and playgrounds; special levy; improvement district; creation; election.

(g) STREETS, SIDEWALKS, AND HIGHWAYS

14-384. Terms, defined.
14-385. Streets; improvements; improvement districts; authorized.
14-386. Streets; improvement districts; delineation.
14-387. Streets; improvements without petition.
14-388. Streets; main thoroughfares; major traffic streets; improvement districts; area included; cost.
14-389. Streets; controlled-access facilities; property; powers; terms and conditions; frontage roads; access.
14-390. Streets; improvements; petition of property owners.
14-391. Streets; improvements; petition of property owners; improvement districts; create; districts partly within and partly outside city.
14-392. Streets; improvements; assessment of cost.
14-393. Streets; establish or change grade; authorization of city; requirements.
14-394. Streets; change of grade; petition of property owners; sufficiency.
14-395. Streets; establish or change grade; authority of city.
14-396. Streets; grade; petition of property owners; order of city.
14-397. Streets; change of grade; special assessment.
14-398. Streets; change of grade; special assessment; how determined.
14-399. Streets; grade; petition; contents; requirements.
14-3,100. Streets; grade; committee; appraisal and report of damages; special assessments; appraisers; fees; damages; award.
14-3,101. Streets; grade; award of damages; when payable; appeal.
14-3,102. Streets; improvements; notice; service; protest; effect; special assessment.
14-3,103. Sidewalks; construction or repair; required, when; assessment of cost; equalization.
14-3,104. Temporary sidewalks; when.
14-3,105. Sidewalks; construction or repair; notice; service.
14-3,106. Sidewalks; construction or repair; special assessment; failure of owner; effect.

Section

14-3,107. Streets; vacation; narrow; reversion to abutting owners; improvements; assessment of benefits; vacation of minimal secondary right-of-way; procedure.
14-3,108. Streets; improvements; control of work; regulations.
14-3,109. Streets; public utilities; connections; power of city to compel; cost.
14-3,110. Public property; abutting streets; not subject to special assessment; cost, how paid.
14-3,111. Streets and sidewalks; contract for improvements; bids; advertisement.
14-3,112. Sections, how construed.
14-3,113. Intersections, certain lands; improvement by city; priority on use of funds; street improvement districts.
14-3,114. Petitions; forms; contents; signatures.
14-3,115. Improvement districts; estimate of cost; bids; advertisement.
14-3,116. Materials; petition to designate; forms.
14-3,117. Improvements; petition; recording.
14-3,118. Improvements; petitions; restrictions.
14-3,119. Improvements; petitions; examination; certification; notice of irregularity, illegality, or insufficiency; publication; supplemental petitions.
14-3,120. Improvements; petition; publication; notice to file protest.
14-3,121. Improvements; petition; protest; procedure; supplemental petition; hearing; appeal.
14-3,122. Protest; filing; hearing.
14-3,123. Petition; regular, legal, and sufficient.
14-3,124. Materials; standards; adopt.
14-3,125. Improvement district; materials to be used; designate by petition.
14-3,126. Streets; improvement or construction; materials to be used; designate by petition.
14-3,127. Improvements; protests by majority of abutting property owners; filing; time; effect.

(h) SPECIAL ASSESSMENT BONDS

14-3,128. Public improvements; special assessment bonds; issuance; purpose; sinking fund; limitations.

(i) STREET LIGHTING

14-3,129. Ornamental or decorative street lighting; city; maintain; exception; costs.

(j) CITY OF OMAHA PUBLIC EVENTS FACILITIES FUND

14-3,130. Repealed. Laws 2000, LB 1349, § 15.

(a) STREETS AND SIDEWALKS

14-301 Repealed. Laws 1959, c. 36, § 46.

14-302 Repealed. Laws 1959, c. 36, § 46.

14-303 Repealed. Laws 1959, c. 36, § 46.

14-304 Repealed. Laws 1959, c. 36, § 46.

14-305 Repealed. Laws 1959, c. 36, § 46.

14-306 Repealed. Laws 1959, c. 36, § 46.

14-307 Repealed. Laws 1959, c. 36, § 46.

14-308 Repealed. Laws 1959, c. 36, § 46.

14-309 Repealed. Laws 1959, c. 36, § 46.

14-310 Repealed. Laws 1959, c. 36, § 46.

14-311 Repealed. Laws 1959, c. 36, § 46.

14-312 Repealed. Laws 1959, c. 36, § 46.

14-313 Repealed. Laws 1959, c. 36, § 46.

14-314 Repealed. Laws 1959, c. 36, § 46.

14-315 Repealed. Laws 1959, c. 36, § 46.

14-316 Repealed. Laws 1959, c. 36, § 46.

14-317 Repealed. Laws 1959, c. 36, § 46.

14-318 Repealed. Laws 1959, c. 36, § 46.

14-319 Repealed. Laws 1959, c. 36, § 46.

14-320 Repealed. Laws 1959, c. 36, § 46.

14-321 Repealed. Laws 1959, c. 36, § 46.

14-322 Repealed. Laws 1959, c. 36, § 46.

14-323 Repealed. Laws 1959, c. 36, § 46.

14-324 Repealed. Laws 1959, c. 36, § 46.

14-325 Repealed. Laws 1959, c. 36, § 46.

14-326 Repealed. Laws 1959, c. 36, § 46.

14-327 Repealed. Laws 1959, c. 36, § 46.

14-328 Repealed. Laws 1959, c. 36, § 46.

14-329 Repealed. Laws 1959, c. 36, § 46.

14-330 Repealed. Laws 1959, c. 36, § 46.

14-331 Repealed. Laws 1959, c. 36, § 46.

14-332 Repealed. Laws 1959, c. 36, § 46.

14-333 Repealed. Laws 1959, c. 36, § 46.

14-334 Repealed. Laws 1959, c. 36, § 46.

14-335 Repealed. Laws 1959, c. 36, § 46.

14-336 Repealed. Laws 1959, c. 36, § 46.

14-337 Repealed. Laws 1959, c. 36, § 46.

14-338 Repealed. Laws 1959, c. 36, § 46.

14-339 Repealed. Laws 1959, c. 36, § 46.

14-340 Repealed. Laws 1959, c. 36, § 46.

14-341 Repealed. Laws 1959, c. 36, § 46.

14-342 Repealed. Laws 1959, c. 36, § 46.

14-343 Repealed. Laws 1959, c. 36, § 46.

14-344 Repealed. Laws 1959, c. 36, § 46.

14-345 Repealed. Laws 1959, c. 36, § 46.

14-346 Repealed. Laws 1959, c. 36, § 46.

14-347 Repealed. Laws 1959, c. 36, § 46.

14-348 Repealed. Laws 1963, c. 339, § 1.

14-349 Repealed. Laws 1963, c. 339, § 1.

14-350 Repealed. Laws 1963, c. 339, § 1.

14-351 Repealed. Laws 1963, c. 339, § 1.

14-352 Repealed. Laws 1963, c. 339, § 1.

14-353 Repealed. Laws 1963, c. 339, § 1.

14-354 Repealed. Laws 1963, c. 339, § 1.

(b) VIADUCTS

14-355 Repealed. Laws 1949, c. 28, § 20.

14-356 Repealed. Laws 1949, c. 28, § 20.

14-357 Repealed. Laws 1949, c. 28, § 20.

14-358 Repealed. Laws 1949, c. 28, § 20.

14-359 Repealed. Laws 1949, c. 28, § 20.

(c) SEWERAGE, DRAINAGE, SPRINKLING, PAVING REPAIR, AND CONTRACTORS' BONDS

14-360 Sewerage and drainage; regulations; creation of districts; powers of city; territory outside corporate limits.

(1) Except as provided in subsection (2) of this section, a city of the metropolitan class shall have the power to:

(a) Lay out the city, or parts thereof, or portions of the extraterritorial zoning jurisdiction of the city, into suitable districts for the purpose of establishing a system of sewerage and drainage;

(b) Provide such system and regulate the construction and repair and use of sewers and drains, the reconstruction of sewers in any district or part of such district, and all proper house construction and branches;

(c) Provide penalties for any obstruction of, or injury to, any sewer or part of such sewer; and

(d) Require and compel sewer connections to be made.

(2) The city shall not create a district outside the corporate limits of such city when the district includes land already included within a sanitary and improvement district without the consent of the trustees of such district.

Source: Laws 1921, c. 116, art. III, § 51, p. 455; C.S.1922, § 3604; C.S.1929, § 14-352; R.S.1943, § 14-360; Laws 1959, c. 30, § 1, p. 183; Laws 2022, LB800, § 61.
Operative date July 21, 2022.

City has power to create a sewerage district and construct therein a sewerage system, but the exercise of such power is discretionary. Wilson v. City of Omaha, 138 Neb. 13, 291 N.W. 732 (1940).

City is authorized but is not required to construct storm sewers. Adams v. City of Omaha, 119 Neb. 753, 230 N.W. 680 (1930).

City may create new district within larger one and assess cost on abutting owners according to special benefits derived therefrom, and party seeking to enjoin collection of assessment must show injury by said division. Shannon v. City of Omaha, 73 Neb. 507, 103 N.W. 53 (1905), affirmed on rehearing 73 Neb. 514, 106 N.W. 592 (1906).

Unless finding of board shows that benefits are equal as to all lots within sewerage district, levy according to frontage is void. John v. Connell, 64 Neb. 233, 89 N.W. 806 (1902).

City cannot include property not specially benefited thereby in sewerage district and levy assessment on it for cost of sewer. Hanscom v. City of Omaha, 11 Neb. 37, 7 N.W. 739 (1881).

14-361 Sewerage and drainage; connections; city may require; notice to property owners; construction by city; assessment of cost.

Whenever sewer connections for sewerage or drainage may be deemed necessary or advisable, whether within the corporate limits or within the extraterritorial zoning jurisdiction of a city of the metropolitan class, the property owners shall be given thirty days from the publication of the ordinance ordering such improvements and connections to make such improvements and connections in conformity with approved plans to be kept on file by the city. The publication of such ordinance ordering such connections in the official newspaper shall be the only notice required to be given such property owners. Upon the failure or neglect of the property owners to construct such connections within the time fixed, the city shall cause such work to be done and shall contract for such construction with the lowest responsible bidder. The cost of construction, including superintendence and inspection, shall be assessed against the property to which such connections have been made as a special assessment.

Source: Laws 1921, c. 116, art. III, § 52, p. 455; C.S.1922, § 3605; C.S.1929, § 14-353; R.S.1943, § 14-361; Laws 1959, c. 30, § 2, p. 184; Laws 2022, LB800, § 62.
Operative date July 21, 2022.

Person filing protest against special assessments before time fixed in notice for meeting of board thereby waives all defects in notice. Shannon v. City of Omaha, 73 Neb. 507, 103 N.W. 53 (1905), affirmed on rehearing 73 Neb. 514, 106 N.W. 592 (1906).

14-362 Sewerage and drainage; connections; permit required; assessment of cost; conditions.

A city of the metropolitan class shall require the issuance of a permit to connect with any sewer on any street, alley, or private property within the corporate limits or within the extraterritorial zoning jurisdiction of such city and shall require the sewer assessment on the abutting property to be paid before such permit is issued, except that if such assessment is being paid in installments as provided by law, the city shall require delinquent and current installments to be paid before such permit is issued. In case the cost of the sewer has not been assessed, or such assessment has been declared invalid by

any court of competent jurisdiction, the city shall require the payment of the pro rata share of the cost of such sewer before such permit is issued.

Source: Laws 1921, c. 116, art. III, § 53, p. 455; C.S.1922, § 3605; C.S.1929, § 14-354; R.S.1943, § 14-362; Laws 1959, c. 31, § 1, p. 186; Laws 2022, LB800, § 63.
Operative date July 21, 2022.

14-363 Street sprinkling or armor-coating districts; creation; contracts; bids; special assessments; collection.

The city council of a city of the metropolitan class may provide for the sprinkling or armor coating of the streets of the city and, for the purpose of accomplishing such work, may by ordinance create suitable districts to be designated sprinkling or armor-coating districts and may order and direct the work, including preparatory grading, to be done upon any or all of the streets in such districts. The work shall be done upon contract in writing let upon advertisement to the lowest responsible bidder. Such advertisement shall specify the district or districts proposed to be so worked, specifically describing such district or districts, and bids shall be made and contracts let with reference to such district or districts so specified. For the purpose of paying the cost of the work contemplated and contracted for, the city council may levy and assess the cost upon all lots, lands, and real estate in such district, such tax or assessment to be equal and uniform upon all front footage or property within or abutting upon the streets within the district so created. The assessment shall be a lien upon all such lots, lands, and real estate and shall be enforced and collected as a special assessment.

Source: Laws 1921, c. 116, art. III, § 54, p. 456; C.S.1922, § 3607; C.S.1929, § 14-355; R.S.1943, § 14-363; Laws 1991, LB 745, § 1; Laws 2015, LB361, § 2; Laws 2022, LB800, § 64.
Operative date July 21, 2022.

14-364 Paving repair plant; establishment; cost of operation; payment.

The city council of a city of the metropolitan class may establish and maintain a paving repair plant and may pave or repair paving. The cost of such repairs may be paid from the funds of the city or may be assessed upon the abutting property, except that the cost may be assessed against abutting property only following the creation of a paving repair or repaving district established and assessed as a special assessment in the same manner provided for a sprinkling or armor-coating district by section 14-363. The assessable paving repairs shall be only those made with asphaltic concrete on streets in previously developed areas which were not constructed to city permanent design standards.

Source: Laws 1921, c. 116, art. III, § 55, p. 456; C.S.1922, § 3608; C.S.1929, § 14-356; R.S.1943, § 14-364; Laws 1991, LB 745, § 2; Laws 2015, LB361, § 3; Laws 2022, LB800, § 65.
Operative date July 21, 2022.

14-365 Public contractors; bonds required.

All persons who contract with a city of the metropolitan class for work to be done, or material or supplies to be furnished, shall give bond to the city, with not less than two sureties in an amount not less than fifty percent of the amount

of the contract price, for the faithful performance of such work. The sureties on the bonds shall be resident property owners of the county within which the city is located and shall certify under oath that they are worth double the amount for which they may sign the bond, over and above all debts, liabilities, obligations, and exemptions. The city council may also accept security from one or more reliable sureties or guaranty companies for the same amount.

Source: Laws 1921, c. 116, art. III, § 56, p. 456; C.S.1922, § 3609; C.S.1929, § 14-357; R.S.1943, § 14-365; Laws 2022, LB800, § 66.
Operative date July 21, 2022.

Right to recover on bond does not depend upon questions of negligence of city or contractor, but under terms of bond, upon whether city has suffered a damage because of excavations made by contractor. Omaha Gas Co. v. City of South Omaha, 71 Neb. 115, 98 N.W. 437 (1904).

14-365.01 Sewerage systems and sewage disposal plants; construction; operation; territorial limits; tax authorized.

(1) Any city of the metropolitan class is hereby authorized to:

(a) Own, construct, equip, and operate either within or without the corporate limits of such city a sewerage system, including any storm sewer system, and plant or plants for the treatment, purification, and disposal in a sanitary manner of the liquid and solid wastes and sewage of the area; and

(b) Extend or improve any existing sewerage system, including any storm sewer system.

(2) The city shall have the authority to acquire by gift, grant, purchase, or condemnation necessary lands for such sewerage system either within or without the corporate limits of the city.

(3) For the purpose of carrying out the powers set forth in this section, a city of the metropolitan class is also authorized and empowered to make a special levy each year of not to exceed three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such city, as well as all taxable property within the extraterritorial zoning jurisdiction of such city, which property is within a district established under section 14-360, subject to sections 14-365.12 and 14-365.13. The proceeds of such tax shall be used for any of the purposes enumerated in this section and for no other purpose.

Source: Laws 1953, c. 24, § 1, p. 99; Laws 1959, c. 30, § 3, p. 184; Laws 1979, LB 187, § 29; Laws 1992, LB 719A, § 34; Laws 2022, LB800, § 67.
Operative date July 21, 2022.

The application of this entire act is discussed with reference to a lease-purchase agreement relating to financing a waste disposal plant. Cosentino v. City of Omaha, 186 Neb. 407, 183 N.W.2d 475 (1971).

14-365.02 Sewerage systems and sewage disposal plants; revenue bonds.

For the purpose of owning, operating, constructing, and equipping a sewage disposal plant or sewerage system, including any storm sewer system, or improving or extending such existing system, as provided in section 14-365.01, a city of the metropolitan class may issue revenue bonds. Such revenue bonds as provided in this section shall not impose any general liability upon the city but shall be secured only on the property and revenue, as provided in section 14-365.04, of such utility including a franchise stating the terms upon which, in case of foreclosure, the purchaser may operate the system. Such franchise shall

in no case extend for a longer period than twenty years from the date of the sale of such franchise on foreclosure. Such revenue bonds shall be sold for not less than par. The amount of such revenue bonds, either issued or outstanding, shall not be included in computing the maximum amount of bonds which such city may be authorized to issue under its home rule charter or any state statute.

Source: Laws 1953, c. 24, § 2, p. 99; Laws 1969, c. 51, § 17, p. 283; Laws 2022, LB800, § 68.
Operative date July 21, 2022.

14-365.03 Sewerage systems and sewage disposal plants; rules and regulations; rates or charges; collection; special assessments.

(1) The city council of a city of the metropolitan class may make all necessary rules and regulations governing the use, operation, and control of a sewerage system established under section 14-365.01. The city council may establish just and equitable rates or charges to be paid to the city for the use of such sewage disposal plant and sewerage system by the owner of the property served or by the person, firm, or corporation using the services.

(2) If any service rate or charge so established is not paid when due, such sum may be:

(a) Recovered by the city in a civil action;

(b) Certified to the city treasurer, assessed against the premises served, and collected or returned in the same manner as other municipal taxes are certified, assessed, collected, and returned; or

(c) Assessed against the premises served in the same manner as special taxes or assessments are assessed by such city and be certified, enforced, collected, and returned as other special taxes or assessments of such city.

Source: Laws 1953, c. 24, § 3, p. 100; Laws 1959, c. 32, § 4, p. 187; Laws 1961, c. 30, § 2, p. 147; Laws 1965, c. 38, § 1, p. 230; Laws 2022, LB800, § 69.
Operative date July 21, 2022.

Sewer use charge is not a special assessment; a city has authority to make necessary rules and regulations including a reasonable processing charge on delinquent accounts. Rutherford v. City of Omaha, 183 Neb. 398, 160 N.W.2d 223 (1968).

Metropolitan utilities district may establish just and equitable rates for use of sewer system. Metropolitan Utilities Dist. v. City of Omaha, 171 Neb. 609, 107 N.W.2d 397 (1961).

14-365.04 Sewerage systems and sewage disposal plants; revenue bonds; payment.

Bonds which are issued and secured by a mortgage on the utility, as provided in section 14-365.02, shall not be a general obligation of the city, but shall be paid only out of the revenue received from the service charges, as provided in section 14-365.03, or from a sale of the property and the franchise, referred to in section 14-365.02, to operate the system, under a foreclosure proceeding. If a service rate or charge is charged, such portion of such rate or charge as may be deemed sufficient shall be set aside as a sinking fund for the payment of the interest on such bonds and the principal of such bonds at maturity.

Source: Laws 1953, c. 24, § 4, p. 100; Laws 2022, LB800, § 70.
Operative date July 21, 2022.

14-365.05 Sewerage systems and sewage disposal plants; franchises; power to grant; service; payment.

For the purpose of providing for a sewage disposal plant and sewerage system, including any storm sewer system, or improving or extending such existing system, as provided in section 14-365.01, any city of the metropolitan class may also enter into a contract with any corporation organized under or authorized by the laws of this state to engage in such business, to receive and treat, in the manner provided in sections 14-365.01 to 14-365.13, the sewage of such system, and to construct and provide the facilities and services as provided in sections 14-365.01 to 14-365.13. Such contract may also authorize the corporation to charge the owners of the premises served such a service rate therefor as the city council may determine to be just and reasonable. The city may contract to pay such corporation a flat rate for such service, and pay such rate out of its general fund or the proceeds of any tax levy applicable to the purposes of such contract, or assess the owners of the property served a reasonable charge for such services to be collected, as provided in section 14-365.03, and paid into a fund to be used to defray such contract charges.

Source: Laws 1953, c. 24, § 5, p. 100; Laws 2022, LB800, § 71.
Operative date July 21, 2022.

A lease-purchase agreement relating to financing of a waste disposal plant and authorized by this section is not a franchise that violates section 14-811. Cosentino v. City of Omaha, 186 Neb. 407, 183 N.W.2d 475 (1971).

14-365.06 Sewerage systems and sewage disposal plants; general obligation bonds; interest; power to issue.

For the purpose of owning, operating, constructing, and equipping a sewage disposal plant and sewerage system, including any storm sewer system, or improving or extending such existing system, as provided in section 14-365.01, or for the purpose stated in sections 14-365.01 to 14-365.05, any city of the metropolitan class is also authorized to issue and sell general obligation bonds of such city upon compliance with section 14-365.07. Such bonds shall not be sold or exchanged for less than the par value of such bonds and shall bear interest payable semiannually. The city council shall have the power to determine the denominations of such bonds, and the date, time, and manner of payment.

Source: Laws 1953, c. 24, § 6, p. 101; Laws 1969, c. 51, § 18, p. 283; Laws 2022, LB800, § 72.
Operative date July 21, 2022.

14-365.07 Sewerage systems and sewage disposal plants; revenue bonds; ordinance; general obligation bonds; election; amount.

(1) Revenue bonds authorized by section 14-365.02 may be issued by ordinance duly passed by the mayor and city council of any city of the metropolitan class without any other authority.

(2) General obligation bonds authorized by section 14-365.06 may be issued only (a) after the question of their issuance has been submitted to the electors of the city of the metropolitan class at a general or special election, of which three weeks' notice has been published in a legal newspaper in or of general circulation in such city, and (b) if a majority of the electors voting at the election have voted in favor of the issuance of the bonds. Publication of such notice in such newspaper once each week during three consecutive weeks prior to the date of such election shall constitute compliance with the requirements of this section for notice of such election. General obligation bonds shall not be

issued in excess of one and eight-tenths percent of the taxable value of all the taxable property in the city or in excess of the amount authorized by sections 14-365.12 and 14-365.13.

Source: Laws 1953, c. 24, § 7, p. 101; Laws 1971, LB 534, § 9; Laws 1979, LB 187, § 30; Laws 1980, LB 599, § 4; Laws 1992, LB 719A, § 35; Laws 2022, LB800, § 73.
Operative date July 21, 2022.

14-365.08 Sewerage systems and sewage disposal plants; minutes; plans; contracts; bids.

Whenever the city council of a city of the metropolitan class shall have ordered the installation of a sewerage system, including any storm sewer system, and sewage disposal plant or the improvement or extension of an existing system, the fact that such order was issued shall be recited in the official minutes of the city council. The city council shall require that plans and specifications be prepared of such sewerage system, including any storm sewer system, and sewage disposal plant, or such improvement or extension. Upon approval of such plans, the city council shall advertise for sealed bids for the construction of such improvements once a week three consecutive weeks in a legal newspaper published in or of general circulation within the city. The contract for such construction shall be awarded to the lowest responsible bidder.

Source: Laws 1953, c. 24, § 8, p. 102; Laws 2022, LB800, § 74.
Operative date July 21, 2022.

Requirements for competitive bidding are strictly construed against public authorities, but where a process or article is patented, public authorities may specify its use without competitive bidding if it possesses such exceptional superiority that it would be a public injury not to use it. Cosentino v. City of Omaha, 186 Neb. 407, 183 N.W.2d 475 (1971).

14-365.09 Sewerage systems and sewage disposal plants; service beyond corporate limits.

The owner of any sewerage system, including any storm sewer system, or sewage disposal plant provided for in sections 14-365.01 to 14-365.08, or any city of the metropolitan class, is authorized to extend such sewerage system beyond the corporate limits of the city, under the same conditions, as nearly as may be, as within such corporate limits, and to charge to users of its services reasonable and fair rates consistent with those charged or which might be charged within such corporate limits and consistent with the expense of extending and maintaining such sewerage system outside such corporate limits at a fair return to the owner of such sewerage system. The mayor and city council shall have the authority to enter into contracts with users of such sewerage system, including any storm sewer system, except that no such contract shall call for furnishing of such service for a period in excess of ten years.

Source: Laws 1953, c. 24, § 9, p. 102; Laws 2022, LB800, § 75.
Operative date July 21, 2022.

14-365.10 Sewerage systems and sewage disposal plants; rental or use charges; collection; lien; proceeds; disposition.

The mayor and city council of any city of the metropolitan class, in addition to other sources of revenue available to the city, may by ordinance set up

appropriate rental or use charges to be collected from users of its sewerage system and provide methods of collection of such charges, except that users shall include in part any users outside of such city where the sewer is directly or indirectly connected to the sewerage system of such city and users within any sanitary and improvement district now existing or hereafter organized under the laws of this state when the sewerage system, or any part thereof, of the sanitary and improvement district directly or indirectly connects to any part of the sewerage system of the city. Such charges shall be charged to each property served by the sewerage system, shall be a lien upon the property served, and may be collected either from the owner or the person, firm, or corporation using the service. All money raised from such charges shall be used for maintenance or operation of the existing sewerage system, for payment of principal and interest on bonds issued, as is provided for in section 14-365.06, or to create a reserve fund for the payment of future maintenance, operation, or construction of a new sewerage system for or additions to the sewerage system of the city. Any funds raised from such charges shall be placed in a separate fund and not be used for any other purpose or diverted to any other fund.

Source: Laws 1953, c. 24, § 10, p. 103; Laws 1959, c. 32, § 5, p. 188; Laws 1965, c. 38, § 2, p. 231; Laws 2022, LB800, § 76.
Operative date July 21, 2022.

Imposition of sewer use fee pursuant to contract between city and district was authorized. Metropolitan Utilities Dist. v. City of Omaha, 171 Neb. 609, 107 N.W.2d 397 (1961).

14-365.11 Sewerage systems and sewage disposal plants; terms, defined; powers construed.

The terms sewage system, sewerage system, including storm sewer system, and disposal plant or plants, as used in sections 14-365.01 to 14-365.13 mean and include any system or works above or below ground which has for its purpose any or all of the following: The removal, discharge, conduction, carrying, treatment, purification, or disposal of the liquid and solid waste of a city of the metropolitan class, surface waters, and storm waters. The powers conferred by sections 14-365.01 to 14-365.13 may also be employed in connection with sewage and sewer projects which do not include the erection or enlargement of a sewage disposal plant.

Source: Laws 1953, c. 24, § 11, p. 103; Laws 2022, LB800, § 77.
Operative date July 21, 2022.

14-365.12 Sewerage systems and sewage disposal plants; tax levy; general obligation bonds; limitation.

If any tax is levied or general obligation bonds are issued by a city of the metropolitan class as authorized under sections 18-501 to 18-511, the amount of such tax that may be levied by the provisions of section 14-365.01, or the amount of general obligation bonds that may be issued by the provisions of section 14-365.07 by such city must be reduced by the amount of the tax levied or bonds issued as authorized under sections 18-501 to 18-511.

Source: Laws 1953, c. 24, § 12, p. 104; Laws 2022, LB800, § 78.
Operative date July 21, 2022.

14-365.13 Sewerage systems and sewage disposal plants; sections; cumulative.

The provisions of sections 14-365.01 to 14-365.13 shall be independent of and in addition to any other provisions of the laws of the State of Nebraska with reference to sewage disposal plants and sewerage systems, including any storm sewer system, in cities of the metropolitan class. The provisions of sections 14-365.01 to 14-365.13 shall not be considered amendatory of or limited by any other provision of the laws of the State of Nebraska, except as provided in section 14-365.12.

Source: Laws 1953, c. 24, § 13, p. 104; Laws 2022, LB800, § 79. Operative date July 21, 2022.

(d) EMINENT DOMAIN; CITY PLANNING BOARD

14-366 Property; purchase or acquisition by eminent domain; scope of power; exercise beyond corporate limits.

(1) A city of the metropolitan class may purchase or acquire by the exercise of the power of eminent domain private property or public property which is not at the time devoted to a specific public use, for:

(a) Streets, alleys, avenues, parks, recreational areas, parkways, playgrounds, boulevards, sewers, public squares, market places, and for other needed public uses or purposes authorized under sections 14-101 to 14-2004, and for adding to, enlarging, widening, or extending such facilities; and

(b) Constructing or enlarging waterworks, gas plants, or other municipal utility purposes or enterprises authorized under sections 14-101 to 14-2004.

(2) The power to purchase or appropriate private property or public property as provided in this section for parks, recreational areas, parkways, boulevards, sewers, and for the purpose of constructing waterworks, gas works, light plants, or other municipal enterprises authorized under sections 14-101 to 14-2004, may be exercised by the city within the corporate limits of the city or within seventy-five miles of the corporate limits.

(3) The power to purchase or appropriate private property or public property as provided in this section for streets, alleys, avenues, and other construction of a similar nature may be exercised by the city within the corporate limits of the city or within the extraterritorial zoning jurisdiction of the city.

Source: Laws 1921, c. 116, art. III, § 57, p. 457; C.S.1922, § 3610; C.S.1929, § 14-358; R.S.1943, § 14-366; Laws 1955, c. 21, § 2, p. 99; Laws 1959, c. 33, § 1, p. 189; Laws 2022, LB800, § 80. Operative date July 21, 2022.

1. Authorized purposes
2. Procedure
3. Damages
4. Miscellaneous

1. Authorized purposes

A community college's use of an entrance/exit drive qualified as a ''specific public use'' under this section. Metropolitan Comm. College Area v. City of Omaha, 277 Neb. 782, 765 N.W.2d 440 (2009).

This section gives the city of Omaha the power to accept dedication of streets in subdivisions within three miles of its corporate limits. Baker v. Buglewicz, 205 Neb. 656, 289 N.W.2d 519 (1980).

City of metropolitan class may exercise power of eminent domain for street purposes. Phillips Petroleum Co. v. City of Omaha, 171 Neb. 457, 106 N.W.2d 727 (1960).

City is given power to acquire by condemnation real property for the purpose of extending streets. Van Patten v. City of Omaha, 167 Neb. 741, 94 N.W.2d 664 (1959).

City may purchase or acquire by the exercise of the power of eminent domain property for parks and playgrounds, and purchase must be authorized by ordinance. Ash v. City of Omaha, 152 Neb. 393, 41 N.W.2d 386 (1950).

Park board may designate real estate desirable for park purposes, and thereby initiate steps for condemnation. Shannon v. Bartholomew, 83 Neb. 821, 120 N.W. 460 (1909).

This section authorizes cities of the metropolitan class to condemn private property for use as a public street. City of

Omaha v. Tract No. 1, 18 Neb. App. 247, 778 N.W.2d 122 (2010).

City was authorized to condemn property for waterworks outside of city limits. Omaha Water Co. v. City of Omaha, 162 F. 225 (8th Cir. 1908).

2. Procedure

Acquisition of property for park purposes must be made by ordinance. Reid v. City of Omaha, 150 Neb. 286, 34 N.W.2d 375 (1948).

Aggrieved property owner, failing to pursue statutory remedies, cannot attack validity of special assessments in collateral proceeding except for fraud or some fundamental defect or entire want of jurisdiction. Penn Mutual Life Ins. Co. v. City of Omaha, 129 Neb. 733, 262 N.W. 861 (1935).

This section sustained as constitutional, and city council authorized to sit as a board of equalization and ascertain and levy the amount of special benefits against property especially benefited. Burgess-Nash Bldg. Co. v. City of Omaha, 116 Neb. 862, 219 N.W. 394 (1928).

3. Damages

Measure of damages for land taken without condemnation for boulevard is value of land taken. City of Omaha v. Croft, 60 Neb. 57, 82 N.W. 120 (1900).

4. Miscellaneous

Cited but not discussed. Connor v. City of Omaha, 185 Neb. 146, 174 N.W.2d 205 (1970).

City taking title by eminent domain is estopped to deny the validity of liens deducted from appraisement of property sold at judicial sale. City Safe Deposit & Agency Co. v. City of Omaha, 79 Neb. 446, 112 N.W. 598 (1907).

Where city acquired mortgaged land without making mortgagee party to proceedings and paid condemnation money to mortgagor, it is discharged from its obligation, but takes land subject to mortgage, if recorded. Rieck v. City of Omaha, 73 Neb. 600, 103 N.W. 283 (1905).

14-367 Property; acquisition by eminent domain; procedure.

Whenever property is purchased for any of the purposes stated in section 14-366 the purchase of such property shall be made by ordinance. Whenever it becomes necessary to appropriate property for the purposes stated in section 14-366 the purpose and necessity for such appropriation shall be declared by ordinance. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1921, c. 116, art. III, § 57, p. 457; C.S.1922, § 3610; C.S.1929, § 14-358; R.S.1943, § 14-367; Laws 1951, c. 101, § 35, p. 461; Laws 2022, LB800, § 81.
Operative date July 21, 2022.

Amendment to this section providing condemnation procedure be in manner of cited sections repealed by implication succeeding sections. Connor v. City of Omaha, 185 Neb. 146, 174 N.W.2d 205 (1970).

Where city purchases or condemns property for parks or playgrounds, appraisers must be appointed and their award reported to the city council. Ash v. City of Omaha, 152 Neb. 393, 41 N.W.2d 386 (1950).

Appraisal of property is required when acquired for park purposes. Reid v. City of Omaha, 150 Neb. 286, 34 N.W.2d 375 (1948).

Although board of appraisers does not constitute a court, it exercises functions judicial in their nature. In re Appraisement of Omaha Gas Plant, 102 Neb. 782, 169 N.W. 725 (1918).

Award of damages by appraisers, unless appealed from, is conclusive, and city having lien for special assessment and failing to have same established, cannot, after expiration of time for appeal, offset amount of same against warrants issued to property for damages. State ex rel. Katelman v. Fink, 84 Neb. 185, 120 N.W. 938 (1909).

Special tax for opening street cannot be levied until report of appraisement of damages has been confirmed by council. Merrill v. Shields, 57 Neb. 78, 77 N.W. 368 (1898).

14-368 Repealed. Laws 1969, c. 59, § 1.

14-369 Repealed. Laws 1969, c. 59, § 1.

14-370 Repealed. Laws 1969, c. 59, § 1.

14-371 Repealed. Laws 1969, c. 59, § 1.

14-372 Utilities; acquisition by eminent domain; funds; title.

Whenever property is acquired for the purpose of constructing or enlarging waterworks, gas plants, or other municipal utility purposes or enterprises authorized under section 14-366, such property shall be paid for from such funds as may be provided for any such purposes. The title to such property shall

be held by the city after condemnation proceedings have been completed and the amount awarded has been paid by the city.

Source: Laws 1921, c. 116, art. III, § 57, p. 460; C.S.1922, § 3610; C.S.1929, § 14-358; R.S.1943, § 14-372; Laws 1951, c. 101, § 36, p. 462; Laws 2022, LB800, § 82.
Operative date July 21, 2022.

Owner whose land is condemned is not required to look to the fund sought to be raised by special assessment for payment of his damages. City of Omaha v. State ex rel. Metzger, 69 Neb. 29, 94 N.W. 979 (1903).

Judgment against city for value of land vests title to land in city. City of Omaha v. Redick, 61 Neb. 163, 85 N.W. 46 (1901).

Right of landowner to condemnation money accrues immediately upon termination of condemnation proceedings and taking possession of land by city. Spalding v. City of Omaha, 4 Neb. Unof. 447, 94 N.W. 714 (1903).

14-373 City plan; planning board; scope; lands outside corporate limits.

Each city of the metropolitan class is authorized and required to prepare a plan for the future physical development and growth of the city. Such plan shall be prepared and shall be carried out by an appropriate city board or official. The plan may include such lands outside the corporate limits of the city as may bear a relation to the development of the city. A planning board may be given such other powers and duties by statute or charter as may be appropriate. On or after January 1, 1998, the planning board shall have one member qualified and appointed as provided in section 14-373.02.

Source: Laws 1921, c. 116, art. III, § 57a, p. 460; C.S.1922, § 3611; C.S.1929, § 14-359; R.S.1943, § 14-373; Laws 1959, c. 34, § 1, p. 191; Laws 1996, LB 575, § 1; Laws 2022, LB800, § 83.
Operative date July 21, 2022.

Cross References

Duties of city planning board, see section 14-407.

Provisions of this section do not apply where a city of the metropolitan class seeks to adopt an ordinance annexing lands adjacent to the city's boundaries. S.I.D. No. 95 v. City of Omaha, 221 Neb. 272, 376 N.W.2d 767 (1985).

Efficacy of city plan depends on its being adopted by the city council. Van Patten v. City of Omaha, 167 Neb. 741, 94 N.W.2d 664 (1959).

City planning commission has power to carry out and maintain city plan after its adoption by city council. Ash v. City of Omaha, 152 Neb. 393, 41 N.W.2d 386 (1950); Reid v. City of Omaha, 150 Neb. 286, 34 N.W.2d 375 (1948).

Zoning ordinance, drafted in general terms and providing reasonable margin to secure effective enforcement, is within police power of state and constitutional. Pettis v. Alpha Alpha Chapter of Phi Beta Pi, 115 Neb. 525, 213 N.W. 835 (1927).

Metropolitan city is not permitted to impose unreasonable regulations upon the owners of property with respect to the area sought to be covered by a proposed building. State ex rel. Westminster Presbyterian Church v. Edgecomb, 108 Neb. 859, 189 N.W. 617 (1922), 27 A.L.R. 437 (1922).

14-373.01 Planning board; legislative findings.

The Legislature finds that:

(1) The exercise of zoning, planning, and other concomitant powers by a city of the metropolitan class in the area of extraterritorial zoning jurisdiction described and authorized by state law necessarily affects property outside the corporate boundaries of the city and persons who are not inhabitants of or electors in the city;

(2) The protection of unrepresented persons and property affected by a statutorily created zoning and planning process is a matter of state concern; and

(3) The protection of such unrepresented persons and property would be facilitated by requiring that at least one person residing in the area of extraterritorial zoning jurisdiction and appointed by an elected body of the area of

extraterritorial zoning jurisdiction serve as a member of the planning board of the city of the metropolitan class if such planning board exists.

Source: Laws 1996, LB 575, § 2; Laws 2022, LB800, § 84.
Operative date July 21, 2022.

Cross References

Planning board, organized, see section 14-407.

14-373.02 Planning board; extraterritorial member; vacancy; how filled; procedure.

(1) Notwithstanding any provision of a home rule charter to the contrary, the next vacancy that occurs on a city planning board on or after January 1, 1998, shall be filled by the appointment of a person who resides in the area of extraterritorial zoning jurisdiction as provided in subsection (2) of this section. At all times following the initial appointment of a planning board member who resides in the area of extraterritorial zoning jurisdiction, one member of the planning board shall be so qualified and appointed.

(2) The city clerk shall formally notify the county clerk of the existence of the next vacant position that occurs on the planning board on or after January 1, 1998, within ten days after the date of the vacancy. The county board, within thirty days after such notice, shall hold a meeting to consider nominations for appointment to the vacancy and shall appoint a person qualified under subsection (1) of this section to fill the vacancy. Prior to holding such meeting, the county board shall cause to be published a notice of the vacancy and the date of the meeting. The notice shall be published in a legal newspaper in or of general circulation in the county in which such planning board is located at least once in each of the two weeks immediately preceding the week of the meeting. A nominee for the vacancy shall be appointed by majority vote of the county board. The appointee shall become a member of the planning board when the city clerk receives certification from the county clerk of the name of the appointee.

(3) Following the initial appointment of the extraterritorial member to the planning board pursuant to this section, the city clerk shall inform the county clerk of any vacancy occurring in the extraterritorial member's position within ten days after its occurrence or at least thirty days prior to the expiration of the extraterritorial member's term.

(4) Any person qualified and appointed under this section shall serve for terms equal to that of the planning board members who reside within the corporate boundaries of the city and shall become a member of the planning board with all rights, duties, responsibilities, and privileges relating to the position by state law, home rule charter, or city ordinance.

(5) For purposes of this section:

(a) Area of extraterritorial zoning jurisdiction means the unincorporated area three miles beyond and adjacent to the corporate boundaries of a city of the metropolitan class;

(b) City means a city of the metropolitan class;

(c) County board means the county board of a county in which a city of the metropolitan class is located;

(d) County clerk means the county clerk of a county in which a city of the metropolitan class is located; and

(e) Planning board means a planning board as organized pursuant to section 14-407.

Source: Laws 1996, LB 575, § 3; Laws 2022, LB800, § 85.
Operative date July 21, 2022.

14-374 City plan; acquisition and disposition of property; public purposes.

Each city of the metropolitan class shall have the power to acquire by gift, purchase, condemnation, or bequest, such real estate within the corporate limits and within the extraterritorial zoning jurisdiction of the city as may be necessary for any public use and may later convey, lease, sell, or otherwise dispose of any real estate so acquired and not necessary for present use or future development upon such terms as the city may deem appropriate. In addition to any other public uses, the following are declared to be for a public purpose and for the public health and welfare: Establishing, laying out, widening, and enlarging waterways, streets, bridges, boulevards, parkways, parks, playgrounds, sites for public buildings, and property for administrative, institutional, educational, and all other public uses, and for reservations in, about, along, or leading to any or all of such facilities. The powers provided in this section shall be in addition to and not in restriction of any other powers held by cities of the metropolitan class.

Source: Laws 1921, c. 116, art. III, § 57b, p. 461; C.S.1922, § 3612; C.S.1929, § 14-360; R.S.1943, § 14-374; Laws 1959, c. 34, § 2, p. 191; Laws 2022, LB800, § 86.
Operative date July 21, 2022.

A city has the power of eminent domain to acquire real estate for a public use and to later sell portions thereof no longer needed by it. Monarch Chemical Works, Inc. v. City of Omaha, 203 Neb. 33, 277 N.W.2d 423 (1979).

A request for injunction is a proper form in which to present the question of unlawful or improper exercise of the power of eminent domain, because the attempt to deprive a private citizen of an estate in his property, if successful, makes the resulting damage irreparable and legal remedies inadequate. Monarch Chemical Works, Inc. v. City of Omaha, 203 Neb. 33, 277 N.W.2d 423 (1979).

Cities of the metropolitan class are empowered to acquire real estate by gift. Bowley v. City of Omaha, 181 Neb. 515, 149 N.W.2d 417 (1967).

This section has application only to those condemnations within a city plan approved by the city council. Van Patten v. City of Omaha, 167 Neb. 741, 94 N.W.2d 664 (1959).

14-375 City planning board; vacation of streets or alleys; procedure; appointment of committees; effect; appeal.

Upon the recommendation of the city planning board, the city council of a city of the metropolitan class may, by ordinance or resolution, vacate any street or alley within such city without any petition being filed for such vacation. Before any such street or alley shall be vacated, the city council shall appoint a committee of at least three city council members, who shall faithfully and impartially and after reasonable notice to the owners and parties interested in property affected by such vacation, assess the damages, if any, to such owners and affected parties. The committee shall take into consideration the amount of special benefits, if any, arising from such vacation and shall file their report in writing with the city clerk. Any owner or party interested in property affected by such vacation, who shall file a written protest with such committee, may appeal from the adoption by the city council of such appraisers' report in the manner provided in section 14-813, but such appeal shall not stay the passage of the ordinance or resolution vacating such street or alley. The award of appraisers shall be final and conclusive as the order of a court of general jurisdiction, unless appealed from. When the city vacates a street or alley, the city shall, within thirty days after the effective date of the vacation, file a

certified copy of the vacating ordinance or resolution with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

Source: Laws 1921, c. 116, art. III, § 57c, p. 461; C.S.1922, § 3613; C.S.1929, § 14-361; R.S.1943, § 14-375; Laws 1959, c. 35, § 1, p. 192; Laws 1961, c. 30, § 3, p. 147; Laws 2001, LB 483, § 1; Laws 2022, LB800, § 87.
Operative date July 21, 2022.

This section authorizes the mayor and city council to vacate a street under whatever restrictions and regulations might be provided by law and makes no provision for reversion of the fee title to abutting property owners. Valasek v. Bernardy, 242 Neb. 398, 495 N.W.2d 275 (1993).

Right of appeal is preserved. Hanson v. City of Omaha, 157 Neb. 768, 61 N.W.2d 556 (1953).

Vacation of street was not an exercise of power of eminent domain. Hanson v. City of Omaha, 157 Neb. 403, 59 N.W.2d 622 (1953).

Before street may be vacated under this section, committee must be appointed to assess damages. Hanson v. City of Omaha, 154 Neb. 72, 46 N.W.2d 896 (1951).

14-376 Public utilities; acquisition by eminent domain; procedure.

Whenever the qualified electors of any city of the metropolitan class vote at any general or special election to acquire and appropriate by an exercise of the power of eminent domain, any waterworks, waterworks system, gas plant, electric light plant, electric light and power plant, street railway, or street railway system, located or operating within or partly within and partly without such city if the main part of such works, plant, or system be within such city and even though a franchise for the construction and operation of such works, plant, or system may or may not have expired, then the city shall have the power and authority by an exercise of the power of eminent domain to appropriate and acquire for the public use of the city, such works, plant, or system. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724. The city council shall have the power to submit such question or proposition to the qualified electors of the city at any general city election or at any special city election and may submit such proposition in connection with any city special election called for any other purpose, and the votes cast on such question shall be canvassed and the result found and declared as in any other city election. The city council shall submit such question at any such election whenever a petition asking for such submission is signed by the legal voters of the city equaling in number fifteen percent of the votes cast at the last general city election, and is filed in the city clerk's office at least fifteen days before the election at which the submission is asked.

Source: Laws 1921, c. 116, art. III, § 58, p. 462; C.S.1922, § 3614; C.S.1929, § 14-362; R.S.1943, § 14-376; Laws 1951, c. 101, § 37, p. 462; Laws 2022, LB800, § 88.
Operative date July 21, 2022.

Act, of which this section was part, sustained as constitutional against contention that appointment by Supreme Court of board of appraisers violated constitutional provisions as to separation of powers of government. In re Appraisement of Omaha Gas Plant, 102 Neb. 782, 169 N.W. 725 (1918).

14-377 Repealed. Laws 1951, c. 101, § 127.

14-378 Repealed. Laws 1951, c. 101, § 127.

14-379 Repealed. Laws 1951, c. 101, § 127.

14-380 Repealed. Laws 1951, c. 101, § 127.

14-381 Repealed. Laws 1951, c. 101, § 127.

(e) BUILDING RESTRICTIONS

14-382 Repealed. Laws 1959, c. 37, § 4.

(f) PARKS, RECREATIONAL AREAS, AND PLAYGROUNDS

14-383 Parks, recreational areas, and playgrounds; special levy; improvement district; creation; election.

Without limiting the applicability of sections 14-366 to 14-372, the city council of a city of the metropolitan class is authorized to levy special taxes and assessments on properties benefited by parks, recreational areas, and playgrounds acquired either by purchase or condemnation without regard to whether the benefited property is within or without the corporate limits of the city when an improvement district is created by the city council and approved by a majority of the property owners in the district as provided in this section. Each property owner may cast one vote at an election to be held to determine whether such improvement district shall be created for each fifteen thousand dollars of taxable valuation, or fraction of such valuation, of real property and improvements in the proposed district as determined by the official records of the county assessor for the previous calendar year. When such a district is created by the city council and approved by a majority of the property owners, the special taxes shall be levied proportionately to the taxable valuation of the district. Notice of the election shall be given and the election shall be held in the same manner as other special elections are held in such a city.

Source: Laws 1955, c. 21, § 3, p. 100; Laws 1979, LB 187, § 31; Laws 1992, LB 719A, § 36; Laws 2022, LB800, § 89.
Operative date July 21, 2022.

(g) STREETS, SIDEWALKS, AND HIGHWAYS

14-384 Terms, defined.

As used in sections 14-384 to 14-3,127, unless the context otherwise requires:

(1) Alley means an established public way for vehicles and pedestrians affording a secondary means of access in the rear to properties abutting on a street or highway;

(2) Boulevard means a street for noncommercial traffic with full or partial control of access, usually located within a park or a ribbon of park-like development;

(3) City means a city of the metropolitan class;

(4) Connecting link means the roads, streets, and highways designated as part of the State Highway System and which are within the corporate limits of a city of the metropolitan class;

(5) Controlled-access facility means a highway or street especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air, or view by reason of the fact that their property abuts on such controlled-access facility or for any other reason;

(6) Highway means a road or street including the entire area within the right-of-way which has been designated a part of the State Highway System by appropriate authority;

(7) Main thoroughfare means a street primarily for through travel having been determined as such by the city and contained as such in the master plan of the city;

(8) Major traffic street means a street primarily for through traffic and contained as such in the master plan of the city;

(9) Street means a public way for the purpose of vehicular and pedestrian travel in the city and shall include the entire area within the right-of-way; and

(10) Temporary surfacing means surfacing applied to any street, connecting link, controlled-access facility, main thoroughfare, highway, or boulevard wherein it is planned by the city that the grade or surfacing of any such street, link, facility, thoroughfare, highway, or boulevard shall be changed within two years from the date of completion of such temporary surfacing and a permanent grade established or surfacing applied.

Source: Laws 1959, c. 36, § 1, p. 195; Laws 2022, LB800, § 90.
Operative date July 21, 2022.

Cross References

State highway system, see Chapter 39, article 13.

14-385 Streets; improvements; improvement districts; authorized.

(1) Subject to sections 14-384 to 14-3,127, any city shall have the power and is authorized to:

(a) Pave, repave, surface, resurface, and relay paving;

(b) Widen, improve the horizontal and vertical alignment, insert traffic medians, channels, overpasses, and underpasses;

(c) Apply temporary surfacing;

(d) Curb;

(e) Gutter as provided in sections 14-386 to 14-388;

(f) Improve in combinations as authorized in section 14-391;

(g) Recurb and regutter streets, boulevards, alleys, public grounds and parts of such streets, boulevards, alleys, or grounds;

(h) Regulate, restrict, eliminate, or prohibit access to, and vehicular travel upon, any existing or subsequently acquired street or other public way;

(i) Construct malls on such street or public way, and landscape, beautify, and enhance such street or other public way in any manner the city council may deem proper; and

(j) Create separate or combined street and sidewalk, street, or sidewalk improvement districts.

(2) The city shall not be required to make any of the improvements authorized in this section if for good reason the city deems such improvements should not be made even though such improvements were petitioned for as provided in section 14-390.

Source: Laws 1959, c. 36, § 2, p. 196; Laws 1961, c. 30, § 4, p. 148; Laws 1969, c. 60, § 1, p. 365; Laws 2022, LB800, § 91.
Operative date July 21, 2022.

14-386 Streets; improvement districts; delineation.

To accomplish any of the purposes stated in section 14-385, a city is authorized in all such proceedings to delineate proposed street improvement districts, proposed mall improvement districts, proposed separate or combined street and sidewalk, street, sidewalk, or streets and sidewalks improvement districts which shall embrace in such districts the street or streets, sidewalk or sidewalks, street or sidewalk, or streets and sidewalks, or part or parts thereof, to be improved as well as the abutting, adjacent, and benefited property proposed to be assessed to cover in whole or in part the cost, including land acquisition expenses if any, of the proposed improvement.

Source: Laws 1959, c. 36, § 3, p. 196; Laws 1969, c. 60, § 2, p. 366; Laws 2022, LB800, § 92.
Operative date July 21, 2022.

14-387 Streets; improvements without petition.

A city is authorized without petition to order any of the improvements specified in section 14-385 within street improvement districts, mall improvement districts, separate or combined street and sidewalk, or street, or sidewalk, or streets and sidewalks improvement districts within the corporate limits of the city or when the improvement is on a controlled-access facility or a major traffic street contained in the approved master plan of the city, and on sidestreets connecting with such major traffic streets for a distance not to exceed one block from such major traffic street.

Source: Laws 1959, c. 36, § 4, p. 197; Laws 1969, c. 60, § 3, p. 366; Laws 2022, LB800, § 93.
Operative date July 21, 2022.

14-388 Streets; main thoroughfares; major traffic streets; improvement districts; area included; cost.

Any city may without petition order any main thoroughfare or major traffic street or part of such thoroughfare or street improved in any manner specified in section 14-385 after the city shall determine it to be such a main thoroughfare or major traffic street, which determination shall be conclusive. Such main thoroughfares or major traffic streets shall include all connecting links as well as county highways leading into the city, and may include part or all of any street which lies partly in the city and partly in the abutting county. The city may create improvement districts for such purposes, including the abutting, adjacent, or benefited property. The costs of such improvements to the extent of special benefits conferred by the improvement may be assessed in whole or in part against the property in such districts and the assessments supplemented either by federal or state aid or both or by other city funds, including permanent improvement funds, all other street resurfacing funds, or highway bond funds.

Source: Laws 1959, c. 36, § 5, p. 197; Laws 1963, c. 44, § 1, p. 219; Laws 2022, LB800, § 94.
Operative date July 21, 2022.

14-389 Streets; controlled-access facilities; property; powers; terms and conditions; frontage roads; access.

(1) Any city shall have the power to designate and establish controlled-access facilities, and may design, construct, maintain, improve, alter, and vacate such

facilities and may by ordinance regulate, restrict, or prohibit access to such facilities so as best to serve the traffic for which such facilities are intended. The city may provide for the elimination of intersections at grade with existing roads, streets, highways, or alleys if it finds the public interest shall be served by such elimination. An existing road, street, alley, or other traffic facility may be included within such facilities or such facilities may include new or additional roads, streets, or highways.

(2) In order to carry out the purposes of this section, in addition to any other powers the city may have, the city may acquire in public or private property such rights of access as are deemed necessary, including, but not necessarily limited to, air, light, view, ingress, and egress. Such acquisitions may be by gift, devise, purchase, agreement, adverse possession, prescription, condemnation, or otherwise as provided by law and may be in fee simple absolute or in any lesser estate or interest. The city may make provision to mitigate damages caused by such acquisitions, terms, and conditions regarding the abandonment or reverter of such acquisitions, and any other provisions or conditions that are desirable for the needs of the city and the general welfare of the public.

(3) The city is further authorized to designate, establish, design and construct, maintain, vacate, alter, improve, and regulate frontage roads within the boundaries of any present or subsequently acquired right-of-way and exercise the same powers over such frontage roads as is exercised over controlled-access facilities. Such frontage roads may be connected to or separated from the controlled-access facilities at such places as the city shall determine to be consistent with public safety. Upon the construction of any frontage road, any right of access between the controlled-access facility and property abutting or adjacent to such frontage roads shall terminate and ingress and egress shall be provided to the frontage road at such places as will afford reasonable and safe connections.

(4) If the construction or reconstruction of any controlled-access facility results in the abutment of property on such facility that did not previously have direct egress from or ingress to such facility, no rights of direct access shall accrue because of such abutment, but the city may prescribe and define the location of the privilege of access, if any, of properties that then, but did not previously, abut on such facility.

Source: Laws 1959, c. 36, § 6, p. 197; Laws 2022, LB800, § 95.
Operative date July 21, 2022.

14-390 Streets; improvements; petition of property owners.

Except as otherwise specifically provided in sections 14-384 to 14-3,127, any city shall not order or cause to be made any of the improvements provided in such sections in any improvement district except upon a petition of the record owners of the majority of the frontage of taxable property in the district abutting upon the streets or parts of streets proposed to be improved.

Source: Laws 1959, c. 36, § 7, p. 198; Laws 2022, LB800, § 96.
Operative date July 21, 2022.

14-391 Streets; improvements; petition of property owners; improvement districts; create; districts partly within and partly outside city.

A city may, upon a petition of the record owners of a majority of the frontage of taxable property upon the streets or parts of streets within a district created

for that purpose, order any of the improvements authorized in section 14-385, on any street or any number of consecutive streets which extend in the same general direction, together with parts of streets, alleys, and ways either intersecting or connecting therewith, within reasonable, appropriate, or necessary limits in one proceeding and in one improvement district, by causing such improvements in whole or in part to be paved, repaved, curbed, or recurbed, the grades to be changed or graded, the paving to be resurfaced or relaid, or any combination of such work to be done, including a change of grade and grading or either or both, or construction of malls, either street or sidewalk or streets and sidewalks, on any of the streets or ways within such districts. The city may also include in such districts the replacement or repair of sidewalks. In addition to the creation of districts lying wholly within the corporate limits, the city may create such districts on streets lying partly within the city and partly without the corporate limits.

Source: Laws 1959, c. 36, § 8, p. 199; Laws 1963, c. 45, § 1, p. 221; Laws 1969, c. 60, § 4, p. 367; Laws 2022, LB800, § 97.
Operative date July 21, 2022.

14-392 Streets; improvements; assessment of cost.

(1) For the purpose of covering in whole or in part the costs of any of the improvements, authorized in sections 14-384 to 14-3,127, or costs incident to such improvements, including grading done in combination with any other improvements, a city may:

(a) Assess the property within an improvement district or the property benefited by change of grade or grading when not made in combination with other improvements, to the full extent of the special benefits conferred upon the respective lots, tracts, and parcels of land; or

(b) If the city council finds that there are common benefits enjoyed by the public at large without reference to the ownership of property abutting or adjacent to the improvement or improvements, or that there is a common benefit to the property embraced within such district or districts, assess the costs of such improvement or improvements against all the property included in such district or districts.

(2) All such assessments shall be:

(a) Done according to such rules as the city council sitting as a board of equalization shall adopt for the distribution or adjustment of the costs of the improvement or improvements; and

(b) Equalized, levied, and collected as special assessments.

Source: Laws 1959, c. 36, § 9, p. 199; Laws 1969, c. 60, § 5, p. 367; Laws 2015, LB361, § 4; Laws 2022, LB800, § 98.
Operative date July 21, 2022.

14-393 Streets; establish or change grade; authorization of city; requirements.

Whenever it is desired to establish or to change the previously established grade of any street, highway, boulevard, main thoroughfare, controlled-access facility, connecting link, major traffic street, alley, or part of such street, highway, boulevard, thoroughfare, facility, link, or alley, such establishment or change may be authorized by a city. Such authorization shall state the proposed

grade by elevations or other definite data and shall refer to a plat with specifications fully detailing and showing the established grade or the amount of change in the grade line, which plat shall remain on file in the city offices. The authorization for and the order establishing or changing the previous grade may include the establishment of or the change of the previously established grade on any number of intersecting or connecting streets which may be reasonably appropriate and necessary to a proper adjustment of grade lines to the principal grade line proposed to be changed or to include the change of grade on cross streets so that traffic on such cross streets may pass under the street to the principal grade line to be changed by a subway or over the street to the principal grade line on a bridge, viaduct, or overpass.

Source: Laws 1959, c. 36, § 10, p. 199; Laws 2022, LB800, § 99.
Operative date July 21, 2022.

14-394 Streets; change of grade; petition of property owners; sufficiency.

A city is authorized to change the grade of any street, highway, boulevard, main thoroughfare, controlled-access facility, connecting link, major traffic street, alley, or part of such street, highway, boulevard, thoroughfare, facility, link, or alley when a petition for a proper and satisfactory change of grade has been signed and filed by the record owners of a majority of the frontage of taxable property abutting upon that part of the street of which the change of grade is proposed. A petition for the order changing the grade may include the change of grade of any number of intersecting or connecting streets which may be reasonably appropriate and necessary to a proper adjustment of grades. In such event the sufficiency of the petition shall be determined by a consideration of the total frontage feet of taxable property upon all the streets or parts of such streets upon which it is proposed to change the grades.

Source: Laws 1959, c. 36, § 11, p. 200; Laws 2022, LB800, § 100.
Operative date July 21, 2022.

14-395 Streets; establish or change grade; authority of city.

A city may authorize any street, highway, boulevard, main thoroughfare, controlled-access facility, connecting link, major traffic street, alley, or part of such street, highway, boulevard, thoroughfare, facility, link, or alley graded to a grade as established or changed in accordance with section 14-393.

Source: Laws 1959, c. 36, § 12, p. 200; Laws 2022, LB800, § 101.
Operative date July 21, 2022.

14-396 Streets; grade; petition of property owners; order of city.

A city may order any street or alley or part of such street or alley graded to an established grade whenever there is filed an approved petition of the record owners of a majority of the frontage of taxable property upon that part of the street proposed to be graded.

Source: Laws 1959, c. 36, § 13, p. 200; Laws 2022, LB800, § 102.
Operative date July 21, 2022.

14-397 Streets; change of grade; special assessment.

In order to cover the entire cost of changing the grade or grading, as provided by sections 14-384 to 14-3,127, of any street, boulevard, highway,

main thoroughfare, controlled-access facility, connecting link, major traffic street, alley, or part thereof, including intersections and damages awarded, a city is authorized to levy special assessments to the extent of the special benefits conferred by the improvement on the lots and parcels of land especially benefited by reason of the grading of any street or part thereof whether such property abuts on or is in the vicinity of the street or the part of the street so graded. All such special assessments shall be equalized, levied, and collected in the manner provided by law for the equalization, levying, and collection of special assessments. All grading shall be done to the full width of the street unless for good and sufficient reason the city finds that such grading shall be done to a different width.

Source: Laws 1959, c. 36, § 14, p. 201; Laws 2022, LB800, § 103.
Operative date July 21, 2022.

14-398 Streets; change of grade; special assessment; how determined.

Under the methods provided in sections 14-384 to 14-3,127 to grade streets, highways, boulevards, main thoroughfares, controlled-access facilities, connecting links, major traffic streets, alleys, and parts of such streets, highways, boulevards, thoroughfares, facilities, links, or alleys, any number of intersecting and connecting streets reasonably required and proper and necessary to the better and improved use of the streets may be authorized to be graded in one proceeding. The cost of such grading as provided in sections 14-384 to 14-3,127 may be assessed upon property specially benefited as a special assessment. In such instances, in determining the sufficiency of either an authorized protest or petition, the total frontage of taxable property on all sides on all of the streets to be graded shall be taken into consideration.

Source: Laws 1959, c. 36, § 15, p. 201; Laws 2015, LB361, § 5; Laws 2022, LB800, § 104.
Operative date July 21, 2022.

14-399 Streets; grade; petition; contents; requirements.

All petitions authorized by sections 14-384 to 14-3,127 for changing the grade of streets or grading streets shall contain provisions waiving damages on account of such grading, and such petitions as well as protests authorized shall be signed and executed and filed in the manner required for petitions for street improvements.

Source: Laws 1959, c. 36, § 16, p. 201; Laws 2022, LB800, § 105.
Operative date July 21, 2022.

14-3,100 Streets; grade; committee; appraisal and report of damages; special assessments; appraisers; fees; damages; award.

After the grade of any street or alley shall be finally changed or the grading of such street or alley finally ordered as provided in sections 14-384 to 14-3,127 and before any assessments are levied, a committee of at least three disinterested residents of the city shall be appointed by the city to appraise the damages caused by the change of grade or grading. The committee shall promptly make an appraisal of and report its award of such damages as the committee determines have been occasioned by such change of grade or grading. Prior to entering upon their duties, such appraisers shall take and file such oath as may be required by law. The committee shall hold meetings on such reasonable

notice to the interested parties as the city may from time to time provide, and may take testimony with respect to the question of damages. The committee shall report its award to the city and the city shall have the authority to approve such report, to change or modify any award on reasonable notice to the interested parties, or to reject the entire report or the award as to any particular property. The appraisers appointed under this section shall be entitled to fees for their time spent which shall be determined in such manner as the city shall from time to time provide.

Source: Laws 1959, c. 36, § 17, p. 201; Laws 1969, c. 60, § 6, p. 368; Laws 2005, LB 626, § 1; Laws 2022, LB800, § 106.
Operative date July 21, 2022.

14-3,101 Streets; grade; award of damages; when payable; appeal.

Whenever an award of damages for a change in grade or grading has been finally approved such damages may be assessed to the extent of the special benefits conferred by the improvement against the lots and parcels of land abutting upon or in the vicinity of the improvements made. Within sixty days after such assessment the award of damages shall become due and payable and must be paid by warrants drawn against a special fund created for such purpose. Any person feeling aggrieved by reason of an award of damages or failure to award sufficient damages may appeal to the district court of the county within which the property is located within the time and in the manner provided by law for such appeals.

Source: Laws 1959, c. 36, § 18, p. 202; Laws 2022, LB800, § 107.
Operative date July 21, 2022.

14-3,102 Streets; improvements; notice; service; protest; effect; special assessment.

Whenever it is desired to make any improvement or improvements authorized in section 14-385, where the costs of such improvement or improvements are to be assessed against the adjacent and abutting property benefited by such improvement or improvements, and no petition has been filed for such improvement or improvements in accordance with section 14-391, the city may propose such improvement or improvements stating the specific character of the improvement or improvements to be made. The city shall cause to be published in the official newspaper a brief notice of such proposal stating the character of the improvement or improvements proposed, and shall give additional notice to the property owners in the improvement district or districts, or proposed improvement district or districts, as required by section 25-520.01. If within thirty days after giving notice the owners of fifty-one percent of the taxable property abutting upon the street or streets, or part or parts of such street or streets proposed to be improved protest against such project, such work shall not be done. In the absence of such protest, the city shall be authorized to proceed with the work as proposed. The cost and expense of such improvement or improvements, as provided by law, may be assessed against the property within the improvement district or districts specially benefited to the extent of such benefits as a special assessment. Where assessment against the property within the improvement district or districts specially benefited is not made, or where the improvement or improvements are on a

main thoroughfare, major traffic street, or connecting link, or made pursuant to sections 14-3,103 to 14-3,106, this section shall not apply.

Source: Laws 1959, c. 36, § 19, p. 202; Laws 1963, c. 46, § 1, p. 222; Laws 1969, c. 60, § 7, p. 369; Laws 2015, LB361, § 6; Laws 2022, LB800, § 108.
Operative date July 21, 2022.

14-3,103 Sidewalks; construction or repair; required, when; assessment of cost; equalization.

A city may construct or repair sidewalks along any street or part thereof, or any boulevard or part thereof, of such material and in such manner as the city deems necessary and assess the cost of such construction or repair upon abutting property. Such assessments except for temporary sidewalks and sidewalk repairs shall be equalized and levied as special assessments. The city shall cause the construction of sidewalks on at least one side of every major traffic street and main thoroughfare in the city, excluding freeways, expressways, controlled-access facilities, and other streets deemed by the city to demonstrate no or very limited demand for pedestrian use, and may assess the cost of such construction upon abutting property. Such construction shall be completed within a reasonable time, based upon an annual review of construction program priorities and available funding sources.

Source: Laws 1959, c. 36, § 20, p. 203; Laws 1971, LB 237, § 2; Laws 1984, LB 992, § 1; Laws 2015, LB361, § 7; Laws 2022, LB800, § 109.
Operative date July 21, 2022.

14-3,104 Temporary sidewalks; when.

Where the grade of any street or part of a street has not been established or where a street has not been worked or filled to the established grade or where the street has been graded but does not conform to the established grade the owner of any lots or lands abutting on such street shall only be required to construct or repair such temporary sidewalk along such street with such material as the city may direct.

Source: Laws 1959, c. 36, § 21, p. 203.

14-3,105 Sidewalks; construction or repair; notice; service.

Before any sidewalk shall be constructed or repaired by the city as provided in section 14-3,103, the owner or owners of the lots or lands to be assessed shall be given notice to construct or repair such sidewalk and shall have twenty days after the giving of such notice within which to construct or repair such sidewalk. Such notice shall be served or published as directed by ordinance and if the notice be by publication it shall be sufficient to address such notice to the owners generally. The city shall give an additional notice by registered letter or certified mail directed to the last-known address of such owners or their agents, but failure to give such additional notice shall not invalidate the proceedings, or the special assessments for such sidewalk.

Source: Laws 1959, c. 36, § 22, p. 203; Laws 2022, LB800, § 110.
Operative date July 21, 2022.

14-3,106 Sidewalks; construction or repair; special assessment; failure of owner; effect.

In case the owner or owners shall fail to construct or repair a sidewalk as provided in section 14-3,105, the city may construct or repair such sidewalk or cause such work to be done and assess the cost of such work upon the abutting property as a special assessment. Where the owner or owners of abutting property fail to keep in repair the sidewalk adjacent to such property, the owner or owners shall be liable for all damages or injuries occasioned or recovered by reason of the defective or dangerous condition of such sidewalk.

Source: Laws 1959, c. 36, § 23, p. 204; Laws 2015, LB361, § 8; Laws 2022, LB800, § 111.
Operative date July 21, 2022.

14-3,107 Streets; vacation; narrow; reversion to abutting owners; improvements; assessment of benefits; vacation of minimal secondary right-of-way; procedure.

(1)(a) Except as provided in subsection (2) of this section, a city may:

(i) Vacate or narrow any street, highway, main thoroughfare, controlled-access facility, connecting link, boulevard, major traffic street, or alley upon petition of the owners of seventy-five percent of the taxable frontage feet abutting upon such street or alley proposed to be vacated and asking for such vacation; or

(ii) For purposes of construction of a controlled-access highway or to conform to a master plan of the city, without petition having been filed for such vacation, vacate any street or alley or any part thereof in the city.

(b) Whenever a street is vacated or narrowed, the part so vacated shall revert to the abutting owners on the respective sides of such street, except that if part or all of the vacated street lies within the State of Nebraska but one side or any part of the street is adjacent to the boundary of the State of Nebraska, all of the street lying within the State of Nebraska or that part lying within the State of Nebraska shall revert to the owner of the abutting property lying wholly within the State of Nebraska.

(c) The city may open, improve, and make passable any street, highway, boulevard, main thoroughfare, controlled-access facility, connecting link, major traffic street, or alley. For purposes of this subsection, open refers to the adaptation of the surface of the street to the needs of ordinary travel but does not necessarily require the grading to an established grade.

(d) The costs of any of the improvements mentioned in this subsection, except as otherwise provided in sections 14-384 to 14-3,127, to the extent of special benefits conferred, may be assessed against the property specially benefited as special assessments.

(e) When the city vacates all or any portion of a street, highway, main thoroughfare, controlled-access facility, connecting link, boulevard, major traffic street, or alley pursuant to this subsection, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance or resolution with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

(2)(a) The city may vacate any minimal secondary right-of-way in the manner described in this subsection. The city may vacate any segment of such right-of-

way by ordinance without petition and without convening any committee for the purpose of determining any damages if all affected abutting properties have primary access to an otherwise open and passable public street right-of-way. An abutting property shall not be determined to have primary access if such abutting property has an existing garage and such garage is not accessible without altering or relocating such garage.

(b) Title to such vacated rights-of-way shall vest in the owners of abutting property and become a part of such property, each owner taking title to the center line of such vacated street or alley adjacent to such owner's property subject to the following:

(i) There is reserved to the city the right to maintain, operate, repair, and renew sewers now existing on such property; and

(ii) There is reserved to the public utilities and cable television systems the right to maintain, repair, renew, and operate installed water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances above, on, and below the surface of the ground for the purpose of serving the general public or abutting properties, including such lateral connection or branch lines as may be ordered or permitted by the city or such other utility or cable television system and to enter upon the premises to accomplish such purposes at any and all reasonable times.

(c) The city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance or resolution with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

(d) For purposes of this subsection, minimal secondary right-of-way means any street or alley which either is unpaved, has substandard paving, or has pavement narrower than sixteen feet and which is a secondary means of access to or from any property abutting the portion to be vacated.

Source: Laws 1959, c. 36, § 24, p. 204; Laws 1967, c. 43, § 1, p. 173; Laws 2001, LB 483, § 2; Laws 2003, LB 97, § 1; Laws 2015, LB361, § 9; Laws 2022, LB800, § 112.
Operative date July 21, 2022.

This section provides a method by which property owners in a metropolitan city may initiate a petition for vacation of nominal streets. Aro Investment Co. v. City of Omaha, 179 Neb. 569, 139 N.W.2d 349 (1966).

14-3,108 Streets; improvements; control of work; regulations.

A city shall have the right to control and direct all work upon the public streets. The city may adopt any and all reasonable regulations relating to excavations in the streets or public grounds by any and all parties, including waterworks, gas, and other franchised corporations or public contractors, enforce such regulations, and impose penalties for the violation of such regulations as may be deemed proper.

Source: Laws 1959, c. 36, § 25, p. 205; Laws 2022, LB800, § 113.
Operative date July 21, 2022.

14-3,109 Streets; public utilities; connections; power of city to compel; cost.

A city shall have the power to compel any water company, gas company, or other person, corporation, or firm owning or controlling any pipe or other

underground conduits or other appliances usually installed under the surface of the streets, to provide for and construct all connections that may be deemed necessary for the future, to the curb or property lines in all streets, highways, boulevards, controlled-access facilities, main thoroughfares, connecting links, major traffic streets, or alleys to be paved, repaved, or otherwise improved in such manner and in conformity with such plans as may be determined by the city. If any such companies or other parties shall neglect to carry out such construction or fail to make the connections required within thirty days after such connections shall have been ordered, the city shall be empowered to cause such connections to be done. For the purpose of paying for such connections, the cost shall be deducted from such accounts as the city may have with such companies or persons.

Source: Laws 1959, c. 36, § 26, p. 205; Laws 2022, LB800, § 114.
Operative date July 21, 2022.

14-3,110 Public property; abutting streets; not subject to special assessment; cost, how paid.

Property of the United States Government at the time devoted to governmental uses, property of the State of Nebraska, any county, or the city, abutting upon and adjacent to the streets or parts of streets being improved or included within any improvement district authorized in sections 14-384 to 14-3,127, shall not be subject to special assessment, but the amount of the cost of such improvement which would otherwise be assessable against such property shall be paid from funds created and maintained for that purpose as provided by law and such property shall not be counted in determining the sufficiency of a petition or protest.

Source: Laws 1959, c. 36, § 27, p. 205.

14-3,111 Streets and sidewalks; contract for improvements; bids; advertisement.

No contract for any of the improvements provided by sections 14-384 to 14-3,127 shall be let unless first the city shall have made a detailed estimate of the costs of the contemplated improvement, nor shall any such contract be let until after the city has advertised for and received bids for the performance of such work. If no bid is received within the estimate, no award shall be made upon any bids received until after fifteen days after the time for receiving bids under such advertisement shall have expired. Within such time anyone desiring to do so may file a bid within the estimate and award may be made on such bid in like manner as if such bid had been received in pursuance to the advertisement calling for bids. All improvements authorized by sections 14-384 to 14-3,127 shall be done under contract with the lowest responsible bidder, except that when bids are called for by advertisement for grading in a street or alley and no bid is received within the estimate, the city may enter into a contract to do such grading without further advertisement for bids if the contract price be within the estimate and the contract be entered into within thirty days after the time for receiving bids under the advertisement calling for bids.

Source: Laws 1959, c. 36, § 28, p. 206; Laws 2022, LB800, § 115.
Operative date July 21, 2022.

14-3,112 Sections, how construed.

Nothing in sections 14-384 to 14-3,127 shall be construed as in any way abridging, modifying, or limiting the authority or right granted to and now possessed by any city as provided by law to improve any road, highway, or boulevard leading into such city for a distance not to exceed six miles from the corporate limits of such city, nor as modifying the procedure under such grant or the power or authority to issue bonds in connection with such improvements, but such authority is hereby expressly recognized and the power so granted by law shall not be subject to any of the limitations contained in sections 14-384 to 14-3,127.

Source: Laws 1959, c. 36, § 29, p. 206; Laws 2022, LB800, § 116.
Operative date July 21, 2022.

14-3,113 Intersections, certain lands; improvement by city; priority on use of funds; street improvement districts.

(1) A city is authorized to improve intersections, spaces opposite alleys, and spaces opposite property not subject to special assessment, with the like material in the manner provided in sections 14-384 to 14-3,127 for improving streets whenever a street, highway, boulevard, main thoroughfare, controlled-access facility, major traffic street, or alley is ordered to be improved at the time of improving such street and in such event is authorized to include in such improvement of such intersection and spaces the construction, replacement, or repair of sidewalks in such intersections and spaces and, except as may be otherwise provided, pay for all such improvements from funds provided for the purpose of improving intersections if (a) the first priority in the expenditure of funds for such purposes is given to improvements within street improvement districts and (b) the city maintains, in a separate fund, not less than twenty-five thousand dollars to be expended solely for the purpose of improving intersections.

(2) Such sidewalk construction, replacement, or repair may be included either in the contract for curbings at an intersection or in the contract for paving such intersections and spaces.

Source: Laws 1959, c. 36, § 30, p. 206; Laws 1963, c. 47, § 1, p. 223; Laws 2011, LB289, § 1; Laws 2022, LB800, § 117.
Operative date July 21, 2022.

14-3,114 Petitions; forms; contents; signatures.

All petitions for improvements provided for in sections 14-384 to 14-3,127 shall be upon printed forms prescribed by the city and shall describe the street to be improved and improvement desired. Signatures to such petitions shall have no conditions attached and all signatures shall be acknowledged before a notary public.

Source: Laws 1959, c. 36, § 31, p. 207; Laws 2022, LB800, § 118.
Operative date July 21, 2022.

14-3,115 Improvement districts; estimate of cost; bids; advertisement.

A city shall, when it creates an improvement district for paving, repaving, curbing, or guttering, or other improvements of like character, prepare an estimate of the cost of such improvement and shall thereafter advertise for and

receive bids upon such material as may be designated by the city for such improvement. The advertisements, specifications for bids, and petitions designating materials shall contain such information and be worded in such language as the city may from time to time direct. All bids shall be received and opened at the same time as provided by ordinance except as otherwise provided in section 14-3,111. The city may reject any and all bids.

Source: Laws 1959, c. 36, § 32, p. 207; Laws 1972, LB 1046, § 2; Laws 2022, LB800, § 119.
Operative date July 21, 2022.

14-3,116 Materials; petition to designate; forms.

All petitions for the purpose of designating material as provided in section 14-3,115 shall be on printed forms furnished by the city upon application and shall contain such information and shall be worded in such language as the city may from time to time direct.

Source: Laws 1959, c. 36, § 33, p. 207; Laws 2022, LB800, § 120.
Operative date July 21, 2022.

14-3,117 Improvements; petition; recording.

Whenever a petition for an improvement is filed with a city, the hour, day, month, and year when such petition is filed shall be officially marked upon such petition and such petition shall be recorded in such manner as the city may from time to time provide.

Source: Laws 1959, c. 36, § 34, p. 207; Laws 2022, LB800, § 121.
Operative date July 21, 2022.

14-3,118 Improvements; petitions; restrictions.

Petitions for improvements provided for in sections 14-384 to 14-3,127 after having been filed with the city shall not be returned or withdrawn, nor shall any person be allowed to add, cancel, erase, or withdraw or in any way modify any signature or writing on such petitions. Where two or more petitions are filed for the same improvement they shall be considered and taken together as one petition.

Source: Laws 1959, c. 36, § 35, p. 208; Laws 2022, LB800, § 122.
Operative date July 21, 2022.

14-3,119 Improvements; petitions; examination; certification; notice of irregularity, illegality, or insufficiency; publication; supplemental petitions.

Petitions for improvements provided for under sections 14-384 to 14-3,127 shall be examined and certified for sufficiency as the city may provide. Certificates as to sufficiency when properly filed as provided by the city shall be prima facie evidence of the truth and correctness of the matter certified in such petition. If such certificates show the petition for any improvement to be irregular, illegal, or insufficient it shall be the duty of the city to give notice by publication for three successive days in the official newspaper of the city of such irregularity, illegality, or insufficiency and the property owners within any improvement district may at any time file supplemental petitions for such improvement and such supplemental petitions shall be considered and taken as

a part of the original petition. Such supplemental petitions shall be examined and certified as in the case of the original petition.

Source: Laws 1959, c. 36, § 36, p. 208; Laws 2022, LB800, § 123.
Operative date July 21, 2022.

14-3,120 Improvements; petition; publication; notice to file protest.

If the certificates required by section 14-3,119 show that the petition is regular, legal, and sufficient the city shall cause a copy of the petition to be published for three days in the official newspaper of the city with a notice directing the property owners generally in the improvement district that they shall have thirty days from the first day of publication of the petition and notice to file a protest with the city against the regularity or the sufficiency of the petition or signatures on such petition.

Source: Laws 1959, c. 36, § 37, p. 208; Laws 2022, LB800, § 124.
Operative date July 21, 2022.

14-3,121 Improvements; petition; protest; procedure; supplemental petition; hearing; appeal.

(1) The property owners in any improvement district shall have thirty days from the first day of publication of the petition and notice as provided in section 14-3,120 to file with the city a protest against the regularity, legality, or sufficiency of the petition or any signature on such petition. Such protest shall be verified by the party making the protest, who shall state under oath and set forth with particularity all the alleged defects in the petition, and if the protest relates to the ownership of any property, it shall give the name and address of the true owner of such property and shall state under oath that such protest is made in good faith.

(2) At any time within ten days after the expiration of the time for filing the protest, supplemental petitions for the improvement may be filed and when so filed shall be considered as a part of the original petition. The property owners within such district shall have ten days from the date of the filing of such supplemental petitions in which to file a protest against the regularity, legality, or sufficiency of any of the signatures on such supplemental petition or against the original petition as so supplemented. No further notice of the filing of such supplemental petition shall be required and such supplemental petition need not be published.

(3) When any such protest has been filed with the city within the times specified, the improvement petitioned for shall not be ordered until the city shall have given the party protesting a hearing upon such protest and shall have, upon the evidence, found, adjudged, and determined the petition to be regular, legal, and sufficient and not then until after the time has expired for perfecting an appeal from such finding, judgment, and determination. Any protesting party or parties may appeal from such finding, judgment, and determination in the manner provided by section 14-813.

Source: Laws 1959, c. 36, § 38, p. 208; Laws 1961, c. 30, § 5, p. 148; Laws 2022, LB800, § 125.
Operative date July 21, 2022.

14-3,122 Protest; filing; hearing.

In case a protest is filed under section 14-3,120 or 14-3,121, the city shall have the power and responsibility to hear, determine, and adjudicate the objections raised by any protest in all matters relating to regularity, legality, and sufficiency of such petition and supplemental petition upon such notice, to the party protesting, of the time, place, and purpose of the hearing as the city may from time to time provide.

Source: Laws 1959, c. 36, § 39, p. 209; Laws 2022, LB800, § 126.
Operative date July 21, 2022.

14-3,123 Petition; regular, legal, and sufficient.

In case no protest is filed within the time provided in section 14-3,121, the city shall have the power and responsibility, without further notice, to find, adjudge, and determine that such petition is regular, legal, and sufficient.

Source: Laws 1959, c. 36, § 40, p. 209; Laws 2022, LB800, § 127.
Operative date July 21, 2022.

14-3,124 Materials; standards; adopt.

In all specifications for materials to be used in paving, curbing, and guttering of every kind, a city shall establish a standard or standards of strength and quality, to be demonstrated by physical, chemical, or other tests within the limits of reasonable variations. In every instance the materials shall be so described in the specifications, either by standard or quality, to permit genuine competition between contractors so that there may be two or more bids by individuals or companies in no manner connected with each other and no material shall be specified which shall not be subject to such competition.

Source: Laws 1959, c. 36, § 41, p. 209; Laws 2022, LB800, § 128.
Operative date July 21, 2022.

14-3,125 Improvement district; materials to be used; designate by petition.

A city shall give the property owners within any improvement district the opportunity to designate, by petition to be filed with the city, the specified material which such property owners desire to be used in the improvement of the street or alley or other grounds within such improvement district.

Source: Laws 1959, c. 36, § 42, p. 210; Laws 2022, LB800, § 129.
Operative date July 21, 2022.

14-3,126 Streets; improvement or construction; materials to be used; designate by petition.

The property owners within an improvement district may designate the material to be used in the improvement or construction of streets or alleys or other grounds within such district by petition, signed by a majority of such property owners, filed with the city within thirty days after notice of the proposed improvement.

Source: Laws 1959, c. 36, § 43, p. 210; Laws 2022, LB800, § 130.
Operative date July 21, 2022.

14-3,127 Improvements; protests by majority of abutting property owners; filing; time; effect.

In any of the improvements or alterations authorized by sections 14-363, 14-364, 14-384 to 14-3,102, and 14-3,108 to 14-3,127 and subsection (1) of section 14-3,107 in which any of the cost of the improvements or alterations is to be assessed in whole or in part to the abutting property owners, the record owners of a majority of the frontage of the taxable abutting property may, by petition filed with the city within thirty days after notice of the improvements or alterations, protest against the improvements or alterations, and when such petition is filed, the improvements or alterations shall not be done.

Source: Laws 1959, c. 36, § 44, p. 210; Laws 1965, c. 39, § 1, p. 232; Laws 1969, c. 60, § 8, p. 369; Laws 1991, LB 745, § 3; Laws 2003, LB 97, § 2.

(h) SPECIAL ASSESSMENT BONDS

14-3,128 Public improvements; special assessment bonds; issuance; purpose; sinking fund; limitations.

(1) Any city of the metropolitan class is hereby authorized and empowered to issue and sell special assessment bonds to cover the cost of the work of construction of any and all public improvements to be paid for by special assessments which such city is authorized by law to make.

(2) Any special assessments levied on account of such work shall constitute a sinking fund for the payment of interest and principal on the bonds as the bonds become due.

(3) The city council shall have the power to determine the denominations of such bonds, and the date, time, and manner of payment.

(4) Such bonds shall not be sold or exchanged for less than the par value of such bonds and shall bear interest payable semiannually.

(5) Special assessment bonds issued as authorized in this section shall not be chargeable against the debt limit of any city of the metropolitan class issuing such bonds.

Source: Laws 1977, LB 86, § 1; Laws 2022, LB800, § 131.
Operative date July 21, 2022.

(i) STREET LIGHTING

14-3,129 Ornamental or decorative street lighting; city; maintain; exception; costs.

When a system of ornamental or decorative street lighting has been continuously maintained in a residential neighborhood in a city of the metropolitan class for forty years or longer, it shall be the duty of such city to preserve and maintain such lighting system unless the city council votes by a four-fifths majority of its members to discontinue such lighting. No special assessment of any kind shall be made to the property owners within an ornamental or decorative street lighting system for the costs of any preservation or maintenance of such system.

Source: Laws 1979, LB 509, § 1.

(j) CITY OF OMAHA PUBLIC EVENTS FACILITIES FUND

14-3,130 Repealed. Laws 2000, LB 1349, § 15.

ARTICLE 4
CITY PLANNING, ZONING

Section
14-401. Buildings and structures; regulations; board of appeals; powers of city council.
14-402. Building zones; creation; powers of city council; uniformity; manufactured homes.
14-403. Building zones; regulations; requirements; purposes; limitations.
14-403.01. New comprehensive plan or full update; requirements.
14-404. Building zones; boundaries; regulations; recommendation of city planning board required; hearing; notice.
14-405. Building zones; boundaries; regulations; change or repeal; protest.
14-406. Building zones; nonconforming use; continuance authorized; changes.
14-407. Zoning; exercise of powers; planning board or official; notice to military installation; notice to neighborhood association.
14-408. Building zones; zoning board of appeals; members; term; vacancy; removal; meetings; oaths; subpoenas; record; public access.
14-409. Zoning board of appeals; powers and duties; vote required for reversal.
14-410. Zoning board of appeals; appeal; procedure; effect.
14-411. Zoning board of appeals; appeal; notice; hearing; powers of board.
14-412. Zoning board of appeals; special permits; power to grant; conditions.
14-413. Zoning board of appeals; decision; review by district court; procedure.
14-414. Zoning board of appeals; decision; review by district court; priority; evidence; judgment; costs.
14-415. Building ordinance or regulations; enforcement; inspection; violations; penalty.
14-416. Building regulations; other laws; applicability.
14-417. Existing commission, zoning board of appeals; regulations, decisions; continuance.
14-418. Building regulations; scope of operation; jurisdiction of city council.
14-419. Building regulations; land use; within extraterritorial zoning jurisdiction; jurisdiction of city council; powers granted.
14-420. Request for change in zoning; notice; requirements; failure to give; effect.

14-401 Buildings and structures; regulations; board of appeals; powers of city council.

For the purpose of promoting the health, safety, and general welfare of the community, the city council in a city of the metropolitan class may regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of a lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes. Such regulations may provide for a board of appeals that may determine and vary application of such regulations in harmony with their general purpose and intent, and in accordance with general or specific rules contained in such regulations.

Source: Laws 1925, c. 45, § 1, p. 178; C.S.1929, § 14-404; R.S.1943, § 14-401; Laws 2022, LB800, § 132.
Operative date July 21, 2022.

The Nebraska Legislature has granted the City of Omaha the power to zone property lying within its jurisdiction. Giger v. City of Omaha, 232 Neb. 676, 442 N.W.2d 182 (1989).

Zoning ordinances enacted by a city, as a lawful exercise of police power, must be consistent with public health, safety, morals, and the general welfare. Giger v. City of Omaha, 232 Neb. 676, 442 N.W.2d 182 (1989).

This article sets forth the powers and duties of a metropolitan city with respect to planning and zoning. State v. Buttner, 180 Neb. 529, 143 N.W.2d 907 (1966).

This section is cited as a background for history of zoning power of city of Omaha. Wolf v. City of Omaha, 177 Neb. 545, 129 N.W.2d 501 (1964).

This section constitutes a grant of power to zone. Davis v. City of Omaha, 153 Neb. 460, 45 N.W.2d 172 (1950).

City council is empowered to regulate and restrict height and size of buildings, and the percentage of lot that may be occupied. Roncka v. Fogarty, 152 Neb. 467, 41 N.W.2d 745 (1950).

This and subsequent sections of this article became a part of city charter subsequent to provisions relating to gifts made to the city for parks and playground purposes. Ash v. City of Omaha, 152 Neb. 393, 41 N.W.2d 386 (1950).

Ordinance of city of metropolitan class prescribing a restricted zone for high-type residential use was sustained as constitutional under police power. Dundee Realty Co. v. City of Omaha, 144 Neb. 448, 13 N.W.2d 634 (1944).

Zoning ordinance, drafted in general terms and providing reasonable margin to secure effective enforcement, is within police power of state and constitutional. Pettis v. Alpha Alpha Chapter of Phi Beta Pi, 115 Neb. 525, 213 N.W. 835 (1927).

Cities of metropolitan class under this article are not authorized to impose unreasonable regulations upon the owners of city lots with respect to the area which may be occupied for building purposes. State ex rel. Westminster Presbyterian Church v. Edgecomb, 108 Neb. 859, 189 N.W. 617 (1922), 27 A.L.R. 437 (1922).

14-402 Building zones; creation; powers of city council; uniformity; manufactured homes.

(1) For any or all of the purposes listed in section 14-401, the city council of a city of the metropolitan class may divide the city into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of sections 14-401 to 14-418. Within such districts the city council may regulate, restrict, or prohibit the erection, construction, reconstruction, alteration, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations applicable to one district may differ from those applicable to other districts.

(2)(a) The city council shall not adopt or enforce any zoning ordinance or regulation which prohibits the use of land for a proposed residential structure for the sole reason that the proposed structure is a manufactured home if such manufactured home bears an appropriate seal which indicates that it was constructed in accordance with the standards of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the Nebraska Uniform Standards for Modular Housing Units Act, or the United States Department of Housing and Urban Development. The city council may require that a manufactured home be located and installed according to the same standards for foundation system, permanent utility connections, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot. The city council may also require that manufactured homes meet the following standards:

(i) The home shall have no less than nine hundred square feet of floor area;

(ii) The home shall have no less than an eighteen-foot exterior width;

(iii) The roof shall be pitched with a minimum vertical rise of two and one-half inches for each twelve inches of horizontal run;

(iv) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;

(v) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and

(vi) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.

(b) The city council may not require additional standards unless such standards are uniformly applied to all single-family dwellings in the zoning district.

(c) Nothing in this subsection shall be deemed to supersede any valid restrictive covenants of record.

(3) For purposes of this section, manufactured home means (a) a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or (b) a modular housing unit as defined in section 71-1557 bearing a seal in accordance with the Nebraska Uniform Standards for Modular Housing Units Act.

Source: Laws 1925, c. 45, § 2, p. 179; C.S.1929, § 14-405; R.S.1943, § 14-402; Laws 1981, LB 298, § 1; Laws 1985, LB 313, § 1; Laws 1994, LB 511, § 1; Laws 1996, LB 1044, § 54; Laws 1998, LB 1073, § 1; Laws 2022, LB800, § 133.
Operative date July 21, 2022.

Cross References

Nebraska Uniform Standards for Modular Housing Units Act, see section 71-1555.
Uniform Standard Code for Manufactured Homes and Recreational Vehicles, see section 71-4601.

The Nebraska Legislature has granted the City of Omaha the power to zone property lying within its jurisdiction. Giger v. City of Omaha, 232 Neb. 676, 442 N.W.2d 182 (1989).

The uniformity requirement in this section does not prohibit reasonable classifications within a district. Giger v. City of Omaha, 232 Neb. 676, 442 N.W.2d 182 (1989).

To successfully challenge a rezoning ordinance on the grounds it violates the uniformity requirement of this section, the challengers must prove that the actions of the city in adopting the rezoning ordinance were unreasonable, discriminatory, or arbitrary and that the regulation bears no relationship to the purpose or purposes sought to be accomplished by the ordinance. Giger v. City of Omaha, 232 Neb. 676, 442 N.W.2d 182 (1989).

This section is cited as a background for history of zoning power of city of Omaha. Wolf v. City of Omaha, 177 Neb. 545, 129 N.W.2d 501 (1964).

City is authorized to regulate the use of buildings and land within districts created in the city. Bucholz v. City of Omaha, 174 Neb. 862, 120 N.W.2d 270 (1963).

Spot zoning of block was not authorized. Davis v. City of Omaha, 153 Neb. 460, 45 N.W.2d 172 (1950).

14-403 Building zones; regulations; requirements; purposes; limitations.

(1) Regulations adopted pursuant to sections 14-401 to 14-418 shall comply with the Municipal Density and Missing Middle Housing Act and be made in accordance with a comprehensive plan and designed to (a) lessen congestion in the streets, (b) secure safety from fire, panic, and other dangers, (c) promote health and the general welfare, (d) provide adequate light and air, (e) prevent the overcrowding of land, (f) secure safety from flood, (g) avoid undue concentration of population, (h) facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements, and (i) promote convenience of access.

(2) Such regulations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city. Whenever the city council shall determine that the use or contemplated use of any building, structure, or land will cause congestion in the streets, increase the danger from fire or panic, imperil public safety, cause undue concentration or congregation of people, or impede transportation, the city council may include

in such regulations requirements for alleviating or preventing such conditions when any change in use or zoning classification is requested by the owner.

Source: Laws 1925, c. 45, § 3, p. 179; C.S.1929, § 14-406; R.S.1943, § 14-403; Laws 1967, c. 430, § 1, p. 1317; Laws 1971, LB 166, § 1; Laws 2020, LB866, § 7; Laws 2022, LB800, § 134.
Operative date July 21, 2022.

Cross References

Municipal Density and Missing Middle Housing Act, see section 19-5501.

The city, in adopting a rezoning ordinance, is not required to accomplish all the objectives of this section. To determine whether a rezoning ordinance complies with a comprehensive plan pursuant to this section, this court will review the land uses surrounding the rezoned property. Giger v. City of Omaha, 232 Neb. 676, 442 N.W.2d 182 (1989).

The Nebraska Legislature has granted the City of Omaha the power to zone property lying within its jurisdiction. Giger v. City of Omaha, 232 Neb. 676, 442 N.W.2d 182 (1989).

The term ''comprehensive plan'' in this section is not the same as ''city plan'', and does not refer to any special document drafted by a city of the metropolitan class. Sasich v. City of Omaha, 216 Neb. 864, 347 N.W.2d 93 (1984).

This section is cited as a background for history of zoning power of city of Omaha. Wolf v. City of Omaha, 177 Neb. 545, 129 N.W.2d 501 (1964).

Ordinance rezoning property within city to permit construction of regional shopping center was a proper exercise of zoning power. Bucholz v. City of Omaha, 174 Neb. 862, 120 N.W.2d 270 (1963).

Where zoning action did not follow a comprehensive plan, it was an unreasonable and arbitrary exercise of zoning power. Davis v. City of Omaha, 153 Neb. 460, 45 N.W.2d 172 (1950).

Zoning regulations are required to be made in accordance with a comprehensive plan designed to lessen congestion in the streets. Roncka v. Fogarty, 152 Neb. 467, 41 N.W.2d 745 (1950).

14-403.01 New comprehensive plan or full update; requirements.

When a city of the metropolitan class adopts a new comprehensive plan or a full update to an existing comprehensive plan, such plan or update shall include, but not be limited to, an energy element which: Assesses energy infrastructure and energy use by sector, including residential, commercial, and industrial sectors; evaluates utilization of renewable energy sources; and promotes energy conservation measures that benefit the community.

Source: Laws 2010, LB997, § 1; Laws 2020, LB731, § 1.

14-404 Building zones; boundaries; regulations; recommendation of city planning board required; hearing; notice.

A city of the metropolitan class shall provide for the manner in which regulations and restrictions adopted pursuant to sections 14-401 to 14-418 and the boundaries of districts created under section 14-402 shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. The city shall not determine the boundaries of any district or impose any regulations or restrictions until after the appropriate planning board of the city has made recommendations on such regulations, restrictions, or boundary changes, and no such regulation, restriction, or boundary change shall become effective until after a public hearing at which citizens shall have an opportunity to be heard. At least one day's notice of the time, place, and purpose of such hearing shall be published in the official newspaper or a legal newspaper in or of general circulation in such city, and not less than ten days before such hearing.

Source: Laws 1921, c. 116, art. III, § 66, p. 467; C.S.1922, § 3622; Laws 1925, c. 45, § 4, p. 179; C.S.1929, § 14-402; C.S.1929, § 14-407; R.S.1943, § 14-404; Laws 1959, c. 37, § 1, p. 211; Laws 2022, LB800, § 135.
Operative date July 21, 2022.

Much ministerial work is involved in following the statutory directive for planning and zoning. State v. Buttner, 180 Neb. 529, 143 N.W.2d 907 (1966).

14-405 Building zones; boundaries; regulations; change or repeal; protest.

Regulations, restrictions, and boundaries adopted pursuant to sections 14-401 to 14-418 may from time to time be amended, supplemented, changed, modified, or repealed. When a protest against a change of boundaries is presented to the city clerk at least six days prior to the city council vote on such change and such change is not in accordance with the comprehensive development plan, such change shall not become effective except by a favorable vote of five-sevenths of all members of the city council. Such protest shall be in writing, signed, and sworn and acknowledged pursuant to section 64-206 by the required owners. For purposes of this section, the required owners means those fee simple owners of record as recorded by the county register of deeds owning at least twenty percent of the area: (1) Included in the proposed change; (2) abutting either side of the proposed change; (3) abutting the rear of the proposed change; (4) abutting the front of the proposed change; or (5) directly opposite of the proposed change on the other side of a dedicated public right-of-way and extending fifty feet on either side of such opposite lot.

Source: Laws 1925, c. 45, § 5, p. 180; C.S.1929, § 14-408; R.S.1943, § 14-405; Laws 1986, LB 971, § 1; Laws 2005, LB 161, § 1; Laws 2022, LB800, § 136.
Operative date July 21, 2022.

14-406 Building zones; nonconforming use; continuance authorized; changes.

The lawful use of land existing on April 1, 1925, although such use does not conform to sections 14-401 to 14-418, may be continued, but if such nonconforming use is abandoned, any future use of such land shall be in conformity with sections 14-401 to 14-418. The lawful use of a building existing on April 1, 1925, may be continued, although such use does not conform with sections 14-401 to 14-418, and such use may be extended throughout the building, provided no structural alterations, except those required by law or ordinance, are made in such building. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a higher classification. Whenever a use district shall be changed, any then existing nonconforming use in such changed district may be continued or changed to a use permitted in that district if all other regulations governing the new use are complied with. Whenever a nonconforming use of a building has been changed to a more restricted use or to a conforming use such use shall not thereafter be changed to a less restricted use.

Source: Laws 1925, c. 45, § 6, p. 180; C.S.1929, § 14-409; R.S.1943, § 14-406; Laws 2022, LB800, § 137.
Operative date July 21, 2022.

There was no conflict between this section and home rule charter of Omaha with respect to zoning as to dog kennels. Wolf v. City of Omaha, 177 Neb. 545, 129 N.W.2d 501 (1964).

Dog kennel was not a nonconforming permitted use. City of Omaha v. Gsantner, 162 Neb. 839, 77 N.W.2d 663 (1956).

14-407 Zoning; exercise of powers; planning board or official; notice to military installation; notice to neighborhood association.

(1) A city of the metropolitan class shall exercise the powers conferred by sections 14-401 to 14-418 through such appropriate planning board or official as exists in such city.

(2) When the city is considering the adoption or amendment of a zoning ordinance or the approval of the platting or replatting of any development of real estate, the city shall notify any military installation which is located within the corporate boundary limits or the extraterritorial zoning jurisdiction of the city if the city has received a written request for such notification from the military installation. The planning board shall deliver the notification to the military installation at least ten days prior to the meeting of the planning board at which the proposal is to be considered.

(3) When the city is considering the adoption or amendment of a zoning ordinance, except for an amendment that serves only to correct a misspelling or other typographical error, the city shall notify any registered neighborhood association whose area of representation is located in whole or in part within the area that will be included in such zoning ordinance. Each neighborhood association desiring to receive such notice shall register with the city the area of representation of such association and provide the name of and contact information for the individual designated to receive notice on behalf of such association and the requested manner of service, whether by email or first-class or certified mail. The registration shall be in accordance with any rules and regulations adopted and promulgated by the city. The planning board shall deliver the notification to the neighborhood association (a) in the manner requested by the neighborhood association and (b) at least ten days prior to the meeting of the planning board at which the proposal is to be considered.

Source: Laws 1925, c. 45, § 7, p. 181; C.S.1929, § 14-410; R.S.1943, § 14-407; Laws 1959, c. 37, § 2, p. 212; Laws 2010, LB279, § 1; Laws 2016, LB700, § 1; Laws 2019, LB196, § 1.

Cross References

Planning board, extraterritorial member, see sections 14-373.01 and 14-373.02.

14-408 Building zones; zoning board of appeals; members; term; vacancy; removal; meetings; oaths; subpoenas; record; public access.

(1) The city council of a city of the metropolitan class may provide for the appointment of a zoning board of appeals consisting of five regular members. Two additional alternate members shall be appointed and designated as first alternate and second alternate members, either or both of whom may attend any meeting and may serve as voting and participating members of the zoning board of appeals with the authority of a regular board member at any time when less than the full number of regular board members is present and capable of voting. If both alternate members are present when only a single regular member is absent, the first alternate member shall serve for the balance of the meeting.

(2) Upon the expiration of the initial terms of such regular and alternate members, all members and alternates shall be appointed for a term of five years. The city council shall have the power to remove any regular or alternate member of the zoning board of appeals for cause and after public hearing. Vacancies shall be filled for the unexpired term of a regular or alternate member whose place has become vacant.

(3) All meetings of the zoning board of appeals shall be held at the call of the chairperson and at such other times as such board may determine. Such chairperson, or in his or her absence the acting chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the zoning board of appeals shall be open to the public. The zoning board of appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions.

(4) Every rule or regulation, every amendment or repeal of such rule or regulation, and every order, requirement, decision, or determination of the zoning board of appeals shall immediately be filed in the office of such board and shall be a public record.

Source: Laws 1925, c. 45, § 8, p. 181; C.S.1929, § 14-411; R.S.1943, § 14-408; Laws 1974, LB 703, § 1; Laws 2001, LB 179, § 1; Laws 2022, LB800, § 138.
Operative date July 21, 2022.

Board of appeals is vested with discretion in determination of matters within its province subject to court review for abuse of discretion. Peterson v. Vasak, 162 Neb. 498, 76 N.W.2d 420 (1956).

This section provides for the appointment of members of a zoning board of appeals, their tenure of office, meetings, hearings, and records. Roncka v. Fogarty, 152 Neb. 467, 41 N.W.2d 745 (1950).

14-409 Zoning board of appeals; powers and duties; vote required for reversal.

A zoning board of appeals appointed pursuant to section 14-408 shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of any ordinance adopted pursuant to sections 14-401 to 14-418. The zoning board of appeals shall also hear and decide all matters referred to it or upon which it is required to pass under any such ordinance. The concurring vote of four members of the zoning board of appeals shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance or to affect any variation in such ordinance.

Source: Laws 1925, c. 45, § 8, p. 182; C.S.1929, § 14-411; R.S.1943, § 14-409; Laws 2022, LB800, § 139.
Operative date July 21, 2022.

Zoning board of appeals may review any order made by an administrative official charged with enforcement of a zoning ordinance. Roncka v. Fogarty, 152 Neb. 467, 41 N.W.2d 745 (1950).

14-410 Zoning board of appeals; appeal; procedure; effect.

Any appeal heard pursuant to section 14-409 may be taken by any person aggrieved or by an officer, department, board, or bureau of the city. Such appeal shall be taken within such time as shall be prescribed by the zoning board of appeals by general rule, by filing with the officer from whom the appeal is taken and with the zoning board of appeals a notice of appeal, specifying the grounds for such appeal. The officer from whom the appeal is taken shall transmit to the zoning board of appeals all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the zoning board of appeals, after the

notice of appeal shall have been filed with such officer, that by reason of facts stated in the certificate a stay would, in such officer's opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the zoning board of appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on a showing of due cause.

Source: Laws 1925, c. 45, § 8, p. 182; C.S.1929, § 14-411; R.S.1943, § 14-410; Laws 2022, LB800, § 140.
Operative date July 21, 2022.

Regardless of whether a request for variances was termed an ''appeal,'' a zoning board of appeals was exercising appellate jurisdiction when the board granted certain variances. Lamar Co. v. Omaha Zoning Bd. of Appeals, 271 Neb. 473, 713 N.W.2d 406 (2006).

Appeal procedure is provided. Peterson v. Vasak, 162 Neb. 498, 76 N.W.2d 420 (1956).

14-411 Zoning board of appeals; appeal; notice; hearing; powers of board.

The zoning board of appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it pursuant to section 14-409 and give due notice of such hearing to the parties and decide such appeal or other matter within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The zoning board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such ordinance, the zoning board of appeals shall have the power in passing upon appeals, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures or the use of land, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

Source: Laws 1925, c. 45, § 8, p. 183; C.S.1929, § 14-411; R.S.1943, § 14-411; Laws 2022, LB800, § 141.
Operative date July 21, 2022.

A property owner has standing to seek a variance from a zoning ordinance that, if strictly enforced, would adversely affect the owner's property rights or interests. Field Club v. Zoning Bd. of Appeals of Omaha, 283 Neb. 847, 814 N.W.2d 102 (2012).

A prospective purchaser has standing to seek a variance from, or a change in, a zoning ordinance if the prospective purchaser has executed a purchase agreement subject to the grant of a variance or rezoning of the property. Similarly, the holder of an option to purchase property has standing to apply for a variance when the holder is bound to purchase the property if the variance is obtained or when the property owner anticipated that the option holder would seek the variance to complete the sale. Field Club v. Zoning Bd. of Appeals of Omaha, 283 Neb. 847, 814 N.W.2d 102 (2012).

This section acts to stay, upon appeal, proceedings, not only in furtherance of the action appealed from, but also in related actions, if resolution of those related actions could alter the circumstances under which the original appeal was taken. Lamar Co. v. Omaha Zoning Bd. of Appeals, 271 Neb. 473, 713 N.W.2d 406 (2006).

Due to the similarity between this section and section 19-910 when Frank v. Russell, 160 Neb. 354, 70 N.W.2d 306 (1955), was decided, Frank is applicable to decisions rendered under both statutes. Eastroads, L.L.C. v. Omaha Zoning Bd. of Appeals, 261 Neb. 969, 628 N.W.2d 677 (2001).

Relief is required hereunder where a certificate of occupancy has been properly obtained and the certificate holder has incurred substantial expenses, commitments and obligations. A. C. Nelsen Enterprises, Inc. v. Cook, 188 Neb. 184, 195 N.W.2d 759 (1972).

Ruling of zoning board of appeal was arbitrary. City of Omaha v. Cutchall, 173 Neb. 452, 114 N.W.2d 6 (1962).

Board of appeals has power to give appropriate relief in hardship cases. Peterson v. Vasak, 162 Neb. 498, 76 N.W.2d 420 (1956).

Zoning board of appeals has power on appeal to vary or modify the application of zoning regulations. Roncka v. Fogarty, 152 Neb. 467, 41 N.W.2d 745 (1950).

A zoning board of appeals need not find a taking in order to grant a variance from a zoning regulation. Rousseau v. Zoning Bd. of Appeals of Omaha, 17 Neb. App. 469, 764 N.W.2d 130 (2009).

Pursuant to this section, a zoning board of appeals is not precluded from granting a variance to a zoning regulation even

though the regulation went in effect before the applicant purchased the property. Rousseau v. Zoning Bd. of Appeals of Omaha, 17 Neb. App. 469, 764 N.W.2d 130 (2009).

14-412 Zoning board of appeals; special permits; power to grant; conditions.

The zoning board of appeals shall have specific power to grant special permits to the state, or any political subdivision thereof, and to public utilities for public service purposes, although the application may be in conflict with the provisions of ordinances or regulations adopted under the authority of sections 14-401 to 14-418, except that such permits shall be granted upon such conditions as the zoning board of appeals may deem necessary, proper, or expedient, to promote the objects of such sections.

Source: Laws 1925, c. 45, § 8, p. 183; C.S.1929, § 14-411; R.S.1943, § 14-412; Laws 2022, LB800, § 142.
Operative date July 21, 2022.

14-413 Zoning board of appeals; decision; review by district court; procedure.

Any person or persons, jointly or severally aggrieved by any decision of the zoning board of appeals, or any officer, department, board, or bureau of a city of the metropolitan class, may present to the district court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of such illegality. Such petition must be presented to the court within thirty days after the filing of the decision in the office of the zoning board of appeals.

Source: Laws 1925, c. 45, § 8, p. 183; C.S.1929, § 14-411; R.S.1943, § 14-413; Laws 2022, LB800, § 143.
Operative date July 21, 2022.

A decision of a zoning board of appeals may be reviewed by a district court, but this section limits the scope of the district court's review to the legality or illegality of the board's decision. Kuhlmann v. City of Omaha, 251 Neb. 176, 556 N.W.2d 15 (1996).

Any person aggrieved by order of zoning board of appeals may file petition in district court setting up the illegality of action of board. Roncka v. Fogarty, 152 Neb. 467, 41 N.W.2d 745 (1950).

14-414 Zoning board of appeals; decision; review by district court; priority; evidence; judgment; costs.

If, upon hearing of a petition filed pursuant to section 14-413 it appears to the district court that testimony is necessary for the proper disposition of the matter, the court may take evidence or appoint a referee to take such evidence as the court may direct and report such evidence to the court with findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. Costs shall not be allowed against the zoning board of appeals, unless it shall appear to the court that such board acted with gross negligence or in bad faith or with malice in making the decision appealed from. All issues in any proceeding under sections 14-408 to 14-414 shall have preference over all other civil actions and proceedings.

Source: Laws 1925, c. 45, § 8, p. 184; C.S.1929, § 14-411; R.S.1943, § 14-414; Laws 2022, LB800, § 144.
Operative date July 21, 2022.

Pursuant to this section, the district court is given only the power to reverse, modify, or affirm the decision of the zoning board of appeals brought up for review. Kuhlmann v. City of Omaha, 251 Neb. 176, 556 N.W.2d 15 (1996).

Acts of board of appeals are judicial in nature and subject to court review. Peterson v. Vasak, 162 Neb. 498, 76 N.W.2d 420 (1956).

On review of action of zoning board of appeals, district court is empowered to reverse or affirm, wholly or partly, or may modify the decision brought up for review. Roncka v. Fogarty, 152 Neb. 467, 41 N.W.2d 745 (1950).

When a district court hears a zoning board decision on appeal, the district court cannot grant a motion of summary judgment. Eastroads, L.L.C. v. Omaha Zoning Bd. of Appeals, 7 Neb. App. 951, 587 N.W.2d 413 (1998).

A district court reviewing a decision of a zoning board of appeals under this section, without taking additional evidence or appointing a referee to do so, functions as an intermediate court of appeals. The filing of a motion for new trial in a court which functions as an intermediate court of appeals does not stop the running of the time within which to perfect an appeal. Morello v. City of Omaha, 5 Neb. App. 785, 565 N.W.2d 41 (1997).

14-415 Building ordinance or regulations; enforcement; inspection; violations; penalty.

A city of the metropolitan class, in addition to other remedies, may institute any appropriate action or proceedings to prevent an unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use of any building or structure in violation of any ordinance or regulations enacted or issued pursuant to sections 14-401 to 14-418, to restrain, correct, or abate such violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Such ordinance or regulations shall be enforced by the city as the city council may provide. In addition to, and not in restriction of any other powers, the city may cause any building, structure, place, or premises to be inspected and examined and to order in writing the remedying of any condition found to exist in or at such building, structure, place, or premises in violation of any provision of the ordinance or regulations made under authority of such sections. The owner, general agent, lessee, or tenant of a building or premises or of any part of such building or premises where a violation of any provision of the ordinance or regulations has been committed or shall exist or the general agent, architect, builder, contractor, or any other person who commits, takes part, or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a Class IV misdemeanor for a first or second violation and a Class II misdemeanor for a third or subsequent violation, if the third or subsequent violation is committed within two years after the commission of the prior violation.

Source: Laws 1925, c. 45, § 9, p. 184; C.S.1929, § 14-412; R.S.1943, § 14-415; Laws 1959, c. 37, § 3, p. 212; Laws 2014, LB174, § 1; Laws 2022, LB800, § 145.
Operative date July 21, 2022.

14-416 Building regulations; other laws; applicability.

Wherever the regulations made under authority of sections 14-401 to 14-418 require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute, local ordinance, or regulation, the provisions of the regulations made under authority of such sections shall govern. Wherever the provisions of any other statute, local ordinance, or regulation require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by

the regulations made under authority of such sections, the provisions of such statute, local ordinance, or regulation shall govern.

Source: Laws 1925, c. 45, § 10, p. 185; C.S.1929, § 14-413; R.S.1943, § 14-416; Laws 2022, LB800, § 146.
Operative date July 21, 2022.

14-417 Existing commission, zoning board of appeals; regulations, decisions; continuance.

Where a city planning commission and a zoning board of appeals in a city of the metropolitan class already exist, their continuance is hereby authorized without further act of the city council. All ordinances, rules and regulations, hearings, orders, or decisions existing or in effect on April 1, 1925, or substituted or in effect thereafter, shall continue in effect, except insofar as any such ordinances, rules and regulations, hearings, orders, or decisions shall be in conflict with the provisions of sections 14-401 to 14-418.

Source: Laws 1925, c. 45, § 11, p. 185; C.S.1929, § 14-414; R.S.1943, § 14-417; Laws 2022, LB800, § 147.
Operative date July 21, 2022.

14-418 Building regulations; scope of operation; jurisdiction of city council.

The powers granted in sections 14-401 to 14-417 may be exercised by the authorities in whom the powers are vested in such sections over a city of the metropolitan class and the extraterritorial zoning jurisdiction of such city.

Source: Laws 1925, c. 45, § 12, p. 186; C.S.1929, § 14-415; R.S.1943, § 14-418; Laws 2022, LB800, § 148.
Operative date July 21, 2022.

Cities of metropolitan class were authorized to zone territory within three miles of corporate limits. Schlientz v. City of North Platte, 172 Neb. 477, 110 N.W.2d 58 (1961).

Authority of city to zone may be exercised over all territory not over three miles beyond city limits. Peterson v. Vasak, 162 Neb. 498, 76 N.W.2d 420 (1956).

14-419 Building regulations; land use; within extraterritorial zoning jurisdiction; jurisdiction of city council; powers granted.

(1) The extraterritorial zoning jurisdiction of a city of the metropolitan class shall consist of the unincorporated area three miles beyond and adjacent to its corporate boundaries.

(2) The city council, in cities of the metropolitan class, shall have the power by ordinance to regulate, within the corporate limits of the city or within the extraterritorial zoning jurisdiction of the city, except as to construction on farms for farm purposes, (a) the minimum standards of construction of buildings, dwellings, and other structures, in order to provide safe and sound condition of such buildings, dwellings, and other structures for the preservation of health, safety, security, and general welfare, and as to electric wiring, heating, plumbing, pipefitting, sewer connections, ventilation, size of habitable rooms, and the method of constructing buildings, and to provide for inspection of such buildings, dwellings, and other structures and building permits, (b) the removal and tearing down of buildings, dwellings, and other structures in such areas which constitute nuisances because of the dilapidated, unsafe, or rundown condition or conditions, and (c) except as to the United States of America, the State of Nebraska, any county of the state, or any other city or village in the state, the nature, kind, and manner of constructing streets, alleys,

sidewalks, curbing or abridging curbs, driveway approaches constructed on public rights-of-way, and sewers.

(3) A city of the metropolitan class shall have the authority to regulate land use within the extraterritorial zoning jurisdiction of such city as may be provided by law in addition to those powers provided in this section.

(4) Any building or construction code implemented under this section shall be adopted and enforced as provided in section 71-6406.

Source: Laws 1955, c. 21, § 1, p. 99; Laws 1965, c. 40, § 1, p. 233; Laws 2016, LB704, § 1; Laws 2022, LB800, § 149.
Operative date July 21, 2022.

A district court cannot properly order a zoning board of appeals to issue building permits, as this section provides that issuance of those permits is the province of a city council. Stratbucker Children's Trust v. Zoning Bd. of Appeals, 243 Neb. 68, 497 N.W.2d 671 (1993).

Power was granted to city of metropolitan class to regulate curb cuts within three-mile zoning limits. Jacobs v. City of Omaha, 181 Neb. 101, 147 N.W.2d 160 (1966).

14-420 Request for change in zoning; notice; requirements; failure to give; effect.

(1) A city of the metropolitan class shall provide written notice of any properly filed request for a change in the zoning classification of a subject property to the owners of adjacent property in the manner set out in this section.

(2) Initial notice of the proposed zoning change on the subject property shall be sent to the owners of adjacent property by regular United States mail, postage prepaid, to the owner's address as it appears in the records of the office of the county register of deeds, postmarked at least ten working days prior to the planning board public hearing on the proposed change. The initial notice shall also be provided at least ten working days prior to the hearing to any registered neighborhood association when the subject property is located within the boundary of the area of representation of such association in the manner requested by the association. Each neighborhood association desiring to receive such notice shall register with the city the area of representation of such association and provide the name of and contact information for the individual designated to receive notice on behalf of such association and the requested manner of service, whether by email or first-class or certified mail. The registration shall be in accordance with any rules and regulations adopted and promulgated by the city. Such notice shall describe the subject property or give its address, describe the nature of the zoning change requested, and contain the date, time, and location of the planning board hearing.

(3) A second notice of the proposed zoning change on the subject property shall be sent to the same owners of adjacent property who were provided with notice under subsection (2) of this section. Such notice shall be sent by regular United States mail, postage prepaid, to the owner's address as it appears in the records of the office of the county register of deeds, postmarked at least ten working days prior to the city council public hearing on the proposed change. Such notice shall describe the subject property or give its address, describe the nature of the zoning change requested, and contain the date, time, and location of the city council public hearing.

(4) No additional or further notice beyond that required by subsections (2) and (3) of this section shall be necessary in the event that the scheduled

planning board or city council public hearing on the proposed zoning change is adjourned, continued, or postponed until a later date.

(5) The requirements of this section shall not apply to proposed changes in the text of the zoning code itself or any proposed changes in the zoning code affecting whole classes or classifications of property throughout the jurisdiction of the city.

(6) Except for a willful or deliberate failure to cause notice to be given, no zoning decision made by a city of the metropolitan class either to accept or reject a proposed zoning change with regard to a subject property shall be void, invalidated, or affected in any way because of any irregularity, defect, error, or failure on the part of the city or its employees to cause notice to be given as required by this section if a reasonable attempt to comply with this section was made. No action to challenge the validity of the acceptance or rejection of a proposed zoning change on the basis of this section shall be filed more than one year following the date of the formal acceptance or rejection of the zoning change by the city council.

(7) Except for a willful or deliberate failure to cause notice to be given, the city and its employees shall not be liable for any damage to any person resulting from any failure to cause notice to be given as required by this section when a reasonable attempt was made to provide such notice. No action for damages resulting from the failure to cause notice to be provided as required by this section shall be filed more than one year following the date of the formal acceptance or rejection of the proposed zoning change by the city council.

(8) For purposes of this section:

(a) Adjacent property shall mean any piece of real property any portion of which is located within three hundred feet of the nearest boundary line of the subject property or within one thousand feet of the nearest boundary line of the subject property if the proposed zoning change involves a heavy industrial district classification;

(b) Owner shall mean the owner of a piece of adjacent property as indicated on the records of the office of the county register of deeds as provided to or made available to the city no earlier than the last business day before the twenty-fifth day preceding the planning board public hearing on the zoning change proposed for the subject property; and

(c) Subject property shall mean any tract of real property located within the boundaries of a city of the metropolitan class or within the extraterritorial zoning jurisdiction of a city of the metropolitan class which is the subject of a properly filed request for a change of its zoning classification.

Source: Laws 1993, LB 367, § 1; Laws 2014, LB679, § 1; Laws 2019, LB196, § 2; Laws 2022, LB800, § 150.
Operative date July 21, 2022.

ARTICLE 5

FISCAL MANAGEMENT, REVENUE, AND FINANCES

(a) GENERAL PROVISIONS

Section
14-501. Statutory funds; appropriation; limitation.
14-501.01. Biennial budget authorized.
14-502. Department funds; appropriation; miscellaneous expense fund; requirements; use.

Section
14-503. Fund balances; disposition.
14-504. Funds; separate accounts required; apportionment of income to each.
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(a) GENERAL PROVISIONS

14-501 Statutory funds; appropriation; limitation.

The city council of a city of the metropolitan class shall annually or biennially appropriate money and credits of the city in such amounts as may be deemed necessary and proper and set such money and credits aside to the following designated funds to be known as statutory funds: (1) For the fire department of the city, (2) for the police department of the city, (3) for the public library, and (4) for the purpose of paying judgments and costs. The amounts so appropriated and set aside to such funds respectively shall be the maximum amounts that may be appropriated to or expended from such funds within the fiscal year or biennial period for the purposes for which such funds respectively are created.

Source: Laws 1921, c. 116, art. IV, § 1, p. 468; C.S.1922, § 3624; C.S.1929, § 14-501; R.S.1943, § 14-501; Laws 2000, LB 1116, § 10; Laws 2022, LB800, § 151.
Operative date July 21, 2022.

Levy of city and school district taxes within metropolitan city is computed on actual valuation and assessment as returned by county assessor and as equalized for preceding year. Chicago & N. W. Ry. Co. v. Bauman, 132 Neb. 67, 271 N.W. 256 (1937).

14-501.01 Biennial budget authorized.

A city of the metropolitan class may adopt biennial budgets for biennial periods if such budgets are provided for by a home rule charter provision. For purposes of this section:

(1) Biennial budget means a budget that provides for a biennial period to determine and carry on the city's financial and taxing affairs; and

(2) Biennial period means the two fiscal years comprising a biennium commencing in odd-numbered or even-numbered years.

Source: Laws 2000, LB 1116, § 2; Laws 2010, LB779, § 16; Laws 2022, LB800, § 152.
Operative date July 21, 2022.

14-502 Department funds; appropriation; miscellaneous expense fund; requirements; use.

(1) The city council of a city of the metropolitan class shall, at the same time as the appropriation of statutory funds as provided in section 14-501, appropriate from the remaining amount of tax levy of such year and from revenue to be derived from all other sources available for such purposes, money and credits of the city and set such money and credits aside to funds to be designated department funds. The department funds shall be of the same number and of the same designation as the departments into which the government of the city is divided for administration under the commission plan of government.

(2) The amount so appropriated and set aside to each of the funds respectively shall be an amount deemed sufficient and necessary to take care of the expenses in such department for the fiscal year or biennial period for which the appropriation is made. The amount thus appropriated to each of such departments respectively may be divided and subdivided for the purpose of expenditure as the city council may direct, but shall be the maximum amount which may be appropriated to any such department for the fiscal year or biennial period, or which may be expended for the purpose of such department for the fiscal year or biennial period.

(3) Any transfer of duties or burdens of one department to another, after an appropriation has been made, shall carry with it a just and equitable pro rata proportion of the appropriation.

(4) The amounts so appropriated to the several department funds shall be used only for the purpose of paying the expenses and liabilities for which appropriated. The city council shall, at the time of the appropriation, estimate the total credits available from taxes levied and other sources for municipal purposes for the fiscal year or biennial period, and the amount remaining after deducting therefrom the amounts appropriated for statutory and department funds shall be the miscellaneous expense fund. The money and credits in the miscellaneous expense fund may be used from time to time to pay the miscellaneous expenses and obligations of the city for which an appropriation has not been made or which are not properly included within the purposes of the appropriation to any of the other funds.

Source: Laws 1921, c. 116, art. IV, § 2, p. 469; C.S.1922, § 3625; C.S.1929, § 14-502; R.S.1943, § 14-502; Laws 2000, LB 1116, § 11; Laws 2019, LB193, § 1; Laws 2022, LB800, § 153.
Operative date July 21, 2022.

14-503 Fund balances; disposition.

The balances remaining in any of the funds created by sections 14-501 and 14-502 and against which lawful obligations have not been created shall at the

expiration of each fiscal year or biennial period be transferred to the general sinking fund of the city by the department of finance.

Source: Laws 1921, c. 116, art. IV, § 3, p. 470; C.S.1922, § 3626; C.S.1929, § 14-503; R.S.1943, § 14-503; Laws 2000, LB 1116, § 12; Laws 2022, LB800, § 154.
Operative date July 21, 2022.

14-504 Funds; separate accounts required; apportionment of income to each.

As soon as the apportionment of funds has been made pursuant to sections 14-501 and 14-502, the department of finance shall open an account with each such fund authorized to be established by sections 14-501 and 14-502 and shall place a credit to each such fund of ninety percent of the tax levy apportioned to it. Thereafter the department of finance shall credit such funds pro rata with money coming to the city from taxation and other sources which are applicable to current expense purposes until all such credits shall equal one hundred percent of such apportionment. Such pro rata credits in excess of ninety percent shall not apply to the miscellaneous expense fund, but the miscellaneous expense fund shall be credited with all money collected and applicable to current expense purposes after the other funds have received the full one hundred percent of their appropriation.

Source: Laws 1921, c. 116, art. IV, § 4, p. 470; C.S.1922, § 3627; C.S.1929, § 14-504; R.S.1943, § 14-504; Laws 2000, LB 1116, § 13; Laws 2022, LB800, § 155.
Operative date July 21, 2022.

When city council has good reason to believe that funds apportioned to a department would be exhausted, it is within the right of the city to suspend an employee of the department, but city cannot, in addition to suspension, arbitrarily deduct additional sums from salary. Bishop v. City of Omaha, 130 Neb. 162, 264 N.W. 447 (1936).

14-505 Income other than taxes; to what funds credited.

All receipts received by a city of the metropolitan class derived from the county road fund shall be credited to the fund provided for the maintenance of parks. All receipts from franchises or royalties derived from lighting companies received by a city of the metropolitan class shall be credited to the funds for public works. All receipts collected for permits issued by the planning department or for paving repairs to streets shall be placed in and credited to the funds for the departments of public works or planning. Such receipts shall be added to the maximum amounts that may be expended from such funds.

Source: Laws 1921, c. 116, art. IV, § 4a, p. 470; C.S.1922, § 3628; C.S.1929, § 14-505; R.S.1943, § 14-505; Laws 2022, LB800, § 156.
Operative date July 21, 2022.

14-506 Funds; limitations upon withdrawals.

The city council of a city of the metropolitan class shall at no time draw warrants or create obligations against any of the funds provided in sections 14-501 and 14-502 in excess of the amount credited to such funds at the time of drawing the warrant or creating the obligation. The director of any department shall not draw or cause to be drawn a warrant or create or cause to be created

an obligation against the appropriation to such director's department in excess of the amount credited to such department.

Source: Laws 1921, c. 116, art. IV, § 5, p. 470; C.S.1922, § 3629; C.S.1929, § 14-506; R.S.1943, § 14-506; Laws 2022, LB800, § 157.
Operative date July 21, 2022.

Section cited as showing background for action of city council in suspending fireman three days each month and attempting to deduct an additional sum from salary. Bishop v. City of Omaha, 130 Neb. 162, 264 N.W. 447 (1936).

14-507 Funds; transfer or diversion prohibited; exception; liability.

The money and credits in each fund authorized and created by sections 14-501 and 14-502 shall be devoted strictly to the purposes for which the fund is created and no part of such money and credits shall be transferred or diverted in any manner or for any purpose. Any transfer or diversion of the money or credits from any of the funds to another fund or to a purpose other and different from that for which appropriated shall render any city council member voting for such transfer or diversion liable on such member's official bond for the amount so diverted or used, except that inspectors of public works paid from special funds may receive pay for their services from the general fund of the city monthly as other employees. Upon the completion of such work, and the levy and collection of the special fund to pay for such work, or the sale of bonds for public works or improvements, an amount equal to that paid such inspectors from the general fund may be taken from such special funds and returned to the general fund from which such amount was temporarily taken, and the city council is authorized to include the cost of inspection in such special funds to be levied and collected.

Source: Laws 1921, c. 116, art. IV, § 6, p. 471; C.S.1922, § 3630; C.S.1929, § 14-507; R.S.1943, § 14-507; Laws 2022, LB800, § 158.
Operative date July 21, 2022.

14-508 Funds; obligation and expenditure; limits upon; effect of exceeding; exceptions.

Neither the city council nor any officer of a city of the metropolitan class shall expend or incur obligations for the expenditure of more money than has been provided and appropriated for the purposes for which the expenditure or obligations for expenditure are made. Any contract or obligation calling for an expenditure in excess of the money and credits provided and appropriated to the purposes for which such contract or obligation is created, shall be void and shall not be enforceable against the city, and the city shall refuse to recognize the validity of such contract or to pay or satisfy any such obligation. The limitations in sections 14-506 to 14-508 shall not apply to additional expenditures and obligations unavoidably made necessary in efforts to abate or control an extreme or unusual outbreak or epidemic of disease or to expenditures made imperatively necessary by the occurrence of some unforeseen or uncontrollable disaster in the city. Expenditures for the emergency purposes in this section specified shall be made only in pursuance of an ordinance duly passed reciting the conditions making necessary the further appropriation of funds, and the

expenditures of such appropriation shall be limited exclusively to the purposes for which made.

Source: Laws 1921, c. 116, art. IV, § 7, p. 471; C.S.1922, § 3631; C.S.1929, § 14-508; Laws 1935, Spec. Sess., c. 10, § 9, p. 77; Laws 1941, c. 130, § 15, p. 499; C.S.Supp.,1941, § 14-508; R.S.1943, § 14-508; Laws 1961, c. 30, § 6, p. 149; Laws 2022, LB800, § 159.
Operative date July 21, 2022.

14-509 Funds; obligation and expenditure; violations; liability of officers; actions to recover; duty of city attorney.

(1) It shall be malfeasance in office for any officer of a city of the metropolitan class to:

(a) Attempt to incur, to incur, to attempt to pay, or to pay any obligation prohibited by sections 14-501 to 14-508; or

(b) Attempt to transfer, to transfer, or to use any of the money or credits appropriated to a fund, to another fund or to other and different purposes and uses than for which such money or credits were appropriated.

(2) The creation or attempted creation of obligations not authorized by sections 14-101 to 14-2004 or prohibited by such sections shall render the members of the city council voting for such obligations liable to the city for the amount of the obligation so created or the amount of money or credits unlawfully diverted or used, and voting for such obligations shall be prima facie evidence of malfeasance in office.

(3) The city attorney shall enforce by suit in the courts of the state such liability against the delinquent officers and the sureties on their bonds. In the event of the refusal or failure of the city attorney to proceed as provided in this section, any taxpayer may demand in writing that the city attorney proceed as provided in this section, and on the city attorney's failure so to do within thirty days of such demand, such taxpayer may commence the action provided for in this section on the part of the city attorney in the name of the taxpayer and prosecute such action to final judgment. The taxpayer shall, however, as a condition of the right to commence and prosecute such suit, give such security for costs as may be directed by the court.

Source: Laws 1921, c. 116, art. IV, § 8, p. 472; C.S.1922, § 3632; C.S.1929, § 14-509; R.S.1943, § 14-509; Laws 2022, LB800, § 160.
Operative date July 21, 2022.

14-510 Warrants; payments; requirements.

(1) Warrants of a city of the metropolitan class shall be drawn by the city comptroller and shall be signed by the mayor and city comptroller and shall state the particular fund or appropriation to which such warrant is chargeable and the person to whom payable. Money of the city shall not be otherwise paid except in instances where it is otherwise specifically provided by law.

(2) A city of the metropolitan class may adopt by ordinance an imprest system of accounting for the city and authorize the establishment of an imprest vendor, payroll, or other account for the payment of city warrants in accordance with

any guidelines issued by the Auditor of Public Accounts for county imprest accounts.

Source: Laws 1921, c. 116, art. IV, § 9, p. 472; C.S.1922, § 3633; C.S.1929, § 14-510; R.S.1943, § 14-510; Laws 2001, LB 317, § 1; Laws 2022, LB800, § 161.
Operative date July 21, 2022.

14-511 Obligations; payment; method; requirements.

At the first meeting of the city council of a city of the metropolitan class in each month, the city council shall provide, by ordinance, for the payment of all indebtedness of the city incurred during the preceding month, or at any time prior to such preceding month, except those liabilities for wages of laborers and allowed claims for overtime, the payment of which may be provided for weekly but in the same manner as provided for in sections 14-101 to 14-2004. Money of the city shall not be expended except as specified by law. The ordinance providing for the payment of money shall be duly passed by a majority vote of the entire city council, and the ayes and nays on such ordinance recorded in the proceedings of the city council.

Source: Laws 1921, c. 116, art. IV, § 10, p. 473; C.S.1922, § 3634; C.S.1929, § 14-511; R.S.1943, § 14-511; Laws 2022, LB800, § 162.
Operative date July 21, 2022.

14-512 Sinking fund; purposes; investment.

(1) The city council of a city of the metropolitan class shall provide and maintain a sinking fund for the payment of the general bonds of the city and the interest on such bonds. Such sinking fund shall be maintained from the following sources of revenue:

(a) Amounts raised by taxation for that purpose;

(b) Balances transferred at the end of each fiscal year or biennial period from the several funds provided for in sections 14-501 and 14-502; and

(c) Such other amounts and sums as may be transferred to such sinking fund by the city council.

(2) Money and credits in the sinking fund shall be held inviolate, shall not be transferred to any other fund, and shall be used for the purpose of paying (a) the interest on the general bonds of the city, (b) maturing bonds of the city, and (c) bonds of the city which may be paid before maturity.

(3) The money and credits of such sinking fund when not used or needed for the purposes specified in this section may temporarily be invested in registered general warrants of the city under such conditions as will enable such money and credits to be obtained and available at any time desired for the purposes specified in this section.

Source: Laws 1921, c. 116, art. IV, § 11, p. 473; C.S.1922, § 3635; C.S.1929, § 14-512; R.S.1943, § 14-512; Laws 1989, LB 33, § 8; Laws 1999, LB 317, § 1; Laws 2000, LB 1116, § 14; Laws 2022, LB800, § 163.
Operative date July 21, 2022.

14-513 Obligations; payment; deduction of sums owed city; appeal.

The city comptroller of a city of the metropolitan class shall deduct from the amount of any credit or warrant all amounts which the payee may owe the city, and where there has been an assignment of such credit or warrant the city comptroller shall likewise deduct as well all amounts which the assignee may owe the city. Should the amounts owing exceed the amount of the warrant, the amounts thus deducted shall be credited pro tanto on the obligations owing the city. An assignment of the claim shall not defeat the right of the city to deduct the amount of the debt from the amount due the claimant. The claimant or the claimant's assignee may appeal from the action of the city comptroller in so deducting any amount from the claim in the manner provided for appeals in section 14-813.

Source: Laws 1921, c. 116, art. IV, § 12, p. 474; C.S.1922, § 3636; C.S.1929, § 14-513; R.S.1943, § 14-513; Laws 2022, LB800, § 164.
Operative date July 21, 2022.

14-514 Taxation; annual certification for levy; bonds; limits.

(1) The city council of a city of the metropolitan class shall annually certify to the county clerk of the county in which the city is located, by resolution, the tax upon the taxable value of all the taxable property in such city, not to exceed fifty cents on each one hundred dollars, which the city desires to be levied as taxation for all municipal purposes for the ensuing year, subject to the levy limitations contained in section 77-3442.

(2) In addition to the tax set forth in subsection (1) of this section, the city council shall also and further certify not less than fourteen cents on each one hundred dollars and such tax as may be necessary to pay bond issues maturing within the year or bond issues maturing in the near future. The object of this requirement is to create a fund to accomplish a partial retirement of the bonded obligations of the city in such a manner as to avoid unusual and heavy levies during particular years when large maturities occur.

(3) The proceeds derived from each respective levy provided for in subsections (1) and (2) of this section shall be devoted exclusively and entirely to the purposes for which such levy is made. The certification provided for under such subsections shall be made before the county board of equalization has made its tax levy for each respective year.

Source: Laws 1921, c. 116, art. IV, § 13, p. 474; C.S.1922, § 3637; C.S.1929, § 14-514; Laws 1937, c. 176, § 1, p. 692; Laws 1939, c. 8, § 1, p. 72; C.S.Supp.,1941, § 14-514; R.S.1943, § 14-514; Laws 1949, c. 18, § 1, p. 85; Laws 1953, c. 287, § 3, p. 929; Laws 1955, c. 23, § 1, p. 114; Laws 1979, LB 187, § 32; Laws 1992, LB 719A, § 37; Laws 1999, LB 141, § 2; Laws 2022, LB800, § 165.
Operative date July 21, 2022.

Cross References

For levy of health district, see section 71-1611.

It is the duty of county board of equalization to make the levy certified by city council of city of metropolitan class. State ex rel. City of Omaha v. Lynch, 181 Neb. 810, 151 N.W.2d 278 (1967).

Certification of levy of city of metropolitan class is made to county clerk of county in which the city is located. Barton v. City of Omaha, 180 Neb. 752, 145 N.W.2d 444 (1966).

Levy in excess of limitation herein is authorized to pay judgment recovered against municipal corporation. Benner v. Coun-

ty Board of Douglas County, 121 Neb. 773, 238 N.W. 735 (1931).

City council is required to certify annually to the county clerk the amount of general tax required for the ensuing year. Parry Mfg. Co. v. Fink, 93 Neb. 137, 139 N.W. 863 (1913).

A purchaser of municipal bonds must take notice of recitals therein, and is bound by them. Wilbur v. Wyatt, 63 Neb. 261, 88 N.W. 499 (1901).

Proceeds of sale of bonds issued for a particular purpose must be strictly applied to that purpose. Tukey v. City of Omaha, 54 Neb. 370, 74 N.W. 613 (1898).

Under this section, taxes accrued for income tax purposes the year they became a lien, rather than the year the taxes were levied and assessed. Helvering v. Schimmel, 114 F.2d 554 (8th Cir. 1940).

(b) MUNICIPAL BONDS FOR VARIOUS PURPOSES

14-515 Bonds; form; issuance; sale; delivery; interest; requirements.

Bonds of a city of the metropolitan class shall be prepared under the direction of the city council, shall be signed by the mayor and countersigned and registered by the city comptroller, and shall be sold and disposed of by and under the direction of the city council. Such bonds shall be delivered by the city finance director who shall report the proceeds from such bonds to the city treasurer in all cases except where an exchange of bonds is directed. The purpose of the issue of bonds shall be stated in such bonds and the proceeds received from the sale shall be used for no other purpose. Whenever an issue of bonds is required to be submitted to the electors for authority to issue such bonds, the proposition submitting such question shall contain but a single issue and but one subject, shall specify the maximum amount proposed for issue and state distinctly the purpose for which such bonds are to be issued. Bonds of the city shall not be sold or exchanged for less than par value of such bonds and shall bear interest payable semiannually. Interest coupons at the rate of interest specified may be attached to such bonds. Interest coupons may be signed by the mayor and city clerk. Bonds shall be made payable at the office or place provided by general law for the payment of bonds of the city. Where this section, in its application to water bonds or bonds issued for the extension or improvement of a gas plant or other public utility, is in conflict with any provision which has been or may be made by statute respecting such bonds, the latter shall control.

Source: Laws 1921, c. 116, art. IV, § 14, p. 475; C.S.1922, § 3638; C.S.1929, § 14-515; R.S.1943, § 14-515; Laws 1969, c. 51, § 19, p. 284; Laws 2022, LB800, § 166.
Operative date July 21, 2022.

14-516 Sewer bonds; amount authorized; issuance.

The city council of a city of the metropolitan class may issue annually bonds not to exceed five hundred thousand dollars, for the purpose of constructing main sewers, and to be denominated sewer bonds. Such bonds shall be issued in accordance with the provisions of section 14-515, and the proceeds from such bonds shall not be used for any other purpose than to construct main sewers.

Source: Laws 1921, c. 116, art. IV, § 15, p. 475; C.S.1922, § 3639; C.S.1929, § 14-516; R.S.1943, § 14-516; Laws 2022, LB800, § 167.
Operative date July 21, 2022.

14-517 Sewers; special assessment bonds; when authorized; limit; how paid; interest; sinking fund.

(1) Cities of the metropolitan class are authorized and empowered to issue and sell special assessment sewer bonds, such bonds not to exceed two hundred thousand dollars, without a vote of the electors, and to use the proceeds of such bonds for the purpose of constructing or reconstructing storm or sanitary sewers where at least five-sixths of the cost of such sewers will be borne by some agency of the government of the United States of America.

(2) All principal and interest of such bonds shall be payable solely from the proceeds of special assessments levied and collected on real estate within special assessment sewer districts and, as shall be recited in such bonds, such city shall incur no liability, obligation, or indebtedness of any kind or nature on such bonds, and the city shall not pledge its credit, its general taxing power, or any part of such credit or general taxing power to support or pay such bonds. Such bonds shall be sold or exchanged for not less than the par value of such bonds and shall bear interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, payable semiannually.

(3) Special assessments levied for the purpose of paying such bonds shall be made payable in ten equal annual installments. The first installment shall be due and delinquent fifty days from the date of levy, the second, one year from date of levy, and a like installment shall be due and delinquent annually thereafter until all such installments are paid. Each of such installments, except such as are paid within fifty days from the date of levy, shall draw interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date of levy until such bonds shall become delinquent, and after such bonds shall become delinquent, shall draw interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature. Such assessment shall be collected and enforced as in other cases of special assessments.

(4) All such special assessments and all interest accruing on such special assessments in any special assessment sewer district in which such bonds are issued and sold shall constitute a sinking fund and shall be used solely for the purpose of paying the interest on the bonds so issued and sold as such bonds accrue and for paying the principal sum of such bonds at the maturity of such bonds.

(5) All powers granted in this section are in addition to any other powers which may now have been or hereafter may be conferred upon such cities.

Source: Laws 1935, Spec. Sess., c. 4, § 1, p. 59; C.S.Supp.,1941, § 14-559; R.S.1943, § 14-517; Laws 1947, c. 15, § 8, p. 86; Laws 1980, LB 933, § 1; Laws 1981, LB 167, § 2; Laws 2022, LB800, § 168. Operative date July 21, 2022.

14-518 Sewers; special assessment sewer bonds; special assessment sewer district; creation; petition; notice; withdrawal of signature.

The powers granted in section 14-517 shall be subject to the conditions set forth in this section. A petition for the creation of a special assessment sewer district and the issuance of special assessment sewer bonds shall be filed with the city clerk of the city, signed by the owners of sixty percent of the real estate contained in any such special assessment sewer district. At the time of the filing of such petition, the city clerk shall cause to be published in the official newspaper of such city for not less than three consecutive days the plan of assessment and amounts proposed to be assessed against each parcel of real

estate in such proposed district. Any person signing such petition shall have the absolute right within ten days after such petition shall have been filed with the city clerk to withdraw such person's name from such petition, and in such event such person's name shall not be counted in computing the sixty percent.

Source: Laws 1935, Spec. Sess., c. 4, § 2, p. 60; C.S.Supp.,1941, § 14-560; R.S.1943, § 14-518; Laws 2022, LB800, § 169.
Operative date July 21, 2022.

14-519 Public comfort stations; bonds; amount; issuance.

The city council of a city of the metropolitan class may issue bonds for the purpose of constructing public comfort stations. The city council may issue bonds for such purpose without a vote of the electors in an amount not exceeding fifty thousand dollars in any one year.

Source: Laws 1921, c. 116, art. IV, § 16, p. 476; C.S.1922, § 3640; C.S.1929, § 14-517; R.S.1943, § 14-519; Laws 2022, LB800, § 170.
Operative date July 21, 2022.

14-520 Armory; bonds; issuance; election required; applicability of section.

The city council of a city of the metropolitan class may issue bonds for the purpose of constructing an armory in the city if the issuance of such bonds is first authorized by a majority of the electors of such city voting on such proposition. This section shall not be applicable to the acquisition of real estate for armory purposes and its conveyance to the State of Nebraska as provided in sections 18-1001 to 18-1006.

Source: Laws 1921, c. 116, art. IV, § 16 1/2, p. 476; C.S.1922, § 3641; C.S.1929, § 14-518; Laws 1935, Spec. Sess., c. 10, § 4, p. 73; Laws 1941, c. 130, § 10, p. 495; C.S.Supp.,1941, § 14-518; R.S. 1943, § 14-520; Laws 1971, LB 534, § 10; Laws 1988, LB 793, § 1; Laws 2022, LB800, § 171.
Operative date July 21, 2022.

14-521 Parks, parkways, boulevards, and playgrounds; bonds; issuance; amount authorized; use of proceeds.

The city council of a city of the metropolitan class may issue bonds, as provided in this section, for the purpose of improving lands, lots, or grounds purchased, appropriated, or acquired for parks, parkways, boulevards, or playgrounds. Bonds so issued shall be known as park bonds and the issuance of such bonds except as provided in this section shall be governed by section 14-515. The city council may issue in any one year and without a vote of the electors one hundred thousand dollars of such bonds. The city council may also issue such bonds if authorized by a majority vote of the electors of the city voting on the proposition at a general city election or a special election called for that purpose. A part of the proceeds from the sale of such bonds may be used to pay for improvements upon streets, sidewalks, or thoroughfares abutting upon or immediately adjacent to parks, parkways, boulevards, and playgrounds when such costs would otherwise be chargeable to the city.

Source: Laws 1921, c. 116, art. IV, § 17, p. 476; C.S.1922, § 3642; C.S.1929, § 14-519; R.S.1943, § 14-521; Laws 1967, c. 44, § 1, p. 175; Laws 2022, LB800, § 172.
Operative date July 21, 2022.

14-522 Fire station; bonds; issuance; amount.

The city council of a city of the metropolitan class may issue bonds of the city not to exceed thirty thousand dollars in any one year for the purpose of erecting fire stations.

Source: Laws 1921, c. 116, art. IV, § 18, p. 476; C.S.1922, § 3643; C.S.1929, § 14-520; R.S.1943, § 14-522; Laws 2022, LB800, § 173.
Operative date July 21, 2022.

14-523 Auditorium; bonds; issuance; amount; election required; vote.

The city council of a city of the metropolitan class may issue bonds not to exceed in amount two hundred and twenty-five thousand dollars for the construction, remodeling, or completion of a municipal auditorium, except that no such bonds shall be issued until authorized by the electors of such city by a majority of those voting on the question.

Source: Laws 1921, c. 116, art. IV, § 18 1/2, p. 477; C.S.1922, § 3644; C.S.1929, § 14-521; R.S.1943, § 14-523; Laws 2022, LB800, § 174.
Operative date July 21, 2022.

14-524 Other municipal purposes; bonds; issuance.

In addition to the authority expressly granted to the city council of a city of the metropolitan class to issue bonds for stated purposes, the city council may issue bonds for the following general purposes in compliance with the requirements of section 14-515: (1) To construct subways and conduits when authorized by a vote of the electors, (2) to renew or to fund or refund outstanding bonds, (3) to construct necessary buildings for the use of the city when authorized by a vote of the electors, (4) to construct necessary bridges when authorized by a vote of the electors, (5) to acquire property and to construct gas works, waterworks, electric light plants, or power plants, when authorized by a vote of the electors, (6) to pay off floating indebtedness of the city, but the total amount of bonds issued for such purpose shall not exceed five hundred thousand dollars and not then until authorized by a vote of the electors, and (7) for any necessary or proper municipal purpose or use, when authorized so to do by a vote of the electors of the city.

Source: Laws 1921, c. 116, art. IV, § 19, p. 477; C.S.1922, § 3645; C.S.1929, § 14-522; R.S.1943, § 14-524; Laws 2022, LB800, § 175.
Operative date July 21, 2022.

14-525 Bonds; maximum indebtedness allowed; how computed; deductions allowed.

The bonded indebtedness of a city of the metropolitan class shall not at any time exceed in the aggregate five percent of the taxable value of the taxable property within its corporate limits. The value shall be determined from the assessment of the taxable value of the property of the city. In order to arrive at the net amount of the aggregate indebtedness referred to in this section, there shall be deducted from the total bonded indebtedness of the city and excepted from such indebtedness bonds issued to acquire a water plant or gas plant and

any bonds which may be issued to acquire or construct electric light or power plants or other utility plants or systems when a charge for the service is provided sufficient to pay the bonded obligations for such plants or systems, bonds which may be issued to construct subways or conduits when the revenue charged for the use of such may be sufficient to retire such bonds, and all other bonds the payment of which is secured by pledges of a special assessment sinking fund in the nature of a sinking fund of any character other than the general sinking fund of the city. There shall be included in such indebtedness all floating indebtedness of the city which under section 14-524 may be funded by the issuance of bonds.

Source: Laws 1921, c. 116, art. IV, § 20, p. 477; C.S.1922, § 3646; C.S.1929, § 14-523; R.S.1943, § 14-525; Laws 1992, LB 719A, § 38; Laws 2022, LB800, § 176.
Operative date July 21, 2022.

14-526 Bonds; maximum amount authorized annually; exceptions.

A city of the metropolitan class shall not issue bonds in excess of two hundred and fifty thousand dollars in any one year, except for renewal or refunding to fund floating indebtedness or district improvement bonds, to finance grading, to finance public improvements, sewers, and intersections, to erect police stations, to acquire existing utility property, to construct, remodel, or complete a municipal auditorium, to pay for property purchased or acquired in condemnation proceedings, for a public library, subways and conduits, and useful and needed public buildings, to pay for the construction and maintenance of gas works, waterworks, electric light plants, power plants, or any other public utility authorized by sections 14-101 to 14-2004 or for land to be used for any such purpose.

Source: Laws 1921, c. 116, art. IV, § 21, p. 478; C.S.1922, § 3647; C.S.1929, § 14-524; R.S.1943, § 14-526; Laws 2022, LB800, § 177.
Operative date July 21, 2022.

14-527 Bonds; issuance; election required; exceptions.

Bonds of a city of the metropolitan class shall not be issued without a vote of the electors in the manner provided for in sections 14-101 to 14-2004 except to finance the following which may be issued by the city council without such vote: (1) Street improvements, grading, renewal, or refunding; (2) police stations, not to exceed one hundred thousand dollars in any one year; (3) parks, not to exceed one hundred thousand dollars in any one year; (4) sewers, not to exceed five hundred thousand dollars in any one year; (5) public comfort stations, not to exceed fifty thousand dollars in any one year; (6) fire stations, not to exceed thirty thousand dollars in any one year; and (7) acquisition of existing utility systems or plants by condemnation proceedings.

Source: Laws 1921, c. 116, art. IV, § 22, p. 478; C.S.1922, § 3648; C.S.1929, § 14-525; R.S.1943, § 14-527; Laws 2022, LB800, § 178.
Operative date July 21, 2022.

(c) STREET IMPROVEMENT; BONDS; GRADING; ASSESSMENTS

14-528 Street improvements; bonds; issuance; amount; use of proceeds.

The city council of a city of the metropolitan class is authorized to issue and sell bonds of the city, from time to time, to finance street improvements, as provided in this section. The amount of bonds which may be issued and sold at any one time shall not exceed the total amount of bona fide contracts actually entered into for the kinds of street improvements included within this section and for the financing of which provisions have not otherwise been made. The proceeds from bonds sold under the authority of this section may be used and employed to finance or to aid in financing the classes and kinds of improvement, inclusive of all proper intersection charges, designated in this section, including paving, repaving, surfacing and renewing surfaces, changing character of paving, guttering, reguttering, curbing and recurbing, improvements made in combination as authorized in section 14-391, and macadamizing streets, avenues, alleys, and public thoroughfares of the city.

Source: Laws 1921, c. 116, art. IV, § 23, p. 479; C.S.1922, § 3649; C.S.1929, § 14-526; R.S.1943, § 14-528; Laws 1961, c. 30, § 7, p. 150; Laws 2022, LB800, § 179.
Operative date July 21, 2022.

Language of resolution, declaring it ''expedient and necessary'' to grade street, is sufficient compliance. Burkley v. City of Omaha, 102 Neb. 308, 167 N.W. 72 (1918).

14-529 Street improvements; bonds; issuance; interest; term.

Bonds issued under the authority of the provisions of section 14-528 shall be denominated bonds to finance street improvements, shall be issued and sold in accordance with the provisions of section 14-515 governing the issuance and sale of bonds, and shall bear an interest rate not greater than the rate of interest specified in such section regarding general bonds of the city. Such bonds so issued may be made payable in not less than five years and in not more than twenty years from date of issue.

Source: Laws 1921, c. 116, art. IV, § 23, p. 479; C.S.1922, § 3649; C.S.1929, § 14-526; R.S.1943, § 14-529; Laws 1947, c. 15, § 9, p. 87; Laws 2022, LB800, § 180.
Operative date July 21, 2022.

14-530 Street improvements; bonds; proceeds, uses; special assessment sinking fund; purpose.

(1) The proceeds from the sale of bonds authorized under section 14-528, together with all special taxes and assessments to be levied for the classes of improvements designated in such section, and the proceeds in the nature of all earnings and income from the investment and use of such proceeds, shall be used and employed to finance such classes of improvements, inclusive of all proper intersection charges.

(2) All such proceeds shall be credited to a fund to be designated special assessment sinking fund, and, except such part of such fund as may be required to pay proper intersection charges, shall be kept and maintained within such fund. The accumulations in such fund, less the amounts of such fund necessary to pay proper intersection charges from time to time, shall constitute a sinking fund to pay interest as it accrues and finally to pay at maturity all bonds issued

and sold under the provisions of this section, except such part of such fund as has been devoted to the payment of proper intersection charges.

(3) The proportion of bonds authorized under this section and necessary to pay proper intersection charges, inclusive of interest on such bonds, shall be paid and redeemed from the general sinking fund of the city.

(4) In all cases where taxes and special assessments levied under section 14-533 have been paid and have been credited to the special assessment sinking fund, such taxes and special assessments as well as all other credits in such fund may be used to finance other improvements, but only to the extent which will leave the fund available to pay all bonds issued to finance street improvements and interest on such bonds when maturing or due, except such part as by this section is charged to the general sinking fund of the city.

Source: Laws 1921, c. 116, art. IV, § 23, p. 479; C.S.1922, § 3649; C.S.1929, § 14-526; R.S.1943, § 14-530; Laws 2022, LB800, § 181.
Operative date July 21, 2022.

14-531 Street improvements; bonds; fund to finance intersections; requirements.

The city finance department of a city of the metropolitan class shall establish and maintain a fund to be designated fund to finance intersections. Immediately upon the completion of the work of any contract for improvements authorized by this section, the city engineer shall estimate and certify to the city council the amount which has been spent in the performance of such contract for proper intersection purposes. The city council shall at once examine such certification and either approve or reject the amount so certified. If such certification is rejected, further certifications shall be required until a proper amount has been certified, which shall be approved. As soon as approved, the city finance department shall charge the special assessment sinking fund with the full amount as approved and shall credit the fund to finance intersections with a like amount. Just before each interest payment date an account shall be correctly and exactly stated between such funds so as to apportion as properly and exactly as possible the respective interest charge against each fund. Both such funds shall be continuously kept and maintained so that the fund to finance intersections will show exactly or approximately the total amount of bonds which has been devoted to the payment of intersection charges.

Source: Laws 1921, c. 116, art. IV, § 23, p. 480; C.S.1922, § 3649; C.S.1929, § 14-526; R.S.1943, § 14-531; Laws 2022, LB800, § 182.
Operative date July 21, 2022.

14-532 Street improvements; bonds; special assessment sinking fund; investment; special use.

A city of the metropolitan class may, when not required for any of the purposes specified in section 14-530, temporarily invest funds contained in the special assessment sinking fund in securities of the United States Government, the State of Nebraska, the city, the county containing such city, or any publicly owned and operated municipal utilities of such city. All such investments shall be made so as to be closed out and realized upon whenever the proceeds so invested are needed for the purpose specified in such section. The proceeds of

the special assessment sinking fund, insofar as required, may be used to complete the work under a contract where the contractor fails or refuses to perform such work.

Source: Laws 1921, c. 116, art. IV, § 23, p. 481; C.S.1922, § 3649; C.S.1929, § 14-526; R.S.1943, § 14-532; Laws 2022, LB800, § 183.
Operative date July 21, 2022.

14-533 Street improvements; special assessments authorized; use.

Upon the completion of the work under any contract authorized by sections 14-528 to 14-532, the city council of a city of the metropolitan class is authorized to levy and assess, in the usual manner, special taxes and assessments to the extent of benefits conferred by such work to pay the costs of the improvements less the amount of proper intersection costs under such contract, all of which taxes and special assessments shall constitute a sinking fund, as and for the purposes specified in section 14-530.

Source: Laws 1921, c. 116, art. IV, § 23, p. 481; C.S.1922, § 3649; C.S.1929, § 14-526; R.S.1943, § 14-533; Laws 2022, LB800, § 184.
Operative date July 21, 2022.

14-534 Streets; grading; estimate of cost; contract for.

Before any street, avenue, alley, or thoroughfare is graded within a city of the metropolitan class, the city engineer shall make a careful and detailed estimate of the total cost of such grading, and shall report such estimate to the city council as an approximate estimate of such cost. If such estimate is approved by the city council, a contract may be let for the grading in the manner provided for letting improvement contracts, except that such contract shall not exceed in total amount the approved approximate estimate.

Source: Laws 1921, c. 116, art. IV, § 24, p. 481; C.S.1922, § 3650; C.S.1929, § 14-527; R.S.1943, § 14-534; Laws 2022, LB800, § 185.
Operative date July 21, 2022.

14-535 Streets; grading; bonds; requirements; interest; maturity; sale; use of proceeds.

As soon as any contract is let pursuant to section 14-534, the city council of a city of the metropolitan class is authorized to issue bonds of the city in amounts sufficient to pay for the total work to be done under such contract. Unless bonds are issued for such purpose, the contract shall not be performed and shall not be binding upon the city. Bonds issued under the provisions of section 14-534 shall be denominated grading bonds, and shall state upon the face of such bonds the street or part of street to be graded from the proceeds of such bonds. Such bonds shall be due and payable in five years from date of such bonds, shall draw interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, payable semiannually, shall have interest coupons attached, and shall not be sold or disposed of below par. The proceeds from such bonds shall be used only for the purpose of paying the costs of the grading for which issued. Such bonds may be sold or disposed of in the manner deemed best or

advisable. As the work of grading progresses, partial estimates may be allowed and paid and the final estimates paid as soon as allowed.

Source: Laws 1921, c. 116, art. IV, § 24, p. 482; C.S.1922, § 3650; C.S.1929, § 14-527; R.S.1943, § 14-535; Laws 1980, LB 933, § 2; Laws 1981, LB 167, § 3; Laws 2022, LB800, § 186.
Operative date July 21, 2022.

14-536 Streets; grading; special assessments; rate of interest; sinking fund; use.

Upon the completion of any grading of a street, avenue, alley, or thoroughfare, the city council of a city of the metropolitan class shall levy special assessments in the manner provided in sections 14-501 to 14-566, to the extent of the benefits, to cover the total costs of such grading. Special assessments so levied shall be made payable as provided in section 14-537. All installments shall draw interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the time of levy until due, and the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, whenever such installments become delinquent. All such special assessments and all interest accruing on such special assessments shall constitute a sinking fund and shall be used only for the purpose of paying the interest on the bonds issued in that connection as such interest accrues and of paying the principal sum of the bonds at the maturity of such bonds.

Source: Laws 1921, c. 116, art. IV, § 24, p. 482; C.S.1922, § 3650; C.S.1929, § 14-527; R.S.1943, § 14-536; Laws 1980, LB 933, § 3; Laws 1981, LB 167, § 4; Laws 1991, LB 745, § 4; Laws 2022, LB800, § 187.
Operative date July 21, 2022.

14-537 Special assessments; when payable; rate of interest; collection and enforcement.

Special assessments for improving the streets, alleys, sewers, and sidewalks within any improvement district in a city of the metropolitan class, except where otherwise provided, shall be made in accordance with this section. The total cost of improvements shall be levied at one time upon the property and become delinquent as provided in this section. The city may require that the total amount of such assessment be paid in less than ten years if, in each year of the payment schedule, the maximum amount payable, excluding interest, is five hundred dollars. If the total amount is more than five thousand dollars, then the city shall establish a payment schedule of at least ten years but not longer than twenty years with the total amount payable in equal yearly installments, except that the minimum amount payable shall not be less than five hundred dollars per year, excluding interest. The first installment shall be due and delinquent fifty days from the date of levy, the second, one year from date of levy, and a like installment shall be due and delinquent annually thereafter until all such installments are paid. Each of the installments except the first shall draw interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the time of levy until the installment becomes delinquent and, after the installment becomes delinquent, shall draw interest at the rate specified in

section 45-104.01, as such rate may from time to time be adjusted by the Legislature, payable in advance, as in other cases of special assessments. Such special assessments shall also be collected and enforced as in other cases of special assessments.

Source: Laws 1921, c. 116, art. IV, § 25, p. 482; C.S.1922, § 3651; C.S.1929, § 14-528; Laws 1933, c. 136, § 12, p. 523; C.S.Supp.,1941, § 14-528; R.S.1943, § 14-537; Laws 1959, c. 38, § 1, p. 214; Laws 1963, c. 48, § 1, p. 224; Laws 1980, LB 933, § 4; Laws 1981, LB 167, § 5; Laws 1991, LB 745, § 5; Laws 2015, LB361, § 10; Laws 2017, LB159, § 1.

Statute authorizes creation of improvement districts and assessment of special taxes for improvement of streets and alleys. Wead v. City of Omaha, 124 Neb. 474, 247 N.W. 24 (1933).

14-538 Special tax or assessment; relevy; when authorized.

Whenever any special tax or assessment upon any lot, land, or parcel of land within a city of the metropolitan class is found to be invalid, uncollectible, and void, is adjudged to be void by a court of competent jurisdiction, or is paid under protest and recovered by suit, because of any defect, irregularity, or invalidity, in any of the proceedings or on account of the failure to observe and comply with any of the conditions, prerequisites, and requirements of any statute or ordinance, the mayor and city council shall have the power to relevy such special tax or assessment upon such lot, land, or parcel of land in the same manner as other special taxes and assessments are levied, without regard to whether the formalities, prerequisites, and conditions, prior to equalization, have been met or not.

Source: Laws 1921, c. 116, art. IV, § 26, p. 483; C.S.1922, § 3652; C.S.1929, § 14-529; R.S.1943, § 14-538; Laws 2022, LB800, § 188.
Operative date July 21, 2022.

Reassessment of benefits is provided for when original assessment is invalid. Shanahan v. Johnson, 170 Neb. 399, 102 N.W.2d 858 (1960).

Omaha charter of 1897 contained sufficient authority for relevy of special assessment which was attempted to be levied but failed because of irregularities. Mercer Co. v. City of Omaha, 76 Neb. 289, 107 N.W. 565 (1906).

Whether property is benefited by park or boulevard is a question of fact. Hart v. City of Omaha, 74 Neb. 836, 105 N.W. 546 (1905).

14-539 Special assessments; depth to which property may be assessed.

Within a city of the metropolitan class, in case the lots and real estate abutting upon that part of the street ordered paved as shown upon any plat or map are not of uniform depth, as well as in all cases where, in the discretion of the city council sitting as a board of equalization, it is just and proper so to do, such board shall have the right and authority to fix and determine the depth to which the real estate shall be charged and assessed with the cost of such improvement, without regard to the line of such lots. Such assessments shall be fixed and determined upon the basis of benefits accruing to the real estate by reason of such improvement. The provisions of this section, in regard to the depth to which real estate may be charged and assessed, shall apply to all special assessments.

Source: Laws 1921, c. 116, art. IV, § 27, p. 483; C.S.1922, § 3653; C.S.1929, § 14-530; R.S.1943, § 14-539; Laws 1969, c. 61, § 1, p. 370; Laws 2022, LB800, § 189.
Operative date July 21, 2022.

14-540 Special assessments; defects; irregularities; relevy.

In cases of omission, mistake, defect, or any irregularity in the preliminary proceedings on any special assessment within a city of the metropolitan class, the city council shall have power to correct such mistake, omission, defect, or irregularity, and levy or relevy a special assessment on any or all property within an improvement district, in accordance with the special benefits to the property on account of such improvement as found by the city council sitting as a board of equalization. The city council shall deduct from the benefits and allow as a credit, before such relevy, an amount equal to the sum of the installments paid on the original levy.

Source: Laws 1921, c. 116, art. IV, § 28, p. 484; C.S.1922, § 3654; C.S.1929, § 14-531; R.S.1943, § 14-540; Laws 2022, LB800, § 190.
Operative date July 21, 2022.

14-541 Sewers and drains; special assessments; levy.

Special assessments may be levied by the city council of a city of the metropolitan class for the purpose of paying the cost of constructing or reconstructing sewers or drains within the city, such assessments to be levied on the real estate benefited by the sewer so constructed or reconstructed to the extent of the benefits to such property. Such assessments shall be determined, equalized, levied, and collected as in other cases for special assessments. Where the city council, sitting as a board of equalization, shall find the benefits to be equal and uniform, the levy may be according to the front footage of lots or real estate benefited, or according to such other rule as such board may adopt for the distribution or adjustment of cost upon the lots or real estate benefited by the improvement.

Source: Laws 1921, c. 116, art. IV, § 29, p. 484; C.S.1922, § 3655; C.S.1929, § 14-532; R.S.1943, § 14-541; Laws 2022, LB800, § 191.
Operative date July 21, 2022.

14-542 Improvements; property exempt from assessment; cost of improvement; how paid.

When public improvements are made upon a street or part thereof and there are lots or grounds belonging to a city of the metropolitan class but held or used as a part of any utility system or plant owned by such city, either abutting upon or adjacent to such street or embraced within any improvement district, such property shall not be subject to special assessments for the costs of the improvement, but the costs of improving one-half, or such parts of the costs as might otherwise be assessed against such property, shall be paid out of the water fund, gas fund, or other fund available for such purpose and created to pay the costs of operation of such utility. The board or body having charge of such fund is directed to pay such costs of such improvement upon the completion of such improvement to the city treasurer, and the amount so paid shall be applied to pay the partial costs of such improvement. Whenever any water main is laid by a metropolitan utilities district in a street of a city of the metropolitan class and there are lots or grounds abutting upon such street or embraced within any improvement district which are owned and controlled by the city, one-half the cost of constructing such water main in front of such lot

or grounds, if special benefits equal such an amount, to be determined by the metropolitan utilities district, but not to exceed fifty cents per lineal front foot, shall be paid out of the general fund of the city. The city council shall provide for the payment of such costs to the metropolitan utilities district.

Source: Laws 1921, c. 116, art. IV, § 30, p. 484; C.S.1922, § 3656; C.S.1929, § 14-533; R.S.1943, § 14-542; Laws 1992, LB 746, § 59; Laws 2001, LB 177, § 1; Laws 2022, LB800, § 192.
Operative date July 21, 2022.

Error of city council in including exempt property in improvement district is at most a mere irregularity, not defeating jurisdiction. Penn Mutual Life Ins. Co. v. City of Omaha, 129 Neb. 733, 262 N.W. 861 (1935).

City of Omaha waterworks is exempt from taxation under the Constitution. City of Omaha v. Douglas County, 96 Neb. 865, 148 N.W. 938 (1914).

Public parks belonging to a city are not taxable property. Herman v. City of Omaha, 75 Neb. 489, 106 N.W. 593 (1906).

14-543 Terms, defined.

For purposes of sections 14-101 to 14-2004:

(1) Lot means a lot as described and designated upon the recorded plat of a city of the metropolitan class, and in case there is no recorded plat of any such city, a lot as described and designated upon any generally recognized map of such city;

(2) Lands means any unsubdivided real estate in a city of the metropolitan class; and

(3) Street includes boulevards, avenues, alleys, lanes, or any form of public roadway in a city of the metropolitan class.

Source: Laws 1921, c. 116, art. IV, § 31, p. 485; C.S.1922, § 3657; C.S.1929, § 14-534; R.S.1943, § 14-543; Laws 2022, LB800, § 193.
Operative date July 21, 2022.

Right-of-way of railroad crossing street at an angle was subject to special assessment. Chicago & N.W. Ry. Co. v. City of Omaha, 154 Neb. 442, 48 N.W.2d 409 (1951).

14-544 Special assessments; cost of improvement; expenses included.

A special assessment within a city of the metropolitan class shall not be declared void or invalid because the city council sitting as a board of equalization has included in the total cost of the improvement (1) the cost of inspection under the direction of the city engineer, (2) the cost of such grading, filling, or street repairs incidental to such improvement, (3) the additional cost of maintenance or repair of such improvement included in the contract for such work, and (4) the cost of removing obstructions and removing and lowering pipes owned and controlled by the city.

Source: Laws 1921, c. 116, art. IV, § 32, p. 485; C.S.1922, § 3658; C.S.1929, § 14-535; R.S.1943, § 14-544; Laws 2022, LB800, § 194.
Operative date July 21, 2022.

14-545 Special assessments; determination of amounts.

All special assessments to cover the cost of any public improvements authorized by sections 14-101 to 14-2004 shall be levied and assessed on all lots, parts

of lots, lands, and real estate specially benefited by such improvement, or within the improvement district created for the purpose of making such improvement, to the extent of the benefits to such lots, parts of lots, lands, and real estate by reason of such improvements, such benefits to be determined by the city council sitting as a board of equalization. Where the board of equalization finds such benefits to be equal and uniform, such assessment may be according to the foot frontage, and may be prorated and scaled back from the line of such improvements according to such rules as the board of equalization deems fair and equitable.

Source: Laws 1921, c. 116, art. IV, § 33, p. 486; C.S.1922, § 3659; C.S.1929, § 14-536; R.S.1943, § 14-545; Laws 2022, LB800, § 195.
Operative date July 21, 2022.

1. Benefits
2. Powers

1. Benefits

Section was not unconstitutional as authorizing levy of the full cost of improvement according to front foot rule without regard to special benefits. Murphy v. Metropolitan Utilities Dist., 126 Neb. 663, 255 N.W. 20 (1934).

Determination by city council of special benefits may not be attacked in a collateral proceeding, except for fraud, a fundamental defect, or an entire want of jurisdiction. Wead v. City of Omaha, 124 Neb. 474, 247 N.W. 24 (1933).

All taxes for special improvements must be levied on property specially benefited by the improvement, but no taxes can be levied on property outside of the improvement district. McCaffrey v. City of Omaha, 91 Neb. 184, 135 N.W. 552 (1912).

Front footage cannot be adopted unless finding is made that benefits are equal and uniform. Morse v. City of Omaha, 67 Neb. 426, 93 N.W. 734 (1903).

Record of board must show affirmatively that council found that benefits were equal and uniform. John v. Connell, 64 Neb. 233, 89 N.W. 806 (1902).

Special benefits which may be set off against damages are such as increase the value of adjacent property, while common benefits are such as are enjoyed by the public at large without reference to the ownership of property adjacent to the public improvement. Barr v. City of Omaha, 42 Neb. 341, 60 N.W. 591 (1894); Kirkendall v. City of Omaha, 39 Neb. 1, 57 N.W. 752 (1894); City of Omaha v. Schaller, 26 Neb. 522, 42 N.W. 721 (1889).

2. Powers

Special assessments could be levied against railroad right-of-way. Chicago & N.W. Ry. Co. v. City of Omaha, 154 Neb. 442, 48 N.W.2d 409 (1951).

Council will not be restrained from passing ordinance levying special taxes, equalized by it, in absence of proof of fraud or mistake in equalization. Richardson v. City of Omaha, 78 Neb. 79, 110 N.W. 648 (1907).

Board of equalization, when regularly in session, with due notices published of matters to come before it, acts judicially upon matters within its jurisdiction, and such action is not open to collateral attack. Portsmouth Savings Bank v. City of Omaha, 67 Neb. 50, 93 N.W. 231 (1903).

Compensation of appraiser's fees for assessment of damages may be included in special assessment. Kuhns v. City of Omaha, 55 Neb. 183, 75 N.W. 562 (1898).

14-546 Special assessments; land; how described; apportionment.

It shall be sufficient in any case in making a levy or assessment of any tax within a city of the metropolitan class, to describe the lot or piece of ground as such lot or piece of ground is platted and recorded, although such lot or piece of ground belongs to several persons. If any lot or piece of ground belongs to several persons, the owner of any part of such lot or piece of ground may pay such owner's proportion of the tax on such lot or piece of ground, and such proper share may be determined by the city treasurer.

Source: Laws 1921, c. 116, art. IV, § 34, p. 486; C.S.1922, § 3660; C.S.1929, § 14-537; R.S.1943, § 14-546; Laws 2022, LB800, § 196.
Operative date July 21, 2022.

14-547 Special assessments; board of equalization; meetings; notice; procedure; appointment of referee; ordinance; finality.

(1) In all cases when special assessments are authorized by sections 14-101 to 14-2004, except as otherwise provided, before any special tax or assessment is levied, it shall be the duty of the city council to sit as a board of equalization for

one or more days each month as the city council shall elect. The city council shall by rule provide for the day or days on which such meetings shall be held. Notice of the date, time, and place of such meeting or meetings shall be published in the official newspaper for at least three days, the first publication to be at least seven days prior to the first session of the board of equalization. A majority of all members elected to the city council shall constitute a quorum for the transaction of any business properly brought before the board of equalization, but a less number may adjourn from time to time and compel the attendance of absent members. The proceedings of such board of equalization shall not be invalidated by the absence of a quorum during the meeting but the city clerk or some member of the board of equalization shall be present to receive complaints and applications and to give information. No final action shall be taken by the board of equalization except by a quorum in open session. When sitting as a board of equalization, the city council may adopt such reasonable rules as to the manner of presenting complaints and applying for remedy and relief as shall seem just.

(2) The city council may appoint one or more suitable persons to act as a referee for the board of equalization. The city council may direct that any protest filed shall be heard in the first instance by the referee in the manner provided for the hearing of protests by the board of equalization. Upon the conclusion of the hearing in each case, the referee shall transmit to the board of equalization all papers relating to the case, together with his or her findings and recommendations in writing. The board of equalization, after considering all papers relating to the protest and the findings and recommendations of the referee, may make the order recommended by the referee or any other order in the judgment of the board of equalization required by the findings of the referee, may hear additional testimony, or may set aside such findings and hear the protest anew.

(3) If a referee is not appointed, the board of equalization shall hear and determine all such complaints and shall equalize and correct such assessment.

(4) After final deliberation and after all corrections and equalization of assessments have been made, the city council may levy such special assessments by ordinance at a regular meeting. The ordinance levying a special assessment shall be final and binding as the final order or judgment of a court of general jurisdiction.

(5) After the passage of such ordinance no court shall entertain any action for relief against such special assessment, except upon appeal from such final order, which remedy shall be deemed exclusive.

Source: Laws 1921, c. 116, art. IV, § 35, p. 486; C.S.1922, § 3661; C.S.1929, § 14-538; R.S.1943, § 14-547; Laws 1959, c. 39, § 1, p. 215; Laws 1963, c. 49, § 1, p. 225; Laws 1987, LB 167, § 1; Laws 2022, LB800, § 197.
Operative date July 21, 2022.

1. Authority to levy
2. Notice to property owners
3. Protest
4. Meetings of council
5. Effect of action taken
6. Review
7. Miscellaneous

1. Authority to levy

Above section was adopted and incorporated by reference into Laws 1921, Chapter 110 (sections 18-401 to 18-411). Murphy v. Metropolitan Utilities Dist., 126 Neb. 663, 255 N.W. 20 (1934).

2. Notice to property owners

Effect of failure to publish notice raised but not decided. Chicago & N.W. Ry. Co. v. City of Omaha, 156 Neb. 705, 57 N.W.2d 753 (1953).

Publication for specified time in three daily papers, one of them in German language in German newspaper, is sufficient. John v. Connell, 71 Neb. 10, 98 N.W. 457 (1904).

Notice is sufficient if it describes lots to be assessed without giving name of owners. Morse v. City of Omaha, 67 Neb. 426, 93 N.W. 734 (1903).

3. Protest

A protest filed before or during session of boards is an appearance and waiver of any defects in notice. Shannon v. City of Omaha, 73 Neb. 507, 103 N.W. 53 (1905), affirmed on rehearing, 73 Neb. 514, 106 N.W. 592 (1906); Eddy v. City of Omaha, 72 Neb. 550, 101 N.W. 25 (1904), modified on rehearing 72 Neb. 559, 102 N.W. 70 (1905), modified on rehearing, 72 Neb. 561, 103 N.W. 692 (1905).

4. Meetings of council

City council must meet at place and at time designated in notice. Portsmouth Savings Bank v. City of Omaha, 67 Neb. 50, 93 N.W. 231 (1903); Grant v. Bartholomew, 58 Neb. 839, 80 N.W. 45 (1899).

Council must remain in session all the time specified in notice or proceedings are invalid. Hutchinson v. City of Omaha, 52 Neb. 345, 72 N.W. 218 (1897).

5. Effect of action taken

Aggrieved property owner, failing to pursue statutory remedies, cannot attack validity of special assessments in collateral proceeding except for fraud or some fundamental defect or entire want of jurisdiction. Penn Mutual Life Ins. Co. v. City of Omaha, 129 Neb. 733, 262 N.W. 861 (1935).

City council, sitting as board of equalization, acts judicially, and its decisions are conclusive, unless reversed or modified in manner provided by law. Wead v. City of Omaha, 124 Neb. 474, 247 N.W. 24 (1933).

Board with notice given acts judicially, and its actions are not open to collateral attack except for fraud, gross injustice or mistake. Wead v. City of Omaha, 73 Neb. 321, 102 N.W. 675 (1905).

If council levies special assessment without jurisdiction, it is void, and may be collaterally attacked. Morse v. City of Omaha, 67 Neb. 426, 93 N.W. 734 (1903).

Where charter does not require notice and hearing as to sufficiency of petition, the determination reached at such hearing is not in nature of judgment and can be collaterally attacked. Portsmouth Savings Bank v. City of Omaha, 67 Neb. 50, 93 N.W. 231 (1903).

A void special assessment is not validated by voluntary payments made thereon. Wakeley v. City of Omaha, 58 Neb. 245, 78 N.W. 511 (1899).

Where special assessments are void, they cannot be enforced solely on ground of benefit of improvements to owners of abutting lands. Harmon v. City of Omaha, 53 Neb. 164, 73 N.W. 671 (1897).

6. Review

Review of proceeding for equalization and assessment of special taxes by metropolitan water district is by proceedings in error and not by appeal. McCague Inv. Co. v. Metropolitan Water District, 101 Neb. 820, 165 N.W. 158 (1917).

7. Miscellaneous

Where tax is not void but merely irregular and excessive the court should determine amount to be paid as condition of granting relief. Wead v. City of Omaha, 73 Neb. 321, 102 N.W. 675 (1905).

Where a purchaser assumes and agrees to pay special assessments as part of purchase price, or takes advantage of deduction of lien from appraised value of property sold at judicial sale, he is estopped to deny the validity of such assessments. Eddy v. City of Omaha, 72 Neb. 550, 101 N.W. 25 (1904), modified on rehearing 72 Neb. 559, 102 N.W. 70 (1905), modified on rehearing, 72 Neb. 561, 103 N.W. 692 (1905).

Where amount of tax has been deducted from appraised value and purchaser takes for less than two-thirds of appraised value upon assumption that such taxes are valid, he is estopped to deny validity. Omaha Savings Bank v. City of Omaha, 4 Neb. Unof. 563, 95 N.W. 593 (1903).

Covenants in deed, excepting taxes and assessments which the grantee assumed and agreed to pay, will not estop grantee from defending against the payment of illegal and void assessments. Orr v. City of Omaha, 2 Neb. Unof. 771, 90 N.W. 301 (1902).

14-548 Special assessments; board of equalization; appeal to district court; bond; decree.

Any person who has filed a written complaint before the board of equalization pursuant to section 14-547 shall have the right to appeal to the district court of the county within which such city of the metropolitan class is located, by filing a good and sufficient bond in the sum of not less than fifty dollars and not more than double the amount of the assessment complained of, conditioned for the faithful prosecution of such appeal, and if the judgment of special assessment is sustained, to pay the amount of such judgment, interest, and costs. Such bond shall be approved and appeal taken as specified in section 14-813. The district court shall hear the appeal as in equity and without a jury and determine anew all questions raised before the city. If the court finds such assessment to be valid, it shall render a decree for the amount of the assessment, interest, and costs, and declare such assessment, interest, and costs a lien upon the lots or lands so assessed. If the court finds that the tax is invalid it

shall order a relevy of such assessment or enter such decree as may be just and equitable.

Source: Laws 1921, c. 116, art. IV, § 36, p. 487; C.S.1922, § 3662; C.S.1929, § 14-539; R.S.1943, § 14-548; Laws 2003, LB 235, § 1; Laws 2022, LB800, § 198.
Operative date July 21, 2022.

Appeal from order levying special assessment lies to district court of county within which metropolitan city is located. Barton v. City of Omaha, 180 Neb. 752, 145 N.W.2d 444 (1966).

An appeal from a special assessment by a metropolitan-class city taken as specified in section 14-813 means that proceedings from a district court shall be the same as on appeal from a county board, and under sections 25-1901 through 25-1908, that means appeal is taken by petition in error and the review is solely of the record made before the tribunal whose action is being reviewed. Jackson v. Board of Equal. of City of Omaha, 10 Neb. App. 330, 630 N.W.2d 680 (2001).

14-549 Special assessments; when delinquent; interest.

Any special assessment within a city of the metropolitan class, except when payable in installments, shall be deemed delinquent if not paid within fifty days after the passage and approval of the ordinance levying such special assessment, and interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, payable in advance, shall be paid on any delinquent special assessment from the time such special assessment shall become delinquent.

Source: Laws 1921, c. 116, art. IV, § 37, p. 488; C.S.1922, § 3663; C.S.1929, § 14-540; Laws 1933, c. 136, § 13, p. 524; C.S.Supp.,1941, § 14-540; R.S.1943, § 14-549; Laws 1980, LB 933, § 5; Laws 1981, LB 167, § 6; Laws 2022, LB800, § 199.
Operative date July 21, 2022.

14-550 Special assessments; collection; notice to landowners; city clerk; duties.

When any special assessment is levied within a city of the metropolitan class, it shall be the duty of the city clerk to deliver to the city treasurer a certified copy of the ordinance levying such special assessment, and the city clerk shall append a warrant to such ordinance requiring the city treasurer to collect such special assessment. It shall be the duty of the city clerk to immediately give notice by mail to the owners of the property so assessed, or their agents, if the addresses of such persons can be ascertained, that such assessment will become delinquent on a certain date.

Source: Laws 1921, c. 116, art. IV, § 38, p. 488; C.S.1922, § 3664; C.S.1929, § 14-541; R.S.1943, § 14-550; Laws 2022, LB800, § 200.
Operative date July 21, 2022.

A mortgagee does not meet the requirements of ownership of affected property necessary to challenge a special assessment as invalid. County of Red Willow v. City of McCook, 243 Neb. 383, 499 N.W.2d 531 (1993).

(d) CITY TREASURER

14-551 Repealed. Laws 2007, LB 206, § 5.

14-552 Repealed. Laws 2007, LB 206, § 5.

14-553 City treasurer; duties; continuing education; requirements.

(1) The city treasurer of a city of the metropolitan class shall be a member of the finance department of such city and shall give bond or evidence of

equivalent insurance in an amount as required by the finance director of such city. The city treasurer shall be liable for the safekeeping and proper disbursement of all funds and money of the city collected or received by him or her. He or she shall keep his or her books and accounts in such manner as to show the amount of money collected by him or her from all sources, the condition of each fund into which such money has been placed, and the items of disbursement of such funds.

(2) The city treasurer shall annually complete continuing education through a program approved by the Auditor of Public Accounts, and proof of completion of such program shall be submitted to the Auditor of Public Accounts.

Source: Laws 1921, c. 116, art. IV, § 41, p. 489; C.S.1922, § 3667; C.S.1929, § 14-544; R.S.1943, § 14-553; Laws 2007, LB206, § 1; Laws 2007, LB347, § 3; Laws 2020, LB781, § 1; Laws 2022, LB800, § 201.
Operative date July 21, 2022.

14-554 Repealed. Laws 2022, LB800, § 349.
Operative date July 21, 2022.

14-555 Repealed. Laws 2007, LB 206, § 5.

14-556 City treasurer; authorized depositories; securities; conflict of interest, when.

(1) The city treasurer of a city of the metropolitan class shall place all funds of the city on deposit in such banks, capital stock financial institutions, or qualifying mutual financial institutions within the city as shall agree to pay the highest rate of interest for the use of such funds so deposited. The city council is hereby directed to advertise for bids for rates for the deposit of such funds as provided in this section.

(2) The banks, capital stock financial institutions, or qualifying mutual financial institutions referred to in subsection (1) of this section, so selected, shall:

(a) Give bond to the city for the safekeeping of such funds, and such city shall not have on deposit in any bank, capital stock financial institution, or qualifying mutual financial institution giving a guaranty bond more than the amount insured or guaranteed by the Federal Deposit Insurance Corporation plus the maximum amount of the bond given by the bank, capital stock financial institution, or qualifying mutual financial institution or in any bank, capital stock financial institution, or qualifying mutual financial institution giving a personal bond more than the amount insured or guaranteed by the Federal Deposit Insurance Corporation plus one-half of the amount of the bond of the bank, capital stock financial institution, or qualifying mutual financial institution. All bonds of such banks, capital stock financial institutions, or qualifying mutual financial institutions shall be deposited with and held by the city treasurer; or

(b) Give security as provided in the Public Funds Deposit Security Act.

(3) The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as mayor, as a member of the city council, as a member of a board of public works, or as any other officer of the city shall not disqualify such bank,

capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such city funds.

(4) Section 77-2366 shall apply to deposits in capital stock financial institutions.

(5) Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1921, c. 116, art. IV, § 44, p. 491; C.S.1922, § 3670; C.S.1929, § 14-547; R.S.1943, § 14-556; Laws 1957, c. 54, § 1, p. 263; Laws 1959, c. 35, § 2, p. 193; Laws 1989, LB 33, § 9; Laws 1993, LB 157, § 1; Laws 1996, LB 1274, § 13; Laws 2001, LB 362, § 10; Laws 2009, LB259, § 4; Laws 2022, LB800, § 202. Operative date July 21, 2022.

Cross References

Public Funds Deposit Security Act, see section 77-2386.

City of metropolitan class can make no deposit in bank unless the deposit is protected by bond, and while it may be implied, it is not expressly required, that the bank must pay the premium on the bond. State ex rel. Sorensen v. South Omaha State Bank, 128 Neb. 733, 260 N.W. 278 (1935).

(e) TAXATION

14-557 Taxes and assessments; lien upon real estate.

All general municipal taxes levied upon real estate within a city of the metropolitan class shall be a first lien upon the real estate upon which such taxes are levied and take priority over all other encumbrances and liens on such real estate. All special assessments regularly levied within a city of the metropolitan class shall be a perpetual lien on the real estate assessed from the date of levy until paid irrespective of the county in which such real estate is situated, but shall be subject to all general taxes. The lien of all general municipal taxes levied on personal and real property within a city of the metropolitan class shall be governed by the general revenue laws of this state.

Source: Laws 1921, c. 116, art. IV, § 45, p. 491; C.S.1922, § 3671; C.S.1929, § 14-548; R.S.1943, § 14-557; Laws 1963, c. 50, § 1, p. 227; Laws 2022, LB800, § 203. Operative date July 21, 2022.

A ''perpetual lien'' is not intended to continue delinquent taxes in force against real estate after a statute has barred a right of action. Rather, the word ''perpetual'' means that the lien conferred by the statute is fixed upon the land itself and is primary, overriding all other liens, since a sale thereunder if duly made would extinguish all other claims. Real estate can still be discharged from a perpetual lien by payment, sale for taxes, or the neglect of the purchaser to foreclose the lien until after the statute of limitations has run. INA Group v. Young, 271 Neb. 956, 716 N.W.2d 733 (2006).

Levy of city and school district taxes in city of metropolitan class computed on actual valuation and assessment as returned by county assessor and as equalized for preceding year. Chicago & N.W. Ry. Co. v. Bauman, 132 Neb. 67, 271 N.W. 256 (1937).

Party buying land subject to lien for special taxes cannot ask to have such taxes set aside as invalid. Eddy v. City of Omaha, 72 Neb. 550, 101 N.W. 25 (1904), modified on rehearing 72 Neb. 559, 102 N.W. 70 (1905), modified on rehearing, 72 Neb. 561, 103 N.W. 692 (1905).

A special assessment against realty creates no personal liability; it is optional with owner whether he will pay assessment or allow land to be sold for it. City of Omaha v. State ex rel. Metzger, 69 Neb. 29, 94 N.W. 979 (1903).

Taxes are a perpetual lien upon real estate superior to all others until paid. Mutual Benefit Life Ins. Co. v. Siefken, 1 Neb. Unof. 860, 96 N.W. 603 (1901).

14-558 Taxes; collection by sale; city treasurer; duties.

It shall be the duty of the city treasurer of a city of the metropolitan class to proceed as soon as practicable after any personal tax becomes delinquent, or prior to such delinquency whenever the city treasurer shall believe that any person, firm, or corporation is about to dispose of any personal property on

which a tax has been levied, to collect such delinquent taxes by sale of the personal property of such person, firm, or corporation if any such property can be found within such city. No demand of taxes shall be necessary, but it shall be the duty of every person owing any municipal tax or taxes in such cities to pay such taxes at the city treasurer's office.

Source: Laws 1921, c. 116, art. IV, § 47, p. 492; C.S.1922, § 3673; C.S.1929, § 14-550; R.S.1943, § 14-558; Laws 2022, LB800, § 204.
Operative date July 21, 2022.

14-559 Taxes and assessments; payment; collection; suit; powers of city treasurer.

All municipal taxes and all special assessments in cities of the metropolitan class shall be paid in cash. The city treasurer may sue for the recovery of any tax, in the name of city treasurer, or in the name of the city, and shall have all the rights of a creditor in such suits and in the enforcement of a judgment or decree.

Source: Laws 1921, c. 116, art. IV, § 48, p. 492; C.S.1922, § 3674; C.S.1929, § 14-551; R.S.1943, § 14-559; Laws 2022, LB800, § 205.
Operative date July 21, 2022.

14-560 Taxes; warrant for collection.

No warrant, other than the warrant of the county clerk issued to the county treasurer under the general revenue law, shall be necessary for the collection of the general taxes levied for cities of the metropolitan class.

Source: Laws 1921, c. 116, art. IV, § 49, p. 492; C.S.1922, § 3675; C.S.1929, § 14-552; R.S.1943, § 14-560; Laws 2022, LB800, § 206.
Operative date July 21, 2022.

Section is a part of the general scheme of municipal taxation established by 1905 act, and construction given thereto by taxing authorities as requiring levy to be computed on valuation and assessment as returned by county assessor and as equalized for preceding year, should be followed. Chicago & N.W. Ry. Co. v. Bauman, 132 Neb. 67, 271 N.W. 256 (1937).

14-561 Repealed. Laws 2007, LB 206, § 5.

14-562 Taxes; defects in levy or assessment; relevy; correction of errors.

Whenever any municipal tax or taxes levied by a city of the metropolitan class for any former year shall remain uncollected because of any defect, error, or irregularity in either the power or manner of making the levy of such taxes, it shall be lawful for the city council to again levy a tax upon the property so delinquent in lieu of such former tax or taxes, and at the same rate, and upon the same assessment as such former tax or taxes were levied, and such tax or taxes shall be inserted in the tax list, and shall be collected in the same manner as other general taxes. The city council may, at any time, correct any error or defect, or supply any omission in the assessment or listing of any property subject to municipal tax made for the purpose of taxation for the then current fiscal year, and may require any and all persons to appear and answer under

oath as to their possession or control of personal property subject to municipal taxation.

Source: Laws 1921, c. 116, art. IV, § 51, p. 493; C.S.1922, § 3677; C.S.1929, § 14-554; R.S.1943, § 14-562; Laws 1972, LB 1046, § 3; Laws 2022, LB800, § 207.
Operative date July 21, 2022.

(f) INVESTMENTS; SUPPLIES; OFFICIAL NEWSPAPER

14-563 City funds; authorized investments.

Notwithstanding any provision of a home rule charter, funds of a city of the metropolitan class available for such purpose may be invested in securities of the United States, the State of Nebraska, the city, a county in which such city is located, in the securities of municipally owned and operated public utility property and plants of such city, or in the same manner as funds of the State of Nebraska are invested, except that the city treasurer may purchase certificates of deposit from and make time deposits in banks, capital stock financial institutions, or qualifying mutual financial institutions selected as depositories of city funds. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1921, c. 116, art. IV, § 52, p. 493; C.S.1922, § 3678; C.S.1929, § 14-555; R.S.1943, § 14-563; Laws 1987, LB 440, § 1; Laws 1989, LB 33, § 10; Laws 2001, LB 362, § 11; Laws 2022, LB800, § 208.
Operative date July 21, 2022.

Cross References

Surplus funds, investment, see section 77-2341.

14-564 City supplies; advertisement for bids; sheltered workshop; negotiation; contracts.

(1) During the month of December of each year, the city council of a city of the metropolitan class shall prepare, or cause to be prepared, a list of all supplies required for each office and department or board of the city for the ensuing year. Such list shall designate clearly the quantity and quality of the articles required, but shall not specify the particular product of any manufacturer.

(2)(a) The city council may negotiate directly with a sheltered workshop for such supplies pursuant to section 48-1503.

(b) If the city council does not negotiate with a sheltered workshop, the city clerk shall advertise for bids on the articles in such list for at least three successive days in the official newspaper. Such advertisement shall state, in substance, that at a certain stated regular meeting of the city council, bids will be received and opened for all such supplies, and it shall be sufficient in such advertisement to describe the articles in a general way and refer to such list as being on file in the office of the city clerk. Such bids shall be received at the first regular meeting of the city council held after such advertisement has been completed, and awards shall be made at the next regular meeting thereafter. Bidders shall not be required to bid on all items included in such estimates, nor

upon all items in one class. The city council may accept the lowest and best bid on any item or items and may reject any and all bids.

(3) Other or additional supplies not exceeding the value of one hundred dollars for any officer or board may be purchased on the request of the mayor and city comptroller.

Source: Laws 1921, c. 116, art. IV, § 53, p. 493; C.S.1922, § 3679; C.S.1929, § 14-556; R.S.1943, § 14-564; Laws 1984, LB 540, § 6; Laws 2022, LB800, § 209.
Operative date July 21, 2022.

Fiscal year for city of metropolitan class begins on January 1, and ends on December 31 of each year. Johnson v. Leidy, 86 Neb. 818, 126 N.W. 514 (1910).

City is liable for reasonable value of benefits received and retained under a contract which it was authorized to make, but which was void because irregularly executed. Cathers v. Moores, 78 Neb. 13, 110 N.W. 689 (1907).

14-565 City supplies; equipment; described.

The list described in section 14-564 shall include any and all supplies or equipment for public improvements, street cleaning or repairs, or horses, hose, engines, vehicles, or implements used by the park board, fire department, or police department. A list of such supplies may be made and advertised for at any time upon request of the proper board or department, but subject to such section as to the bids and newspapers and advertisement for bids. Such list shall not include the books, documents, or other papers or material purchased by the library board.

Source: Laws 1921, c. 116, art. IV, § 54, p. 494; C.S.1922, § 3680; C.S.1929, § 14-557; R.S.1943, § 14-565; Laws 2022, LB800, § 210.
Operative date July 21, 2022.

14-566 Matters published by city; printing; official newspaper; how designated; failure to print notice.

(1) At the beginning of the term of each city council in a city of the metropolitan class, the city clerk shall advertise for three days in each daily legal newspaper in or of general circulation in the city for proposals for publishing in such daily legal newspaper, published in the English language and otherwise meeting the requirements fixed by state law, all public advertisements, notices, ordinances, resolutions, city council proceedings, and all other matter published by the city. In addition to considering the rate bid for printing, the city clerk may give weight to the character of circulation, quality of printing, plant, delivery service, and responsibility of the bidders in determining the lowest and best bid. The city clerk may also consider the advantage of the same plant's combining publication of ordinances and providing an ordinance publishing service to subscribers.

(2) The city clerk shall notify the city council of the city clerk's selection of the official newspaper, which shall continue as such throughout the term of the city council. The city council may order additional publication of any of its proceedings in any other qualified legal newspaper or publication.

(3) If at any time, the designated official newspaper ceases regular publication or is not giving service satisfactory to the city council, the city clerk shall recommend another qualified legal newspaper to the city council and, upon

approval of the city council, such legal newspaper shall become the official newspaper.

(4) In case of refusal or neglect of the official newspaper to publish any required notice, the city clerk shall post such notice on the city's website and in a conspicuous place in the city hall, and the city clerk shall keep a written record of such posting. The record of such posting shall be evidence that such posting was done as required and shall be sufficient to fulfill the requirement of publication.

(5) The city shall not be without an official newspaper more than thirty days at a time.

Source: Laws 1921, c. 116, art. IV, § 55, p. 494; C.S.1922, § 3681; C.S.1929, § 14-558; R.S.1943, § 14-566; Laws 1969, c. 62, § 1, p. 371; Laws 2022, LB800, § 211.
Operative date July 21, 2022.

Effect of posting notice raised but not decided. Chicago & N.W. Ry. Co. v. City of Omaha, 156 Neb. 705, 57 N.W.2d 753 (1953).

(g) PENSION BOARD

14-567 Pension board; duties; retirement plan reports.

(1) Each December 31, for a defined benefit plan the pension board or its designee shall prepare and electronically file an annual report with the Auditor of Public Accounts and the Nebraska Retirement Systems Committee of the Legislature. If such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, the report shall be in addition to the reports required by section 13-2402. The report shall be on a form prescribed by the Auditor of Public Accounts and shall include, but not be limited to, the following information:

(a) The levels of benefits of participants in the plan, the number of members who are eligible for a benefit, the total present value of such members' benefits, and the funding sources which will pay for such benefits; and

(b) A copy of a full actuarial analysis of each such defined benefit plan. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization which offers investment advice or provides investment management services to the retirement plan.

(2) The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the pension board does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the pension board. All costs of the audit shall be paid by the pension board.

Source: Laws 1998, LB 1191, § 5; Laws 1999, LB 795, § 3; Laws 2011, LB474, § 3; Laws 2014, LB759, § 4; Laws 2017, LB415, § 3; Laws 2022, LB800, § 212.
Operative date July 21, 2022.

(h) MUNICIPAL BIDDING

14-568 Municipal bidding procedure; waiver; when.

Notwithstanding any home rule charter or statutory provisions or restrictions, any municipal bidding procedure may be waived by the city council of a city of the metropolitan class when required to comply with any federal grant, loan, or program.

Source: Laws 2011, LB335, § 1; Laws 2022, LB800, § 213.
Operative date July 21, 2022.

ARTICLE 6

POLICE DEPARTMENT

(a) GENERAL PROVISIONS

Section
14-601. Police; appointment; powers and duties of city council.
14-602. Chief of police; duties.
14-603. Chief of police; jurisdiction for service of process; bail.
14-604. Chief of police; riots; subject to order of mayor; arrest powers.
14-605. Chief of police; powers.
14-606. Police officer; bond; arrest powers.
14-607. Police officer; reports; duties.
14-608. Repealed. Laws 1965, c. 78, § 2.
14-609. Police; removal.

(b) POLICE RELIEF AND PENSION FUND

14-610. Repealed. Laws 1973, LB 420, § 1.
14-611. Repealed. Laws 1973, LB 420, § 1.
14-612. Repealed. Laws 1973, LB 420, § 1.
14-613. Repealed. Laws 1973, LB 420, § 1.
14-614. Repealed. Laws 1973, LB 420, § 1.
14-615. Repealed. Laws 1973, LB 420, § 1.
14-616. Repealed. Laws 1973, LB 420, § 1.
14-617. Repealed. Laws 1973, LB 420, § 1.
14-618. Repealed. Laws 1973, LB 420, § 1.
14-619. Repealed. Laws 1973, LB 420, § 1.
14-620. Repealed. Laws 1973, LB 420, § 1.

(a) GENERAL PROVISIONS

14-601 Police; appointment; powers and duties of city council.

The city council of a city of the metropolitan class shall have the power and the duty to appoint a chief of police and all other members of the police force to the extent that funds may be available to pay their salaries and as may be necessary to protect citizens and property and maintain peace and good order.

Source: Laws 1921, c. 116, art. V, § 1, p. 496; C.S.1922, § 3682; C.S. 1929, § 14-601; R.S.1943, § 14-601; Laws 2022, LB800, § 214.
Operative date July 21, 2022.

Until particular event happens upon which pension is to be paid to police officer, there is no vested right in pension payments. Lickert v. City of Omaha, 144 Neb. 75, 12 N.W.2d 644 (1944).

Provisions of this article are subject to amendment by ordinance adopted by city council and submitted to electors of city of metropolitan class operating under home rule charter. Munch v. Tusa, 140 Neb. 457, 300 N.W. 385 (1941).

Provisions relative to appointment and discharge of fireman are substantially identical with those relating to policeman. Shandy v. City of Omaha, 127 Neb. 406, 255 N.W. 477 (1934).

City is empowered to appoint police officers and require them to give bonds, and persons injured by negligent acts may recover thereon, although bond runs to the city as obligee. Curnyn v. Kinney, 119 Neb. 478, 229 N.W. 894 (1930).

A member of the police department of a metropolitan city is an officer and in the service of a governmental agency of the

state. Rooney v. City of Omaha, 104 Neb. 260, 177 N.W. 166 (1920), opinion modified 105 Neb. 447, 181 N.W. 143 (1920).

When policeman of metropolitan city is assigned work outside duties of peace officer, but falling within corporate functions of municipality, he becomes servant thereof in its corporate capacity. Levin v. City of Omaha, 102 Neb. 328, 167 N.W. 214 (1918).

14-602 Chief of police; duties.

The chief of police of a city of the metropolitan class shall have the supervision and control of the police force of the city. All orders relating to the direction of the police force shall be given through the chief of police or, in the chief's absence, the officer in charge of the police force.

Source: Laws 1921, c. 116, art. V, § 2, p. 496; C.S.1922, § 3683; C.S. 1929, § 14-602; R.S.1943, § 14-602; Laws 2022, LB800, § 215. Operative date July 21, 2022.

It is the duty of mayor and chief of police to interfere actively to prevent open violation of law, and compliance may be compelled by mandamus. Moores v. State ex rel. Dunn, 71 Neb. 522, 99 N.W. 249 (1904).

14-603 Chief of police; jurisdiction for service of process; bail.

The chief of police of a city of the metropolitan class shall be the principal ministerial officer of the city. His or her jurisdiction and that of his or her officers in the service of process in all criminal cases and in cases for the violation of city ordinances shall be coextensive with the county. The chief of police or his or her officers shall take bail in all bailable cases for the appearance before the county court of persons under arrest, but such bail shall be subject to the approval of the county court.

Source: Laws 1921, c. 116, art. V, § 3, p. 496; C.S.1922, § 3684; C.S. 1929, § 14-603; R.S.1943, § 14-603; Laws 1972, LB 1032, § 97; Laws 1984, LB 13, § 2; Laws 2022, LB800, § 216. Operative date July 21, 2022.

Jurisdiction of chief of police is restricted to county in which metropolitan city is located. Barton v. City of Omaha, 180 Neb. 752, 145 N.W.2d 444 (1966).

14-604 Chief of police; riots; subject to order of mayor; arrest powers.

The chief of police of a city of the metropolitan class shall be subject to the orders of the mayor in the suppression of riots, tumultuous disturbances, and breaches of the peace. He or she may pursue and arrest any person fleeing from justice in any part of the state and shall bring all persons arrested by him or her before the county court for trial or examination. He or she may receive and execute any proper authority for the arrest and detention of criminals fleeing or escaping from other places or states.

Source: Laws 1921, c. 116, art. V, § 4, p. 496; C.S.1922, § 3685; C.S. 1929, § 14-604; R.S.1943, § 14-604; Laws 1972, LB 1032, § 98; Laws 1984, LB 13, § 3; Laws 2022, LB800, § 217. Operative date July 21, 2022.

This section does not apply to proceedings instituted by complaint for violation of state statutes. Koop v. City of Omaha, 173 Neb. 633, 114 N.W.2d 380 (1962).

It is the duty of the chief of police to interfere for the prevention of public violation of the law, and this duty may be enforced by mandamus. Moores v. State ex rel. Dunn, 71 Neb. 522, 99 N.W. 249 (1904).

14-605 Chief of police; powers.

The chief of police of a city of the metropolitan class shall have, in the discharge of his or her proper duties, like powers and be subject to like responsibilities as a county sheriff in similar cases.

Source: Laws 1921, c. 116, art. V, § 5, p. 497; C.S.1922, § 3686; C.S. 1929, § 14-605; R.S.1943, § 14-605; Laws 2022, LB800, § 218. Operative date July 21, 2022.

The purpose of this section is to give chief of police the same powers and responsibilities to enforce the law as that given to sheriffs; it does not make the chief of police liable for the acts of policemen. Webber v. Andersen, 187 Neb. 9, 187 N.W.2d 290 (1971).

The chief of police has same duty as sheriff to interfere for prevention of public violation of the law. Moores v. State ex rel. Dunn, 71 Neb. 522, 99 N.W. 249 (1904).

14-606 Police officer; bond; arrest powers.

Each police officer of a city of the metropolitan class shall give a bond, shall have the same powers as a county sheriff in arresting all offenders against the laws of the state, and may arrest all offenders against the ordinances of the city with or without a warrant. In discharge of their duties as police officers, they shall be subject to the immediate orders of the chief of police.

Source: Laws 1921, c. 116, art. V, § 6, p. 497; C.S.1922, § 3687; C.S. 1929, § 14-606; R.S.1943, § 14-606; Laws 1988, LB 1030, § 2; Laws 2022, LB800, § 219.
Operative date July 21, 2022.

A policeman is an officer who is required to give an official bond, and premium is payable from general funds of the city. Wheeler v. City of Omaha, 111 Neb. 494, 196 N.W. 894 (1924).

Policeman is required to give bond as a public officer. Rooney v. City of Omaha, 104 Neb. 260, 177 N.W. 166 (1920).

14-607 Police officer; reports; duties.

It shall be the duty of police officers of a city of the metropolitan class to report to the chief of police any defect in any sidewalk, street, alley, or other public highway, the existence of ice or dangerous obstructions on the walks or streets, a break in any sewer, any disagreeable odors emanating from inlets to sewers, or any violation of the health laws or ordinances of the city. Suitable forms for making such reports shall be furnished to the chief of police by the city department of public works. Such reports shall be transmitted by the chief of police to the proper officers of the city. In case of any violation of laws or ordinances, the police officer making report shall report the facts to the appropriate prosecuting authority. Such police officers shall also perform such other duties as may be required by ordinance.

Source: Laws 1921, c. 116, art. V, § 7, p. 497; C.S.1922, § 3688; C.S. 1929, § 14-607; R.S.1943, § 14-607; Laws 2014, LB464, § 1; Laws 2022, LB800, § 220.
Operative date July 21, 2022.

14-608 Repealed. Laws 1965, c. 78, § 2.

14-609 Police; removal.

All members or appointees of the police department of a city of the metropolitan class shall be subject to removal by the city council in the same manner as provided for members of the fire department.

Source: Laws 1921, c. 116, art. V, § 9, p. 499; C.S.1922, § 3690; C.S. 1929, § 14-609; R.S.1943, § 14-609; Laws 2022, LB800, § 221.
Operative date July 21, 2022.

Cross References

Removal of firefighters, see section 14-704.

All members of police department are subject to removal by city council in the same manner as provided for members of fire department. State ex rel. Sutton v. Towl, 127 Neb. 848, 257 N.W. 263 (1934).

(b) POLICE RELIEF AND PENSION FUND

14-610 Repealed. Laws 1973, LB 420, § 1.

14-611 Repealed. Laws 1973, LB 420, § 1.

14-612 Repealed. Laws 1973, LB 420, § 1.

14-613 Repealed. Laws 1973, LB 420, § 1.

14-614 Repealed. Laws 1973, LB 420, § 1.

14-615 Repealed. Laws 1973, LB 420, § 1.

14-616 Repealed. Laws 1973, LB 420, § 1.

14-617 Repealed. Laws 1973, LB 420, § 1.

14-618 Repealed. Laws 1973, LB 420, § 1.

14-619 Repealed. Laws 1973, LB 420, § 1.

14-620 Repealed. Laws 1973, LB 420, § 1.

ARTICLE 7
FIRE DEPARTMENT

Section
14-701. Transferred to section 14-102.02.
14-702. Fire department; officers, employees; appointment; criminal history record information check.
14-703. Repealed. Laws 1965, c. 78, § 2.
14-704. Fire department; officers; removal; causes; procedure.
14-705. Repealed. Laws 1973, LB 420, § 1.
14-706. Repealed. Laws 1973, LB 420, § 1.
14-707. Repealed. Laws 1973, LB 420, § 1.
14-708. Repealed. Laws 1973, LB 420, § 1.
14-709. Authorized arson investigator; classified as a peace officer; when; powers.

14-701 Transferred to section 14-102.02.

14-702 Fire department; officers, employees; appointment; criminal history record information check.

The city council of a city of the metropolitan class shall employ a chief of the fire department and all other officers, firefighters, and assistants as may be proper and necessary for the effective service of the fire department to the extent and limit that the funds provided by the city council for that purpose will allow. Each fire department applicant shall, as a condition of employment, submit to the city a full set of his or her fingerprints along with written permission authorizing the city to forward the set of fingerprints to the Federal Bureau of Investigation, through either the Nebraska State Patrol or the city police department, to facilitate a check of his or her criminal history record

information by the Identification Division of the Federal Bureau of Investigation. The fingerprint check provided for in this section shall be solely for the purpose of confirming information provided by the fire department applicant.

Source: Laws 1921, c. 116, art. VI, § 5, p. 506; C.S.1922, § 3706; C.S.1929, § 14-706; R.S.1943, § 14-702; Laws 1994, LB 1025, § 1; Laws 2022, LB800, § 222.
Operative date July 21, 2022.

14-703 Repealed. Laws 1965, c. 78, § 2.

14-704 Fire department; officers; removal; causes; procedure.

(1) All members or appointees of the fire department of a city of the metropolitan class shall be subject to removal by the city council under such rules and regulations as may be adopted, and whenever the city council shall consider and declare such removal necessary for the proper management or discipline, or for the more effective working or service of the fire department.

(2) No member or officer of the fire department shall be discharged for political reasons, nor shall a person be employed by such department for political reasons.

(3) Before a firefighter can be discharged, charges must be filed against such firefighter before the city council and a hearing had on such charges, and an opportunity given such firefighter to defend against such charges, but this provision shall not be construed to prevent peremptory suspension of such member by such member's superiors in case of misconduct or neglect of duty or disobedience to orders. Whenever any such suspension is made, charges shall be at once filed before the city council by the person ordering such suspension, and a trial had on such charges.

(4) The city council shall have the power to enforce the attendance of witnesses and the production of books and papers, and to administer oaths to such witnesses in the same manner and with like effect and under the same penalties as in the case of magistrates exercising civil and criminal jurisdiction under the statutes of the State of Nebraska. The city council shall have such other powers and perform such other duties as may be authorized or defined by ordinance.

Source: Laws 1921, c. 116, art. VI, § 6, p. 506; C.S.1922, § 3707; C.S.1929, § 14-707; R.S.1943, § 14-704; Laws 2022, LB800, § 223.
Operative date July 21, 2022.

Dismissal is necessary when the employee lacks the qualifications of the position, fails in the performance of his duties, or has been shown to be an unfit or improper person to hold the position. Lewis v. City of Omaha, 153 Neb. 11, 43 N.W.2d 419 (1950).

This section makes members of fire department subject to removal by city council under conditions specified herein. State ex rel. Sutton v. Towl, 127 Neb. 848, 257 N.W. 263 (1934).

Members of police or fire department may be discharged on economic grounds without notice of hearing. State ex rel. Gieseke v. Moores, 63 Neb. 301, 88 N.W. 490 (1901); Moores v. State ex rel. Shoop, 54 Neb. 486, 74 N.W. 823 (1898).

Passage of resolution abolishing office and notification of incumbent that his services were no longer needed is sufficient to constitute discharge of officer. Moores v. State ex rel. Cox, 4 Neb. Unof. 235, 93 N.W. 986 (1903).

14-705 Repealed. Laws 1973, LB 420, § 1.

14-706 Repealed. Laws 1973, LB 420, § 1.

14-707 Repealed. Laws 1973, LB 420, § 1.

14-708 Repealed. Laws 1973, LB 420, § 1.

14-709 Authorized arson investigator; classified as a peace officer; when; powers.

(1) Any person who is a sworn member of an organized and paid fire department of any city of the metropolitan class and who is an authorized arson investigator for such city in order to determine the cause, origin, and circumstances of fires shall be classified as a peace officer while on duty and in the course of any such investigation. Such person shall possess the same powers of arrest, search, seizure, and the securing and service of warrants as police officers of such city.

(2) While on duty and in the course of any such investigation, an arson investigator may carry such weapons as may be necessary but only if such investigator has satisfactorily completed a training program offered or approved by the Nebraska Police Standards Advisory Council or equivalent training offered by such city and certified by the city council. Such training need not include exposure to vehicle and traffic law, traffic control and accident investigation, or first aid.

(3) An arson investigator shall, in addition to having been an active member of an organized fire department for a minimum of six years, meet the minimum qualifications and training standards established by the city for all firefighters.

(4) Any arson investigator granted the powers enumerated in this section may exercise such powers only while on duty and during the course of investigating the cause, origin, and circumstances of a fire.

Source: Laws 1981, LB 205, § 1; Laws 1994, LB 971, § 1; Laws 2022, LB800, § 224.
Operative date July 21, 2022.

ARTICLE 8

MISCELLANEOUS PROVISIONS

Section
14-801. Repealed. Laws 1969, c. 138, § 28.
14-802. Repealed. Laws 1969, c. 138, § 28.
14-803. Repealed. Laws 1969, c. 138, § 28.
14-804. Claims; allowance; procedure; appeal.
14-805. Claims; disallowance; notice.
14-806. Claims; time limit for allowing; payment prohibited, when.
14-807. Property damage assessments; appeal; exclusive remedy; effect.
14-808. Corporate name; process; service upon city.
14-809. Actions; intervention; waiver of service; confession of judgment; power of city attorney.
14-810. Actions; failure of city to defend; right of taxpayer; costs.
14-811. Franchises; grant; modification; procedure; notice; election.
14-812. City property; exemption from taxation, execution; judgments, how paid.
14-813. Awards, orders of council; appeals from; procedure; indigent appellant.
14-814. Utilities district; torts or obligations; exemption of city from liability.
14-815. Utilities district; powers and duties exclusive.
14-816. City records; inspection; reports of city officers.
14-817. Bond; cost, appeal, supersedeas, injunction, attachment; when not required.
14-818. Paunch manure, rendering, or sewage plant; refuse area; establish; residential area; restriction.

14-801 Repealed. Laws 1969, c. 138, § 28.

14-802 Repealed. Laws 1969, c. 138, § 28.

14-803 Repealed. Laws 1969, c. 138, § 28.

14-804 Claims; allowance; procedure; appeal.

Before any claim against a city of the metropolitan class, except officers' salaries earned within twelve months or interest on the public debt is allowed, the claimant or the claimant's agent or attorney shall verify such claim by affidavit, stating that the several items mentioned in such affidavit are just and true and the services charged or articles furnished, as the case may be, were rendered or furnished as charged in such affidavit, and that the amount charged and claimed in such affidavit is due and unpaid, allowing all just credits. The city comptroller and the comptroller's deputy shall have authority to administer oaths and affirmations in all matters required by this section. All claims against the city must be filed with the city clerk. When the claim of any person against the city is disallowed, in whole or in part, by the city council, such person may appeal from the decision of such city council to the district court of the same county, as provided in section 14-813.

Source: Laws 1921, c. 116, art. VII, § 4, p. 509; C.S.1922, § 3712; C.S.1929, § 14-804; R.S.1943, § 14-804; Laws 2022, LB800, § 225.
Operative date July 21, 2022.

1. Claims required to be filed
2. Claims not required to be filed
3. Provisions of warrant
4. Miscellaneous

1. Claims required to be filed

The filing of a claim pursuant to this section is a procedural prerequisite to the prosecution of a wage claim against a city in the district court. Hawkins v. City of Omaha, 261 Neb. 943, 627 N.W.2d 118 (2001).

Statute requiring all claims against city to be filed with city comptroller includes claims for pension and disability and is mandatory. Schmitt v. City of Omaha, 191 Neb. 608, 217 N.W.2d 86 (1974).

Claim for premiums on policemen's bond must be filed. Wheeler v. City of Omaha, 111 Neb. 494, 196 N.W. 894 (1924).

2. Claims not required to be filed

This section does not require filing of claim with city council for refund of taxes paid under protest. City of Omaha v. Hodgskins, 70 Neb. 229, 97 N.W. 346 (1903).

To collect award of damages on condemnation of property, it is not necessary to file claim with city council. City of Omaha v. Clarke, 66 Neb. 33, 92 N.W. 146 (1902).

3. Provisions of warrant

Warrant is not invalidated by unauthorized recitals. Rogers v. City of Omaha, 82 Neb. 118, 117 N.W. 119 (1908).

Warrant properly issued by the city is written acknowledgment of indebtedness and a promise to pay and arrests running of statute of limitations. Rogers v. City of Omaha, 80 Neb. 591, 114 N.W. 833 (1908).

Warrant which is a valid obligation, payable out of general fund, is not invalidated by a recital that it is payable out of a special fund which city is not authorized to create. Abrahams v. City of Omaha, 80 Neb. 271, 114 N.W. 161 (1907).

4. Miscellaneous

Application of the Wage Payment and Collection Act does not affect the need to satisfy the requisites of pursuing a claim against a city of the metropolitan class. Thompson v. City of Omaha, 235 Neb. 346, 455 N.W.2d 538 (1990).

The filing of a claim pursuant to this section is a procedural prerequisite to the prosecution of wage claims against the city. Thompson v. City of Omaha, 235 Neb. 346, 455 N.W.2d 538 (1990).

Requirements of this section must be met before a claim can be filed against the city. Litigants cannot confer subject matter jurisdiction on a judicial tribunal by either acquiescence or consent. Coffelt v. City of Omaha, 223 Neb. 108, 388 N.W.2d 467 (1986).

A condition precedent to seeking relief in district court on a claim against a city of the metropolitan class is that claimants must file a claim with the city comptroller. Halbleib v. City of Omaha, 222 Neb. 844, 388 N.W.2d 60 (1986).

Generally, before any court may acquire jurisdiction over a claim against a city of the metropolitan class, the procedures set out in this section must have been followed. Bolan v. Boyle, 222 Neb. 826, 387 N.W.2d 690 (1986).

A partial estimate by city engineer on paving contract and by him reported for approval and allowance is a claim against city and appeal will lie. Lobeck v. State ex rel. Nebraska Bitulithic Co., 72 Neb. 595, 101 N.W. 247 (1904).

14-805 Claims; disallowance; notice.

Upon the rejection or disallowance of any claim against a city of the metropolitan class, it shall be the duty of the city clerk to notify the claimant or

the claimant's agent or attorney of such fact, unless such notice is waived in writing. Such notice may be served by any person authorized by the city clerk and must be served within ten days from the rejection of such claim. The notice and return of such notice shall be filed with the city clerk.

Source: Laws 1921, c. 116, art. VII, § 5, p. 510; C.S.1922, § 3713; C.S.1929, § 14-805; R.S.1943, § 14-805; Laws 2022, LB800, § 226.
Operative date July 21, 2022.

14-806 Claims; time limit for allowing; payment prohibited, when.

No bill or claim for labor, salary, or material, or for extra service or overtime or account of any kind against a city of the metropolitan class, after such bill or claim has been adversely reported on and rejected by the city, and no bill, account, or claim, not presented or claimed within eighteen months after such bill, account, or claim was incurred and payable, shall be allowed or authorized to be paid by the mayor and city council except through the judgment of a court of competent jurisdiction. These provisions shall apply equally to any modification of the same account in whatever form such account may be presented.

Source: Laws 1921, c. 116, art. VII, § 6, p. 510; C.S.1922, § 3714; C.S.1929, § 14-806; R.S.1943, § 14-806; Laws 2022, LB800, § 227.
Operative date July 21, 2022.

This section operates as a statute of limitations for wage claims against a city of the metropolitan class. Under this section, an administration may pay a timely wage claim rejected by a prior administration if ordered to do so by a court. Thompson v. City of Omaha, 235 Neb. 346, 455 N.W.2d 538 (1990).

This section is a limitation upon the power and jurisdiction of the council itself. Redell v. City of Omaha, 80 Neb. 178, 113 N.W. 1054 (1907).

14-807 Property damage assessments; appeal; exclusive remedy; effect.

In all cases of damage arising under the provisions of sections 14-101 to 14-2004, the party or parties whose property is damaged or sought to be taken by the provisions of such sections shall have the right to appeal from such assessment of damages, but such appeal shall not delay the appropriation of the property sought to be taken, delay the improvement proposed, or retard the change of grade sought to be made. In no case shall a city of the metropolitan class be liable for the costs or interest on such appeal, unless the party appealing shall be adjudged entitled, upon the appeal, to a greater amount of damage than was awarded. The remedy by appeal allowed by this section shall be exclusive.

Source: Laws 1921, c. 116, art. VII, § 7, p. 510; C.S.1922, § 3715; C.S.1929, § 14-807; R.S.1943, § 14-807; Laws 2022, LB800, § 228.
Operative date July 21, 2022.

Owner failing to appeal from special assessment is estopped to question same unless council without jurisdiction. Burkley v. City of Omaha, 102 Neb. 308, 167 N.W. 72 (1918).

It is necessary to the taking of an appeal that petition be filed in the district court within thirty days after the final order of the council assessing damages. Creighton University v. City of Omaha, 91 Neb. 486, 136 N.W. 829 (1912).

Damages need not be definitely fixed and ascertained before the appropriation of property, as act expressly provides that appeal shall not delay the taking, and until the appeal is determined, the amount of damages involved is a matter of conjecture. City of Omaha v. State ex rel. Metzger, 69 Neb. 29, 94 N.W. 979 (1903).

14-808 Corporate name; process; service upon city.

The corporate name of each city of the metropolitan class shall be The City of ....., and all process or notice whatever affecting any such city shall be served in the manner provided for service of a summons in a civil action.

Source: Laws 1921, c. 116, art. VII, § 8, p. 511; C.S.1922, § 3716; C.S.1929, § 14-808; R.S.1943, § 14-808; Laws 1983, LB 447, § 3; Laws 2022, LB800, § 229.
Operative date July 21, 2022.

Notice must be in writing and be served on mayor or acting mayor or in their absence from city, upon city clerk. Gordon v. City of Omaha, 77 Neb. 556, 110 N.W. 313 (1906).

14-809 Actions; intervention; waiver of service; confession of judgment; power of city attorney.

The city attorney of a city of the metropolitan class shall have the power to:

(1) Intervene in any suit or proceeding when the rights of the city are involved or where the city is a proper party;

(2) Waive the issuance and service of summons and may enter a voluntary appearance when in the city attorney's opinion the interests of the city may require it; and

(3) Confess judgment, but only when authorized by the city council.

Source: Laws 1921, c. 116, art. VII, § 9, p. 511; C.S.1922, § 3717; C.S.1929, § 14-809; R.S.1943, § 14-809; Laws 2022, LB800, § 230.
Operative date July 21, 2022.

Nebraska private citizens cannot maintain action under Clayton Act for alleged injury to municipality arising from alleged Sherman Act violations. Cosentino v. Carver-Greenfield Corp., 433 F.2d 1274 (8th Cir. 1970).

14-810 Actions; failure of city to defend; right of taxpayer; costs.

If a city of the metropolitan class shall refuse or neglect to defend any suit at law or in equity brought against such city, any resident taxpayer may defend such suit on behalf of such city at the cost of the city, not including attorney's fees.

Source: Laws 1921, c. 116, art. VII, § 10, p. 511; C.S.1922, § 3718; C.S.1929, § 14-810; R.S.1943, § 14-810; Laws 2022, LB800, § 231.
Operative date July 21, 2022.

Resident taxpayer may commence and prosecute to judgment an equitable action for enforcement of a claim on behalf of city which its officers have refused to enforce. Pedersen v. Westroads, Inc., 189 Neb. 236, 202 N.W.2d 198 (1972).

If the city neglects or refuses to defend an action, a resident taxpayer may do so on behalf of the city. Lynch v. City of Omaha, 153 Neb. 147, 43 N.W.2d 589 (1950).

Where duly constituted representatives of city refuse or neglect to defend action, resident taxpayer may defend at cost of city, not including attorney's fees. Ash v. City of Omaha, 152 Neb. 393, 41 N.W.2d 386 (1950).

Where taxpayer with notice fails to appeal, he cannot thereafter bring injunction. Morse v. City of Omaha, 67 Neb. 426, 93 N.W. 734 (1903).

14-811 Franchises; grant; modification; procedure; notice; election.

Any ordinance or resolution granting, extending, changing, or modifying the terms and conditions of a franchise in a city of the metropolitan class shall not be passed until at least four weeks have elapsed after its introduction or proposal, and not until such resolution or ordinance has been published daily for at least two weeks in the official newspaper of the city. Such ordinance or resolution shall not become effective or binding until submitted to the electors

and approved by a majority vote of such electors. Submission to the electors shall be made as provided in section 14-202. A new franchise shall not hereafter be granted or any modification or extension of any existing franchise made unless an annuity or royalty be provided and reserved to the city to be based either upon a fixed reasonable amount per year or a fixed percentage of the earnings under the operation of the franchise so granted, and not then until such franchise has been submitted to a vote and approved by the electors at a general city election or special election called for that purpose.

Source: Laws 1921, c. 116, art. VII, § 11, p. 511; C.S.1922, § 3719; C.S.1929, § 14-811; R.S.1943, § 14-811; Laws 2022, LB800, § 232.
Operative date July 21, 2022.

The power granted by section 18-2204 to the city to levy by ordinance an occupation tax upon community antenna television service is a special statute which takes precedence over the general provisions of this section requiring submission of a franchise annuity or royalty to the electorate. Hall v. Cox Cable of Omaha, Inc., 212 Neb. 887, 327 N.W.2d 595 (1982).

A lease-purchase agreement relating to financing of a waste disposal plant and authorized by section 14-365.05 is not a franchise that violates this section. Cosentino v. City of Omaha, 186 Neb. 407, 183 N.W.2d 475 (1971).

Defendant's use of streets in supplying steam and chilled water for purposes of heating and air conditioning did not require granting of franchise. Dunmar Inv. Co. v. Northern Nat. Gas Co., 185 Neb. 400, 176 N.W.2d 4 (1970).

State Railway Commission may regulate operation of taxicab company in Omaha. In re Yellow Cab & Baggage Co., 126 Neb. 138, 253 N.W. 80 (1934).

A permit to operate auto buses on streets of a city is not a franchise, and need not be submitted to a vote of the people. Omaha & Council Bluffs St. Ry. Co. v. City of Omaha, 114 Neb. 483, 208 N.W. 123 (1926).

Taxpayer cannot maintain suit to enjoin city from granting franchise to telephone company unless taxation will be increased thereby. Clark v. Interstate Independent Telephone Co., 72 Neb. 883, 101 N.W. 977 (1904).

Ordinance extending time for purchase of plant of water company is an extension of a franchise and must be submitted to popular vote. Poppleton v. Moores, 62 Neb. 851, 88 N.W. 128 (1901), affirmed on rehearing, 67 Neb. 388, 93 N.W. 747 (1903).

Ordinance or resolutions for building sidewalks should be published. Ives v. Irey, 51 Neb. 136, 70 N.W. 961 (1897).

14-812 City property; exemption from taxation, execution; judgments, how paid.

Lands, houses, money, debts due to a city of the metropolitan class, property, and assets of every description belonging to any such city, shall be exempt from taxation, execution, and sale. Judgments against such city shall be paid out of the judgment fund, or out of a special fund created for such purpose.

Source: Laws 1921, c. 116, art. VII, § 12, p. 512; C.S.1922, § 3720; C.S.1929, § 14-812; R.S.1943, § 14-812; Laws 2022, LB800, § 233.
Operative date July 21, 2022.

Cross References

Constitutional provisions:
For constitutional provisions, see Article VIII, section 2, Constitution of Nebraska.

Municipal waterworks of Omaha is not taxable. City of Omaha v. Douglas County, 96 Neb. 865, 148 N.W. 938 (1914).

Term ''special fund'' refers to a levy made for payment of specific judgments when general levy is insufficient. City of Omaha v. State ex rel. Metzger, 69 Neb. 29, 94 N.W. 979 (1903).

14-813 Awards, orders of council; appeals from; procedure; indigent appellant.

(1) Whenever the right of appeal is conferred by sections 14-101 to 14-2004, the procedure, unless otherwise provided, shall be substantially as provided in this section.

(2) The claimant or appellant shall, within twenty days after the date of the order complained of, execute a bond to the city of the metropolitan class with sufficient surety to be approved by the city clerk, conditioned for the faithful

prosecution of such appeal, and the payment of all costs adjudged against the appellant. Such bond shall be filed in the office of the city clerk.

(3) Upon the request of the appellant and the payment by the appellant to the city clerk or his or her designee of the estimated cost of preparation of the transcript, the city clerk shall cause a complete transcript of the proceedings of the city relating to its decision to be prepared. The cost of preparing the transcript shall be calculated in the same manner as the calculation of the fee for a court reporter for the preparation of a bill of exceptions as specified by rules of practice prescribed by the Supreme Court. At such time as the completed transcript is presented to the appellant, the appellant shall pay the amount of the cost of preparation in excess of the estimated amount already paid or shall receive a refund of any amount in excess of the actual cost.

(4)(a) An appellant determined to be indigent shall not be required to pay a bond or any costs associated with such transcript preparation.

(b) For purposes of this section, indigent means the inability to financially pursue the appeal without prejudicing the appellant's ability to provide economic necessities for the appellant or the appellant's family. Indigency shall be determined by the court having jurisdiction over the appeal upon motion of the appellant. The court shall make a reasonable inquiry to determine the appellant's financial condition and shall consider such factors as the appellant's income, the availability to the appellant of other resources, including real and personal property, bank accounts, social security benefits, and unemployment or other benefits, the appellant's normal living expenses, the appellant's outstanding debts, the number and age of the appellant's dependents, and other relevant circumstances.

(5) It shall be the duty of the claimant or appellant to file a petition in the district court as in the commencement of an action within thirty days after the date of the order or award appealed from, and he or she shall also file such transcript before answer day. The proceedings of the district court shall thereafter be the same as on appeal from the county board.

(6) Any taxpayer may appeal from the allowance of any claim against the city by giving a bond and complying with this section.

(7) This section shall not be so construed as to prevent the city council from once reconsidering its action on any claim or award upon ten days' notice to the interested parties.

Source: Laws 1921, c. 116, art. VII, § 13, p. 512; C.S.1922, § 3721; C.S.1929, § 14-813; R.S.1943, § 14-813; Laws 2009, LB441, § 1; Laws 2022, LB800, § 234.
Operative date July 21, 2022.

Unless the Legislature or a city of the metropolitan class alters the procedure for a claimant or appellant to challenge a decision regarding an assessment, the procedure shall follow that which is specified in this section. Glasson v. Board of Equal. of City of Omaha, 302 Neb. 869, 925 N.W.2d 672 (2019).

A city council's disallowance of a claim because it accrued prior to eighteen months before the filing of the claim is not appealable. Thompson v. City of Omaha, 235 Neb. 346, 455 N.W.2d 538 (1990).

The action of the city council on claims for pension and disability is reviewable in the district court by way of petition in error or appeal. Schmitt v. City of Omaha, 191 Neb. 608, 217 N.W.2d 86 (1974).

Filing of transcript under this section is not jurisdictional. Adams v. City of Omaha, 179 Neb. 684, 139 N.W.2d 885 (1966).

Right to amend appeal bond in eminent domain proceedings is conferred. Ballantyne Co. v. City of Omaha, 173 Neb. 229, 113 N.W.2d 486 (1962).

Railroad company could enjoin illegal special assessment. Chicago & N.W. Ry. Co. v. City of Omaha, 156 Neb. 705, 57 N.W.2d 753 (1953).

Condemnees may appeal to the district court from award of appraisers. Trial in district court is no different with respect to rules of evidence than in any other condemnation proceeding. Papke v. City of Omaha, 152 Neb. 491, 41 N.W.2d 751 (1950).

Petition must be filed in district court within thirty days after final order of council assessing damage. Creighton University v. City of Omaha, 91 Neb. 486, 136 N.W. 829 (1912).

An appeal from a special assessment by a metropolitan-class city taken as specified in this section means that proceedings from a district court shall be the same as on appeal from a county board, and under sections 25-1901 through 25-1908, that means appeal is taken by petition in error and the review is solely of the record made before the tribunal whose action is being reviewed. Jackson v. Board of Equal. of City of Omaha, 10 Neb. App. 330, 630 N.W.2d 680 (2001).

14-814 Utilities district; torts or obligations; exemption of city from liability.

A city of the metropolitan class shall not be liable for any tort or act of negligence of the metropolitan utilities district or of any other utility board or body with full and independent powers of control, or for torts or acts of negligence of any of the officers or employees of such metropolitan utilities district or other board or body which may in any way result from, grow out of, or be connected with the maintenance, management, control, or operation of any water system or plant, any gas system or plant, or any other public utility system or plant which the city may acquire or own but which has been placed in the control of and is maintained and operated by any such metropolitan utilities district or other board or body. The city shall not be liable for the debts and obligations of any such metropolitan utilities district or other board or body incurred in connection with or in any way pertaining to the maintenance, management, control, or operation of any such plant or system by such district, board, or body of control with full authority over the revenue and earnings of such system or plant.

Source: Laws 1921, c. 116, art. VII, § 14, p. 512; C.S.1922, § 3722; C.S.1929, § 14-814; R.S.1943, § 14-814; Laws 1992, LB 746, § 61; Laws 2022, LB800, § 235.
Operative date July 21, 2022.

14-815 Utilities district; powers and duties exclusive.

Nothing in sections 14-101 to 14-138, 14-201 to 14-229, 14-360 to 14-376, 14-501 to 14-556, 14-601 to 14-609, 14-702, 14-704, and 14-804 to 14-816 shall be construed so as to interfere with the powers, duties, authority, and privileges that are conferred and imposed upon the metropolitan utilities district as prescribed by law, but all matters relating to the powers, duties, authority, and privileges of such metropolitan utilities district so far as elsewhere conferred, imposed, and defined by law shall be exclusive and paramount.

Source: Laws 1921, c. 116, art. VII, § 14 1/2, p. 513; C.S.1922, § 3723; C.S.1929, § 14-815; R.S.1943, § 14-815; Laws 1992, LB 746, § 62.

The Metropolitan Utilities District has exclusive authority over the routine inspection of gas furnaces, and this authority is not shared with the City of Omaha. McNally v. City of Omaha, 273 Neb. 558, 731 N.W.2d 573 (2007).

14-816 City records; inspection; reports of city officers.

All citizens of this state and other persons interested in the examination of the records kept by any officer of a city of the metropolitan class, are authorized to examine such records free of charge during the hours the respective offices may be kept open for the ordinary transaction of business. The city council shall have the power to require from any officer of the city at any time a report in detail of the transactions in such person's office, or any matter connected with such transactions.

Source: Laws 1921, c. 116, art. VII, § 15, p. 513; C.S.1922, § 3724; C.S.1929, § 14-816; R.S.1943, § 14-816; Laws 2022, LB800, § 236.
Operative date July 21, 2022.

14-817 Bond; cost, appeal, supersedeas, injunction, attachment; when not required.

No bond for cost, appeal, supersedeas, injunction, or attachment shall be required of any city of the metropolitan class or of any officer, board, commission, head of any department, agent, or employee of any such city in any proceeding or court action in which such city of the metropolitan class or its officer, board, commission, head of department, agent, or employee is a party litigant in such person's or entity's official capacity.

Source: Laws 1961, c. 31, § 1, p. 151; Laws 2022, LB800, § 237.
Operative date July 21, 2022.

An appeal by a party described in this section operates as a supersedeas of a lower court judgment. Cummings Enterprises v. Shukert, 231 Neb. 370, 436 N.W.2d 199 (1989).

14-818 Paunch manure, rendering, or sewage plant; refuse area; establish; residential area; restriction.

After July 19, 1980, no person shall establish a paunch manure, rendering, or sewage treatment plant or facility, or an area where refuse, garbage, or rubbish is disposed of within three thousand three hundred feet of a residential area in a city of the metropolitan class. For purposes of this section, residential area means an area designated as residential under the zoning ordinances of such city.

Source: Laws 1980, LB 853, § 15; Laws 2022, LB800, § 238.
Operative date July 21, 2022.

ARTICLE 9

WATER DEPARTMENT

Section
14-901. Repealed. Laws 1992, LB 746, § 79.
14-902. Repealed. Laws 1992, LB 746, § 79.
14-903. Repealed. Laws 1992, LB 746, § 79.
14-904. Repealed. Laws 1992, LB 746, § 79.
14-905. Repealed. Laws 1992, LB 746, § 79.
14-906. Repealed. Laws 1992, LB 746, § 79.
14-907. Repealed. Laws 1992, LB 746, § 79.
14-908. Repealed. Laws 1992, LB 746, § 79.
14-909. Repealed. Laws 1992, LB 746, § 79.
14-910. Repealed. Laws 1992, LB 746, § 79.
14-911. Repealed. Laws 1992, LB 746, § 79.
14-912. Repealed. Laws 1992, LB 746, § 79.
14-913. Repealed. Laws 1992, LB 746, § 79.
14-914. Repealed. Laws 1992, LB 746, § 79.
14-915. Repealed. Laws 1992, LB 746, § 79.
14-916. Repealed. Laws 1992, LB 746, § 79.
14-917. Repealed. Laws 1992, LB 746, § 79.
14-918. Repealed. Laws 1992, LB 746, § 79.

14-901 Repealed. Laws 1992, LB 746, § 79.

14-902 Repealed. Laws 1992, LB 746, § 79.

14-903 Repealed. Laws 1992, LB 746, § 79.

14-904 Repealed. Laws 1992, LB 746, § 79.

14-905 Repealed. Laws 1992, LB 746, § 79.

14-906 Repealed. Laws 1992, LB 746, § 79.

14-907 Repealed. Laws 1992, LB 746, § 79.

14-908 Repealed. Laws 1992, LB 746, § 79.

14-909 Repealed. Laws 1992, LB 746, § 79.

14-910 Repealed. Laws 1992, LB 746, § 79.

14-911 Repealed. Laws 1992, LB 746, § 79.

14-912 Repealed. Laws 1992, LB 746, § 79.

14-913 Repealed. Laws 1992, LB 746, § 79.

14-914 Repealed. Laws 1992, LB 746, § 79.

14-915 Repealed. Laws 1992, LB 746, § 79.

14-916 Repealed. Laws 1992, LB 746, § 79.

14-917 Repealed. Laws 1992, LB 746, § 79.

14-918 Repealed. Laws 1992, LB 746, § 79.

ARTICLE 10
WATER DISTRICTS

Section
14-1001. Transferred to section 14-2101.
14-1002. Transferred to section 14-2112.
14-1003. Transferred to section 14-2102.
14-1004. Transferred to section 14-2103.
14-1005. Transferred to section 14-2104.
14-1006. Transferred to section 14-2105.
14-1007. Transferred to section 14-2106.
14-1008. Transferred to section 14-2113.
14-1009. Transferred to section 14-2120.
14-1010. Transferred to section 14-2118.
14-1011. Transferred to section 14-2119.
14-1012. Transferred to section 14-2107.
14-1013. Transferred to section 14-2137.
14-1014. Repealed. Laws 1957, c. 21, § 3.
14-1015. Transferred to section 14-2114.
14-1016. Transferred to section 14-2121.
14-1017. Transferred to section 14-2148.
14-1018. Transferred to section 14-2108.
14-1019. Transferred to section 14-2149.
14-1020. Transferred to section 14-1101.01.
14-1021. Transferred to section 14-2110.
14-1022. Transferred to section 14-2111.
14-1023. Transferred to section 14-2126.
14-1024. Transferred to section 14-2127.
14-1025. Repealed. Laws 1957, c. 21, § 3.
14-1026. Transferred to section 14-2143.
14-1027. Transferred to section 14-2144.
14-1028. Transferred to section 14-2140.
14-1029. Transferred to section 14-2142.

Section
14-1030. Transferred to section 14-2152.
14-1031. Repealed. Laws 1992, LB 746, § 79.
14-1032. Transferred to section 14-2157.
14-1033. Repealed. Laws 1984, LB 975, § 14.
14-1034. Transferred to section 14-2145.
14-1035. Transferred to section 14-2146.
14-1036. Transferred to section 14-2147.
14-1037. Repealed. Laws 1992, LB 746, § 79.
14-1038. Transferred to section 14-2123.
14-1039. Transferred to section 14-2124.
14-1040. Repealed. Laws 1992, LB 746, § 79.
14-1041. Transferred to section 14-2138.
14-1042. Transferred to section 14-2139.

14-1001 Transferred to section 14-2101.

14-1002 Transferred to section 14-2112.

14-1003 Transferred to section 14-2102.

14-1004 Transferred to section 14-2103.

14-1005 Transferred to section 14-2104.

14-1006 Transferred to section 14-2105.

14-1007 Transferred to section 14-2106.

14-1008 Transferred to section 14-2113.

14-1009 Transferred to section 14-2120.

14-1010 Transferred to section 14-2118.

14-1011 Transferred to section 14-2119.

14-1012 Transferred to section 14-2107.

14-1013 Transferred to section 14-2137.

14-1014 Repealed. Laws 1957, c. 21, § 3.

14-1015 Transferred to section 14-2114.

14-1016 Transferred to section 14-2121.

14-1017 Transferred to section 14-2148.

14-1018 Transferred to section 14-2108.

14-1019 Transferred to section 14-2149.

14-1020 Transferred to section 14-1101.01.

14-1021 Transferred to section 14-2110.

14-1022 Transferred to section 14-2111.

14-1023 Transferred to section 14-2126.

14-1024 Transferred to section 14-2127.

14-1025 Repealed. Laws 1957, c. 21, § 3.

14-1026 Transferred to section 14-2143.

14-1027 Transferred to section 14-2144.

14-1028 Transferred to section 14-2140.

14-1029 Transferred to section 14-2142.

14-1030 Transferred to section 14-2152.

14-1031 Repealed. Laws 1992, LB 746, § 79.

14-1032 Transferred to section 14-2157.

14-1033 Repealed. Laws 1984, LB 975, § 14.

14-1034 Transferred to section 14-2145.

14-1035 Transferred to section 14-2146.

14-1036 Transferred to section 14-2147.

14-1037 Repealed. Laws 1992, LB 746, § 79.

14-1038 Transferred to section 14-2123.

14-1039 Transferred to section 14-2124.

14-1040 Repealed. Laws 1992, LB 746, § 79.

14-1041 Transferred to section 14-2138.

14-1042 Transferred to section 14-2139.

ARTICLE 11

METROPOLITAN UTILITIES DISTRICT

Section

14-1101. Transferred to section 14-2153.
14-1101.01. Transferred to section 14-2109.
14-1102. Transferred to section 14-2115.
14-1102.01. Transferred to section 14-2154.
14-1103. Repealed. Laws 1992, LB 746, § 79.
14-1103.01. Transferred to section 14-2122.
14-1103.02. Transferred to section 14-2116.
14-1103.03. Transferred to section 14-2125.
14-1104. Transferred to section 14-2141.
14-1105. Transferred to section 14-2133.
14-1106. Repealed. Laws 1957, c. 22, § 1.
14-1107. Repealed. Laws 1957, c. 22, § 1.
14-1108. Transferred to section 14-2134.
14-1109. Transferred to section 14-2135.
14-1110. Transferred to section 14-2136.
14-1111. Transferred to section 14-2128.
14-1111.01. Transferred to section 14-2129.
14-1111.02. Transferred to section 14-2130.
14-1112. Transferred to section 14-2131.
14-1113. Transferred to section 14-2132.
14-1114. Transferred to section 14-2151.

Section
14-1115. Transferred to section 14-2150.
14-1116. Transferred to section 14-2155.
14-1117. Transferred to section 14-2156.

14-1101 Transferred to section 14-2153.

14-1101.01 Transferred to section 14-2109.

14-1102 Transferred to section 14-2115.

14-1102.01 Transferred to section 14-2154.

14-1103 Repealed. Laws 1992, LB 746, § 79.

14-1103.01 Transferred to section 14-2122.

14-1103.02 Transferred to section 14-2116.

14-1103.03 Transferred to section 14-2125.

14-1104 Transferred to section 14-2141.

14-1105 Transferred to section 14-2133.

14-1106 Repealed. Laws 1957, c. 22, § 1.

14-1107 Repealed. Laws 1957, c. 22, § 1.

14-1108 Transferred to section 14-2134.

14-1109 Transferred to section 14-2135.

14-1110 Transferred to section 14-2136.

14-1111 Transferred to section 14-2128.

14-1111.01 Transferred to section 14-2129.

14-1111.02 Transferred to section 14-2130.

14-1112 Transferred to section 14-2131.

14-1113 Transferred to section 14-2132.

14-1114 Transferred to section 14-2151.

14-1115 Transferred to section 14-2150.

14-1116 Transferred to section 14-2155.

14-1117 Transferred to section 14-2156.

ARTICLE 12
INTERSTATE BRIDGES

Section
14-1201. Bridges; acquisition; construction; maintenance; operation; powers of city; jurisdiction; exercise of powers.
14-1202. Bridges; powers; joint action authorized.

Section
14-1203. Bridges; utility franchises; power to grant.
14-1204. Bridges; conveyance to state or United States for free bridge; conditions.
14-1205. Bridges; acquisition; construction; power may be assigned; conditions.
14-1206. Bridges; purchase or lease; how conducted.
14-1207. Bridges; right of eminent domain; procedure.
14-1208. Repealed. Laws 1951, c. 101, § 127.
14-1209. Repealed. Laws 1951, c. 101, § 127.
14-1210. Repealed. Laws 1951, c. 101, § 127.
14-1211. Bridges; condemnation; award; submission to electors.
14-1212. Bridges; condemnation; award; payment; vesting of title.
14-1213. Repealed. Laws 1951, c. 101, § 127.
14-1214. Repealed. Laws 1951, c. 101, § 127.
14-1215. Bridges; acquisition; preliminary expenses; bonds; amount.
14-1216. Bridges; acquisition; general or revenue bonds authorized.
14-1217. Bridges; acquisition; revenue bonds; power to issue.
14-1218. Revenue bonds; interest; maturity.
14-1219. Revenue bonds; form; denominations; place of payment; powers of city.
14-1220. Revenue bonds; sale; terms.
14-1221. Revenue bonds; proceeds; management and use.
14-1222. Revenue bonds; city may purchase for investment or retirement.
14-1223. Revenue bonds; temporary bonds.
14-1224. Revenue bonds; trust agreements; terms; conditions.
14-1225. Bridges; state and political subdivisions; competing bridges; limitations upon, for protection of bondholders.
14-1226. Bridges; tolls; determination and use; rights of bondholders.
14-1227. Bridge commission; members; term; vacancies; compensation; officers and employees; office; powers and duties.
14-1228. Bridge commission; bridge plans and specifications.
14-1229. Bridge commission; bids required; when.
14-1230. Bridge commission; plans and specifications; submission to city council.
14-1231. Bridge commission; contracts; authorization of bonds required.
14-1232. Bridge commission; bridges; control and management.
14-1233. Bridge commission; records; reports; city council; examinations.
14-1234. Bridge commission; members; employees; removal.
14-1235. Bridge commission; accounts; audits.
14-1236. Bridge commission; bonds of officers, depositories; insurance.
14-1237. Bridge commission; funds; investment.
14-1238. Bridge commission; property; purchase authorized.
14-1239. Bridge commission; property; condemnation; procedure.
14-1240. Bridges; obstructions to construction; removal; damages; payment.
14-1241. Bridges; damage to property; payment; how ascertained.
14-1242. Bridges; injury to public ways, works, or utilities; repair.
14-1243. Bridge commission; dissolution.
14-1244. Joint bridge commission; organization; powers and duties.
14-1245. Joint bridge commission; bonds; sale; proceeds; how expended.
14-1246. Joint bridge commission; property; title; in whom vested; disagreements; arbitration.
14-1247. Bridges; joint purchase.
14-1248. Bridges; joint condemnation; procedure.
14-1249. Bridges; joint construction; joint management and control.
14-1250. Bridges; rights of cities in adjoining states.
14-1251. Bridges; acquisition; elections; rules governing.
14-1252. Bridges; cities with home rule charter; powers.

14-1201 Bridges; acquisition; construction; maintenance; operation; powers of city; jurisdiction; exercise of powers.

(1) Any city of the metropolitan class, including one governed under a home rule charter, is authorized and empowered to:

(a) Acquire by purchase, condemnation, bargain and sale, lease, sublease, gift or otherwise, any bridge or viaduct, including approaches and avenues, rights-

of-way, or easements of access to approaches, necessary real and personal property incident to such bridges or viaducts, and franchises, special privileges, leases, and contracts in connection with such bridges or viaducts;

(b) Construct and contract for the construction of bridges or viaducts, including all appurtenances to such bridges or viaducts, facilities, and property; and

(c) Repair, maintain, extend, renew, reconstruct, replace, enlarge, mortgage or lease, and to use and operate any such bridges or viaducts as toll or free bridges, either or both from time to time for public use and travel of all kinds by railroads, street railways, bus lines, vehicles, and pedestrians, and other uses, any or all as may be determined by the city council.

(2) The city may use such bridges or viaducts for public utility purposes, and fix the rates of toll or the charges for the use of such bridges or viaducts, and grant nonexclusive franchises for use of such bridges or viaducts for public utility purposes upon such terms and conditions as may be prescribed by ordinance.

(3) The city may exercise all such powers within the city limits and five miles outside the city limits within the State of Nebraska, and any adjoining state, and across any navigable or nonnavigable stream forming the boundary between such states after having obtained authority, if any be necessary, from such states and from the United States.

(4) The city may exercise such powers directly through the city council or any committee of the city council or through a bridge commission created as provided in sections 14-1227 and 14-1244 to 14-1246, or part any one and part any other.

Source: Laws 1929, c. 176, § 1, p. 608; C.S.1929, § 14-1201; R.S.1943, § 14-1201; Laws 2022, LB800, § 239.
Operative date July 21, 2022.

Right of city of Omaha to construct bridge across Missouri River and issue revenue bonds payable from bridge tolls upheld. Kirby v. Omaha Bridge Commission, 127 Neb. 382, 255 N.W. 776 (1934).

14-1202 Bridges; powers; joint action authorized.

Any power granted by sections 14-1201 to 14-1252 to a city of the metropolitan class may be exercised by the city independently or in cooperation with or aid of similar action by any other city or any county in Nebraska, any city or county in an adjoining state, the State of Nebraska, any adjoining state, or the government of the United States, when such other political unit has been authorized by law to exercise the necessary powers. Such joint action may be directly by the city council through the medium of a joint bridge commission subject to the same conditions provided in such sections for independent action.

Source: Laws 1929, c. 176, § 2, p. 609; C.S.1929, § 14-1202; R.S.1943, § 14-1202; Laws 2022, LB800, § 240.
Operative date July 21, 2022.

14-1203 Bridges; utility franchises; power to grant.

A city of the metropolitan class, through its city council, is authorized and empowered to grant franchises for the nonexclusive use of bridges acquired under sections 14-1201 to 14-1252 to public utilities upon such terms, condi-

tions, and for such consideration as such city may impose, whether incident to or part of the purchase of an existing bridge and rights of utilities in connection with such bridge, or otherwise, and to extend the duration or to amend the terms and conditions of such franchise. In the case of interstate bridges, any such grant shall be made by the city council by ordinance and no vote of the electors of the city shall be required. In no case shall such a grant be made by any bridge commission.

Source: Laws 1929, c. 176, § 3, p. 609; C.S.1929, § 14-1203; R.S.1943, § 14-1203; Laws 2022, LB800, § 241.
Operative date July 21, 2022.

14-1204 Bridges; conveyance to state or United States for free bridge; conditions.

In the event that the State of Nebraska, an adjoining state, the government of the United States, either, any or all of them, should agree to take over any bridge acquired by a city of the metropolitan class or in course of construction under sections 14-1201 to 14-1252 and thereafter maintain and operate such bridge as a free bridge at its or their expense, then such city is authorized to convey such bridge on such conditions to such party or parties. Such conveyance shall not be made unless and until all outstanding bonds issued to finance the bridge have been paid and canceled.

Source: Laws 1929, c. 176, § 4, p. 609; C.S.1929, § 14-1204; R.S.1943, § 14-1204; Laws 2022, LB800, § 242.
Operative date July 21, 2022.

14-1205 Bridges; acquisition; construction; power may be assigned; conditions.

(1) Any city of the metropolitan class may grant the exclusive right to purchase an existing bridge or to construct a new bridge, and to maintain any such bridge within a distance not exceeding one mile on each side of the bridge to be so purchased or constructed, for the period necessary to reimburse cost plus not exceeding eight percent of such cost for financing charges, together with interest upon such cost and charges, but in no event to exceed ten years, subject to the condition that at the termination of such period, such bridge shall become the sole property of the public and thereafter be maintained and operated by the city as a toll or free bridge as such city may determine from time to time in harmony with the other provisions of sections 14-1201 to 14-1252 and the laws of the United States.

(2) Such grant shall be made in the same manner and subject to the same conditions as may be provided in the home rule charter of such city for the granting of franchises. Any such grant or assignment shall by operation of law be subject to the following conditions:

(a) The number of officers and employees and the salaries, wages, and compensation of such officers and employees shall be reasonable;

(b) No person shall be permitted free use of the bridge or use at discriminatory toll;

(c) Tolls shall be both adequate to hasten payment for the bridge and reasonable to the public;

(d) Financing costs shall be reasonable and the city may impose requirements and safeguards as to the conservation of funds and insurance of property;

(e) Complete statements of operations and finances shall be filed with the city clerk on bond interest dates upon completion of the bridge and upon delivery of such bridge to the city; and

(f) The city shall have power to require or itself perform audits and examine the books and call for any reports at any time.

(3) The city may enforce these obligations in any court of competent jurisdiction.

(4) Any such assignment shall by operation of law be subject to the conditions that the plans and specifications, the location, size, type, and method of construction, the boundaries and approaches and the estimates of cost of construction and acquisition shall first be submitted to the city council and receive approval before any construction may commence or any contract for construction or for financing such construction be entered into.

Source: Laws 1929, c. 176, § 5, p. 609; C.S.1929, § 14-1205; R.S.1943, § 14-1205; Laws 2022, LB800, § 243.
Operative date July 21, 2022.

14-1206 Bridges; purchase or lease; how conducted.

(1) If any city of the metropolitan class desires to purchase, lease, or sublease any existing bridge and shall have received any such authority as may be necessary from the government of the United States, the city council may determine the fair value of such bridge, the appraised value of which shall not exceed two million dollars, including all interests of any nature in such bridge, and may by written resolution tentatively offer the owners of such bridge jointly the price so determined.

(2) If all such owners within ninety days thereafter shall file with the city clerk of such city a duly authorized and properly executed written tentative acceptance of such offer, binding themselves to accept such offer and to assign such lease or sublease or convey good and complete title by warranty deed when and if the necessary funds shall be provided for such offer, then upon the filing of such acceptance, the city council may submit to the electors of such city, at a special election called for that purpose or at any general election of such city or of the State of Nebraska within one hundred and twenty days after the filing of such acceptance, the question whether such purchase shall be made at the price stated on the ballot and the city council be authorized to issue bonds of the kind or kinds stated in the proposition and in any such amount as may be required to provide the necessary funds. The proposition so submitted shall be carried if the majority of the electors voting on such proposition shall vote in favor of such proposition.

(3) No election and no vote of electors shall be required upon the question of acquiring by purchase, lease, or sublease any existing bridge or issuing revenue bonds, in an amount not to exceed two million dollars as authorized by section 14-1217, for the acquisition by purchase, lease, or sublease of any existing bridge, if the city council determines by a vote of a majority of its members to dispense with such election or vote of electors as to such question.

(4) If the proposition shall be carried at the election, or if the city council determines to dispense with such election, the tentative acceptance of the

owners of such bridge shall then become final and binding upon such owners and may be enforced in any court of competent jurisdiction.

(5) Such purchase may also be made subject to existing mortgages and the assumption of outstanding bonds.

(6) If repairs, reconditioning, or reconstruction shall be necessary to place any bridge so purchased or to be purchased in safe, efficient, or convenient condition, the city council may issue additional revenue bonds to provide funds for such purpose in an amount not to exceed fifteen percent of the purchase price of such bridge.

(7) Any proposition submitted to the electors shall be published on three consecutive days in the official newspaper of the city to be completed not less than ten days before the date of the election.

(8) If the city council determines to dispense with such election or vote of the electors, or if a proposition is submitted to a vote of the electors and carried at such election, the city council may exercise all power and authority reasonably necessary and incidental to the exercise of the powers granted in this section.

Source: Laws 1929, c. 176, § 6, p. 610; C.S.1929, § 14-1206; Laws 1935, c. 28, § 1, p. 123; C.S.Supp.,1941, § 14-1206; R.S.1943, § 14-1206; Laws 2022, LB800, § 244.
Operative date July 21, 2022.

14-1207 Bridges; right of eminent domain; procedure.

If any city of the metropolitan class desires to acquire any existing bridge or lease of such bridge or all interests in such bridge by the exercise of the power of eminent domain, and has received any such authority as necessary from the government of the United States, such city may exercise such power in such manner as Congress may require. If the manner is not prescribed by Congress, the procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1929, c. 176, § 7, p. 614; C.S.1929, § 14-1207; Laws 1935, c. 28, § 2, p. 124; C.S.Supp.,1941, § 14-1207; R.S.1943, § 14-1207; Laws 1951, c. 101, § 39, p. 463; Laws 2022, LB800, § 245.
Operative date July 21, 2022.

14-1208 Repealed. Laws 1951, c. 101, § 127.

14-1209 Repealed. Laws 1951, c. 101, § 127.

14-1210 Repealed. Laws 1951, c. 101, § 127.

14-1211 Bridges; condemnation; award; submission to electors.

(1) Within ninety days after a final condemnation award pursuant to section 14-1207 has been made, the city council of such city of the metropolitan class shall, if such city council elects to proceed further, introduce an ordinance providing for the submission to the electors of the city the question whether such award shall be confirmed and the property be taken and bonds of the kind or kinds determined by the city council, and stated upon the ballot, shall be issued in the amount of the award.

(2) Such proposition shall be submitted within ninety days after the ordinance becomes effective at a special election called for that purpose or at any general city or state election, and shall be carried if a majority of the electors voting on such proposition shall vote in favor of such proposition.

(3) No election and no vote of electors shall be required upon the question of acquiring by condemnation any bridge or issuing revenue bonds as authorized by section 14-1217 for the acquisition by condemnation of any existing bridge, if the city council determines by a vote of a majority of its members to dispense with such election or vote of electors as to such question.

Source: Laws 1929, c. 176, § 7, p. 615; C.S.1929, § 14-1207; Laws 1935, c. 28, § 2, p. 126; C.S.Supp.,1941, § 14-1207; R.S.1943, § 14-1211; Laws 1951, c. 101, § 40, p. 464; Laws 2022, LB800, § 246.
Operative date July 21, 2022.

14-1212 Bridges; condemnation; award; payment; vesting of title.

If a proposition is carried pursuant to section 14-1211, or if the city council of a city of the metropolitan class determines to dispense with such election, title to the property to be appropriated shall at once vest in such city, and the right to possession shall vest in such city as soon as money in the amount of such award is on deposit with the county judge.

Source: Laws 1929, c. 176, § 7, p. 616; C.S.1929, § 14-1207; Laws 1935, c. 28, § 2, p. 126; C.S.Supp.,1941, § 14-1207; R.S.1943, § 14-1212; Laws 1961, c. 370, § 1, p. 1144; Laws 2022, LB800, § 247.
Operative date July 21, 2022.

14-1213 Repealed. Laws 1951, c. 101, § 127.

14-1214 Repealed. Laws 1951, c. 101, § 127.

14-1215 Bridges; acquisition; preliminary expenses; bonds; amount.

(1) Notwithstanding any limitation or requirement contained in the city home rule charter of a city of the metropolitan class or imposed by other laws upon the limit of indebtedness, the issuance of bonds, the vote of the electors, or the exercise of the power of eminent domain in or by such city, the city council of such city may issue general obligation bonds to the amount of fifty thousand dollars, or any part thereof, in any one calendar year, to finance preliminary work, including investigation, soundings, employment of engineers and architects, and any other useful work, or appropriate expenses in connection with the proposed acquisition or construction of any bridge, bridges, or viaducts, and the preliminary financing of such bridges or viaducts.

(2) Such bonds shall be short-term bonds not to exceed three years, redeemable at par on any semiannual interest date upon ten days' notice by publication once in the official newspaper, and may be sold at a discount of not more than two percent. The proceeds of the sale of such bonds may be advanced by the city council to a bridge commission created as provided in sections 14-1227 and 14-1244 to 14-1246, to be expended by such commission in preliminary work or for costs of operation and maintenance or interest charges as may be necessary.

(3) Whether expended by the city council or by a bridge commission, the amount so expended shall constitute a prior and first lien upon revenue derived from the operation of the bridge in connection with which such expenditures have been made, and shall be repaid as soon as possible and used by the city council to purchase or redeem such short-term bonds.

(4) The amount of such bonds shall be included as a part of the cost of the bridge and shall be repaid out of the proceeds of any bonds issued for permanent financing.

Source: Laws 1929, c. 176, § 8, p. 617; C.S.1929, § 14-1208; R.S.1943, § 14-1215; Laws 1969, c. 51, § 21, p. 286; Laws 2022, LB800, § 248.
Operative date July 21, 2022.

14-1216 Bridges; acquisition; general or revenue bonds authorized.

(1) To finance any of the purposes or powers provided for in sections 14-1201 to 14-1252, the city council of a city of the metropolitan class shall in the first instance determine whether any purchase, condemnation, or construction authorized by such sections shall be financed by bonds which are general obligations of the city and which may also be supported by a lien or mortgage on the bridge itself or upon the collection of tolls to be derived from the use of such bridge, or both, or by revenue bonds as provided for in section 14-1217 and which are charged solely against the revenue to be derived from such bridge through the collection of tolls, or part one kind of bonds and part the other.

(2) The city council shall not have authority to purchase, condemn, nor construct any bridge nor to issue any bonds, except the preliminary bonds specially authorized by section 14-1215, until first authorized by the majority vote of the electors voting on such proposition, which proposition shall indicate the method of acquiring the bridge and the kind or kinds of bonds, at a special election called for that purpose or at any general city or state election. No election and no vote of electors shall be required upon the question of acquiring or constructing any bridge or issuing revenue bonds as authorized by section 14-1217, for the acquisition or construction of any bridge located more than one mile from any existing bridge, other than a railroad bridge, if the city council determines by a vote of the majority of its members to dispense with such election or vote of electors as to such question.

(3) This grant of power to issue bonds is in addition to any other power which may now have been or hereafter may be conferred upon such city, and shall be free from the restrictions now imposed by the home rule charter of the city upon the issuance of bonds and incurring of indebtedness, and subject only to the provisions of the Constitution of Nebraska.

(4) At an election under subsection (2) of this section, the proposition shall be separate as to the bonds for each bridge to be acquired or constructed and the amount of bonds may be either a specific amount equal to the estimated total cost of every nature plus not to exceed twenty-five percent, or may be general and authorize the issuance of bonds in such amount as may be found necessary from time to time to complete the acquisition, construction, and equipment of the bridge and all costs incident to such bridge, or may be part one and part the other.

(5) For all purposes of financing, the total cost of any improvement authorized by sections 14-1201 to 14-1252 may include every item of expense in connection with the project, and among other items shall also include the cost of acquiring every interest of every nature and of every person in any existing bridge; the cost of constructing the superstructure, roadway, and substructure of any bridge; the approaches and avenues or rights-of-way of access to such bridge; necessary real estate in connection with such bridge; toll houses; equipment of such bridge; franchises, easements, rights, or damages incident to or consequent upon the complete project expenses preliminary to construction, including investigation and expenses incident to such construction; prior to and during construction the proper traffic estimates; interest upon bonds; and all such other expenses as after the beginning of operation would be properly chargeable as cost of operation, maintenance, and repairs.

Source: Laws 1929, c. 176, § 9, p. 618; C.S.1929, § 14-1209; Laws 1931, c. 27, § 1, p. 107; C.S.Supp.,1941, § 14-1209; R.S.1943, § 14-1216; Laws 2022, LB800, § 249.
Operative date July 21, 2022.

14-1217 Bridges; acquisition; revenue bonds; power to issue.

A city of the metropolitan class is authorized to provide funds for the purposes of sections 14-1201 to 14-1252 by the issuance of revenue bonds of such city, the principal and interest of which bonds shall be payable solely from the special funds provided in such sections for such payment and as to which, as shall be recited in such bonds, the city shall incur no indebtedness of any kind or nature and to support which the city shall not pledge its credit nor its taxing power nor any part of such credit or taxing power. Such bonds may, at the option of the city council, be supported by mortgage or by deed of trust.

Source: Laws 1929, c. 176, § 10, p. 619; C.S.1929, § 14-1210; Laws 1931, c. 27, § 2, p. 108; C.S.Supp.,1941, § 14-1210; R.S.1943, § 14-1217; Laws 2022, LB800, § 250.
Operative date July 21, 2022.

14-1218 Revenue bonds; interest; maturity.

Revenue bonds issued pursuant to section 14-1217 shall bear interest payable semiannually, and shall mature in not more than twenty years from their date or dates and may be made redeemable at the option of the city of the metropolitan class issuing such bonds at not more than the par value of such bonds plus a premium of five percent, under such terms and conditions as the city council may fix prior to the issuance of such bonds.

Source: Laws 1929, c. 176, § 10, p. 619; C.S.1929, § 14-1210; Laws 1931, c. 27, § 2, p. 108; C.S.Supp.,1941, § 14-1210; R.S.1943, § 14-1218; Laws 1969, c. 51, § 22, p. 287; Laws 2022, LB800, § 251.
Operative date July 21, 2022.

14-1219 Revenue bonds; form; denominations; place of payment; powers of city.

The city council of a city of the metropolitan class shall provide the form of any bonds issued pursuant to section 14-1217, including coupons to be attached to such bonds to evidence interest payments, which bonds shall be signed by

the mayor and countersigned and registered by the city comptroller, under the city's seal, and which coupons shall bear the facsimile signature of such mayor and the city clerk, and shall fix the denomination or denominations of such bonds and the place or places of payment of the principal and interest of such bonds which may be at the office of the city treasurer or any bank or trust company in the State of Nebraska. All bonds authorized by sections 14-1215 to 14-1217 and 14-1223 shall be and shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the state without, however, constituting the revenue bonds authorized in such sections an indebtedness of the city issuing such bonds. The city council may provide for the registration of such bonds in the name of the owner as to the principal alone or as to both principal and interest.

Source: Laws 1929, c. 176, § 10, p. 619; C.S.1929, § 14-1210; Laws 1931, c. 27, § 2, p. 108; C.S.Supp.,1941, § 14-1210; R.S.1943, § 14-1219; Laws 1971, LB 4, § 3; Laws 2022, LB800, § 252.
Operative date July 21, 2022.

14-1220 Revenue bonds; sale; terms.

Revenue bonds issued pursuant to section 14-1217 by a city of the metropolitan class may be sold in such manner as the city council may determine to be for the best interests of the city, taking into consideration the financial responsibility of the purchaser, the terms and conditions of the purchase, and the availability of the proceeds of the bonds when required for payment of the costs. Any such sale shall be at not less than ninety-two cents on the dollar and accrued interest.

Source: Laws 1929, c. 176, § 10, p. 620; C.S.1929, § 14-1210; Laws 1931, c. 27, § 2, p. 109; C.S.Supp.,1941, § 14-1210; R.S.1943, § 14-1220; Laws 1969, c. 51, § 23, p. 287; Laws 2022, LB800, § 253.
Operative date July 21, 2022.

14-1221 Revenue bonds; proceeds; management and use.

The proceeds of any revenue bonds issued by a city of the metropolitan class pursuant to section 14-1217 shall be deposited in the first instance with the city treasurer and thereafter with such depositories as the bridge commission shall direct and the city council shall approve, shall be secured in such manner and to such extent as the city council and the bridge commission shall require, shall be used solely for the payment of the cost of such bridges and costs incident to such bridges, and shall be drawn upon over the signatures of the chairperson or vice-chairperson of the bridge commission and the secretary and treasurer of the bridge commission, and under such further restrictions, if any, as the city council may provide. If the face amount of such bonds, less any discount on the sale of such bonds, shall exceed such cost, the surplus shall be paid into such funds provided for the payment of the principal and interest of such bonds.

Source: Laws 1929, c. 176, § 10, p. 620; C.S.1929, § 14-1210; Laws 1931, c. 27, § 2, p. 109; C.S.Supp.,1941, § 14-1210; R.S.1943, § 14-1221; Laws 2022, LB800, § 254.
Operative date July 21, 2022.

14-1222 Revenue bonds; city may purchase for investment or retirement.

The city council of a city of the metropolitan class shall have the right to purchase for investment of other funds, and the bridge commission and the city council shall have the right to purchase for retirement and cancellation, any of such bonds that may be outstanding, at the market price, but at not exceeding one hundred five percent and accrued interest and not exceeding the price, if any, at which such bonds shall in the same year be redeemable, but all bonds redeemed or purchased out of funds provided by the sale of bridge bonds shall be canceled and shall not be reissued.

Source: Laws 1929, c. 176, § 10, p. 620; C.S.1929, § 14-1210; Laws 1931, c. 27, § 2, p. 109; C.S.Supp.,1941, § 14-1210; R.S.1943, § 14-1222; Laws 2022, LB800, § 255.
Operative date July 21, 2022.

14-1223 Revenue bonds; temporary bonds.

Prior to the preparation of definitive bonds issued pursuant to sections 14-1201 to 14-1222, the city council of a city of the metropolitan class may, under like restrictions, issue temporary bonds with or without coupons, exchangeable for definitive bonds upon the issuance of the latter.

Source: Laws 1929, c. 176, § 10, p. 620; C.S.1929, § 14-1210; Laws 1931, c. 27, § 2, p. 110; C.S.Supp.,1941, § 14-1210; R.S.1943, § 14-1223; Laws 2022, LB800, § 256.
Operative date July 21, 2022.

14-1224 Revenue bonds; trust agreements; terms; conditions.

(1) The city council of a city of the metropolitan class may enter into an agreement with any competent bank or trust company as trustee for the holders of bonds issued pursuant to sections 14-1201 to 14-1224, setting forth the duties of the city and the bridge commission in respect to the construction, maintenance, operation, and insurance on all funds, the insurance of money on hand or on deposit and the rights and remedies of such trustee and the holders of such bonds, and restricting the individual right of action of bondholders as is customary in trust agreements respecting bonds of corporations.

(2) Such trust agreement may:

(a) Contain such provisions for protecting and enforcing the rights and remedies of the trustee and approval by the original bond purchasers of the appointment of consulting engineers and of the security given by the bridge contractors and by any bank or trust company in which the proceeds of bonds or bridge tolls or other money of the bridge commission shall be deposited, and may provide that no contract for construction shall be made without the approval of the consulting engineers;

(b) Contain provisions and covenants that all or any deposited money shall be secured, as may be provided in such agreement, by surety company bonds or otherwise, and that investments of any or all money shall be prohibited, except as provided in such agreement, or shall be regulated as provided in such agreement, and that insurance upon the bridge and all property connected with such bridge, also use and occupancy insurance, shall be carried to the extent and under the conditions provided in such agreement; and

(c) Include a covenant that until the revenue bonds secured by such agreement and the interest on such bonds have been paid, the city will charge and

collect for transit over any or all other bridges, then or thereafter owned by such city, rates of tolls which may be fixed in such covenant or may be based upon principles and premises set forth in such covenant. The tolls collected pursuant to such covenant shall be applied as provided in section 14-1226, or for the acquisition or construction or the maintenance and operation, in whole or in part, of any bridge or bridges now owned or hereafter acquired or constructed by such city or as may be otherwise provided by law.

Source: Laws 1929, c. 176, § 10, p. 620; C.S.1929, § 14-1210; Laws 1931, c. 27, § 2, p. 110; C.S.Supp.,1941, § 14-1210; R.S.1943, § 14-1224; Laws 2022, LB800, § 257.
Operative date July 21, 2022.

14-1225 Bridges; state and political subdivisions; competing bridges; limitations upon, for protection of bondholders.

Neither the State of Nebraska nor any political subdivision thereof shall:

(1) Limit or restrict the rights and powers granted in sections 14-1201 to 14-1252 to the detriment of owners of outstanding bonds; or

(2) Authorize the construction or itself construct any competing bridge within a distance of one mile on either side of the bridge unless and until all of such bonds, together with the interest on such bonds, have been fully paid and canceled, unless other adequate provisions have been made for the protection and guaranty of such bonds.

Source: Laws 1929, c. 176, § 11, p. 621; C.S.1929, § 14-1211; R.S.1943, § 14-1225; Laws 2022, LB800, § 258.
Operative date July 21, 2022.

14-1226 Bridges; tolls; determination and use; rights of bondholders.

(1) The rates of tolls to be charged for the use of any bridge acquired or constructed under the provisions of sections 14-1201 to 14-1252 shall be fixed and adjusted as may be required by any law of the United States, and shall be so fixed and adjusted as to provide a fund sufficient to pay the interest and principal of any bonds issued under sections 14-1215 to 14-1217 and 14-1223 and to provide an additional fund to pay the cost of maintaining, repairing, and operating such bridge. Such rates may also be so fixed and adjusted as to provide a reserve fund reasonably sufficient to provide for the cost of the continued operation, supervision, maintenance, and repair of such bridge or bridges for a period not to exceed twenty-five years after the removal of toll charges.

(2) After the provision of such funds has been completed, such bridge or bridges shall be maintained and operated free of toll unless or until the charging of reasonable tolls is continued or resumed by the city council or bridge commission in order to finance reconstruction, extension, enlargement, replacement, or renewal of that particular bridge or in aid of the acquisition, construction, reconstruction, extension, enlargement, replacement, or renewal of any other bridge owned in whole or in part by such city.

(3) The owners of outstanding bonds issued to finance the bridge, or the authorized trustee for such owners, shall have the right to compel the fixing of adequate tolls by application to any court of competent jurisdiction.

(4) In case the city is at the same time providing for the payment of more than one bridge through the collection of tolls, the tolls upon such bridges may be maintained and adjusted so that each bridge shall assist the financing of the other.

Source: Laws 1929, c. 176, § 12, p. 622; C.S.1929, § 14-1212; R.S.1943, § 14-1226; Laws 2022, LB800, § 259.
Operative date July 21, 2022.

14-1227 Bridge commission; members; term; vacancies; compensation; officers and employees; office; powers and duties.

(1) When it has been determined by the city council of a city of the metropolitan class by resolution or ordinance in the exercise of its discretion, that in the exercise of the powers conferred by sections 14-1201 to 14-1252 it is expedient to create a bridge commission, the mayor of such city, with the approval of the city council, shall appoint four persons, who, with the mayor as an ex officio member, shall constitute a bridge commission which shall be a public body corporate and politic under the name of (insert name of city) Bridge Commission. Such bridge commission shall have power to contract, to sue and be sued, and to adopt a seal and alter such seal, but shall not have power to pledge the credit or taxing power of the city.

(2) No officer or employee of such city, except the mayor, whether holding a paid or unpaid office, shall be eligible to hold an appointment on such bridge commission. Such appointees shall be originally appointed for terms of four years. Upon the expiration of such terms, appointments shall be made in like manner except that the term of the four appointees shall be for one year, two years, three years, and four years, respectively. Not more than two of such appointees shall be members of the same political party. Vacancies shall be filled for any unexpired term in the same manner as the original appointment. Such bridge commission shall elect a chairperson and vice-chairperson from its members, and a secretary and treasurer who need not be a member of such commission. The members of the bridge commission shall receive no compensation and shall give such bonds as may be required from time to time by the city council. The bridge commission shall fix the compensation of the secretary and treasurer.

(3) The bridge commission shall have the power to establish bylaws, rules, and regulations for its own government, and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers. The bridge commission may employ engineering, architectural, and construction experts and inspectors and attorneys, and such other employees as may be necessary in its opinion, and fix their compensation, and such employees shall do such work as the bridge commission shall direct. All salaries and compensation for such employees shall be obligations against and be paid solely from funds provided under the authority of sections 14-1201 to 14-1252. The office, records, books, and accounts of the bridge commission shall always be maintained in the city which the bridge commission represents. Such bridge commission may be charged by the city council with the construction of new bridges or the operation, maintenance, repair, renewal, reconstruction, replacement, extension, or enlargement of existing bridges.

Source: Laws 1929, c. 176, § 13, p. 622; C.S.1929, § 14-1213; R.S.1943, § 14-1227; Laws 2022, LB800, § 260.
Operative date July 21, 2022.

14-1228 Bridge commission; bridge plans and specifications.

(1) Except as provided in subsection (2) of this section, the bridge commission of a city of the metropolitan class is authorized to:

(a) Prepare the necessary and proper plans and specifications for the construction of such bridges as may be designated by the city council;

(b) Select the location for such bridges, determine the size, type and method of construction of such bridges, and plan and fix the boundaries and approaches of such bridges;

(c) Make the necessary estimates of the probable cost of construction and the acquisition of the land and rights for the sites of the abutments and approaches and avenues or easements of access to such bridges in the manner provided by law;

(d) Enter into the necessary contracts to build and equip the entire bridges and the approaches and avenues or easements of access to such bridges;

(e) Build the superstructures and substructures and all parts of such bridges;

(f) Obtain and exercise such consent or authority as may be necessary from the government of the United States and the approval of the Secretary of the Army and Chief of Engineers; and

(g) Cause a survey and map to be made of all lands, structures, rights-of-way, franchises, easements, or other interests in lands, including lands under water and riparian rights owned by any person, corporation, or municipality, the acquisition of which may be deemed necessary for the construction of such bridges, and to cause such map and survey to be filed in its office. The members of the bridge commission, or its agents and employees, may enter upon such lands and structures and upon lands under water notwithstanding any interests in such lands or structures, for the purpose of making such surveys and maps.

(2) The bridge commission shall not proceed to exercise or carry out any authority or power granted by this section to bind such bridge commission beyond the extent to which money has been provided.

Source: Laws 1929, c. 176, § 14, p. 623; C.S.1929, § 14-1214; Laws 1931, c. 27, § 3, p. 111; C.S.Supp.,1941, § 14-1214; R.S.1943, § 14-1228; Laws 1972, LB 1046, § 4; Laws 2022, LB800, § 261. Operative date July 21, 2022.

14-1229 Bridge commission; bids required; when.

No contract or agreement for the acquisition, construction, reconstruction, repair, enlargement, extension, renewal, replacement, or equipment of any bridge as provided in section 14-1228 exceeding twenty-five hundred dollars shall be made without advertisement for public bids and an award made to the best bidder. The bridge commission shall have the authority to reject any or all bids.

Source: Laws 1929, c. 176, § 14, p. 624; C.S.1929, § 14-1214; Laws 1931, c. 27, § 3, p. 112; C.S.Supp.,1941, § 14-1214; R.S.1943, § 14-1229; Laws 2022, LB800, § 262.
Operative date July 21, 2022.

14-1230 Bridge commission; plans and specifications; submission to city council.

The plans and specifications, the location, size, type, and method of construction, the boundaries and approaches, and the estimates of cost of construction and acquisition, provided for in sections 14-1228 and 14-1229, shall be first submitted to the city council and receive the approval of the city council before final adoption by the bridge commission, which shall have no power to proceed further until such approval has been given.

Source: Laws 1929, c. 176, § 14, p. 624; C.S.1929, § 14-1214; Laws 1931, c. 27, § 3, p. 112; C.S.Supp.,1941, § 14-1214; R.S.1943, § 14-1230; Laws 2022, LB800, § 263.
Operative date July 21, 2022.

14-1231 Bridge commission; contracts; authorization of bonds required.

No contract for acquisition, construction, or incidents thereto, and no liabilities in connection with such contract shall be entered into or incurred by a bridge commission of a city of the metropolitan class until bonds to finance the project have been authorized by the electors of the city in the method provided in section 14-1251, or until revenue bonds, as authorized by section 14-1217, have been issued by the city council.

Source: Laws 1929, c. 176, § 14, p. 625; C.S.1929, § 14-1214; Laws 1931, c. 27, § 3, p. 112; C.S.Supp.,1941, § 14-1214; R.S.1943, § 14-1231; Laws 2022, LB800, § 264.
Operative date July 21, 2022.

14-1232 Bridge commission; bridges; control and management.

(1) The bridge commission of a city of the metropolitan class shall:

(a) Operate, manage, and control the bridges under the charge of such commission in their entirety;

(b) Fix the rate of tolls of such bridges;

(c) Establish bylaws and rules and regulations for the use and operation of such bridges;

(d) Provide for the lighting and policing of such bridges;

(e) Select such employees as the bridge commission deems necessary and fix their compensation; and

(f) If and when authorized by the city council, have the power to renew, replace, reconstruct, extend, and enlarge bridges.

(2) The bridge commission shall not have the power to create liens upon or to mortgage any property unless first authorized by the city council.

Source: Laws 1929, c. 176, § 14, p. 625; C.S.1929, § 14-1214; Laws 1931, c. 27, § 3, p. 113; C.S.Supp.,1941, § 14-1214; R.S.1943, § 14-1232; Laws 2022, LB800, § 265.
Operative date July 21, 2022.

14-1233 Bridge commission; records; reports; city council; examinations.

The bridge commission of a city of the metropolitan class shall keep an accurate record of all its acts, the property entrusted to the bridge commission, the cost of the bridge or bridges, and incidents thereto, the expenditures for maintaining, repairing, and operating such bridges, and the daily tolls collected. Such records shall be public records and the property of the city. A

semiannual statement shall be published on each bond interest date in the official newspaper of the city. The city council shall have the power to examine such accounts at any time, to call for any reports at any time in its discretion, and to require the bridge commission and its employees to appear before the city council to report or testify at any time.

Source: Laws 1929, c. 176, § 15, p. 625; C.S.1929, § 14-1215; R.S.1943, § 14-1233; Laws 2022, LB800, § 266.
Operative date July 21, 2022.

14-1234 Bridge commission; members; employees; removal.

The city council of a city of the metropolitan class, after reasonable notice and hearing, may at any time remove any member of a bridge commission or discharge any employee of such bridge commission for good cause shown, but not arbitrarily nor for political reasons.

Source: Laws 1929, c. 176, § 15, p. 625; C.S.1929, § 14-1215; R.S.1943, § 14-1234; Laws 2022, LB800, § 267.
Operative date July 21, 2022.

14-1235 Bridge commission; accounts; audits.

The accounts and statements of the bridge commission of a city of the metropolitan class shall be audited by or under the direction of the city comptroller semiannually and finally upon the completion of the work of the bridge commission and at such other times as may be directed by the city council. The cost of such audit shall be charged against the funds provided for in sections 14-1201 to 14-1252.

Source: Laws 1929, c. 176, § 15, p. 625; C.S.1929, § 14-1215; R.S.1943, § 14-1235; Laws 2022, LB800, § 268.
Operative date July 21, 2022.

14-1236 Bridge commission; bonds of officers, depositories; insurance.

The city council of a city of the metropolitan class, and in the absence of action by the city council, the bridge commission of such city, shall have the power to require bonds of officers and employees to require guarantees of deposited money and to insure the bridges and all property connected with such bridges against every manner of loss or injury.

Source: Laws 1929, c. 176, § 15, p. 625; C.S.1929, § 14-1215; R.S.1943, § 14-1236; Laws 2022, LB800, § 269.
Operative date July 21, 2022.

14-1237 Bridge commission; funds; investment.

Funds under control of the bridge commission of a city of the metropolitan class may be invested in certificates of deposit in national banks, capital stock financial institutions, or qualifying mutual financial institutions or in bonds or other evidences of indebtedness which are general obligations of the United States, the State of Nebraska, other states, or the city or the cities cooperating as provided in section 14-1202, but only in such a manner as to be immediately available for recapture when needed for the purposes authorized in sections 14-1201 to 14-1252. Section 77-2366 shall apply to deposits in capital stock

financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1929, c. 176, § 15, p. 626; C.S.1929, § 14-1215; R.S.1943, § 14-1237; Laws 1989, LB 33, § 11; Laws 2001, LB 362, § 12; Laws 2022, LB800, § 270.
Operative date July 21, 2022.

14-1238 Bridge commission; property; purchase authorized.

The bridge commission of a city of the metropolitan class is authorized to purchase in the State of Nebraska and in any adjoining state when authorized by such state or the government of the United States, if such authority be necessary, solely from funds provided under the authority of sections 14-1201 to 14-1252, such lands, structures, rights-of-way, franchises, easements, or other interests in lands, including lands under water and riparian rights of any person, railroad, or other public or private corporation, necessary or convenient for the acquisition, construction, extension, or enlargement of such bridges and approaches to such bridges, upon such terms, prices, or consideration as may be considered by such bridge commission to be reasonable and can be agreed upon between such bridge commission and the owner or owners, title to such property to be taken in the name of and to vest in the city.

Source: Laws 1929, c. 176, § 16, p. 626; C.S.1929, § 14-1216; R.S.1943, § 14-1238; Laws 2022, LB800, § 271.
Operative date July 21, 2022.

14-1239 Bridge commission; property; condemnation; procedure.

Whenever it shall be necessary to condemn property in the State of Nebraska for the purpose of constructing, extending, or enlarging any portion of a bridge or the approaches to such bridge, or securing avenues of access or rights-of-way leading to such approaches, the bridge commission of a city of the metropolitan class may condemn any interests, franchises, easements, rights, privileges, land, or improvements which may, in the opinion of such commission, be necessary for the purpose of constructing such bridge or approaches, or necessary for rights-of-way or avenues of access leading to such approaches. Condemnation shall be certified to the city council for its action. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724. The bridge commission is further empowered to exercise in any adjoining state such powers of eminent domain as may be conferred upon the bridge commission by any act of Congress of the United States or as may be authorized by the law of that state. No payments of award in any condemnation proceedings or for the costs of such proceedings or the expense of such proceedings, shall be made except from funds provided under the authority of sections 14-1201 to 14-1252. Title to property condemned under this section shall be taken in the name of and vest in the city.

Source: Laws 1929, c. 176, § 17, p. 626; C.S.1929, § 14-1217; R.S.1943, § 14-1239; Laws 1951, c. 101, § 41, p. 464; Laws 2022, LB800, § 272.
Operative date July 21, 2022.

14-1240 Bridges; obstructions to construction; removal; damages; payment.

Any individual or corporation having buildings, structures, works, conduits, mains, sewers, wires, tracks, or other obstructions in, over, upon, or adjacent to the public streets, lanes, alleys, or highways or in, under, over or adjacent to the river over which a bridge is to be constructed by a city of the metropolitan class, and which interfere with or impede the progress of such bridge and approaches when in process of construction and establishment, shall upon reasonable notice from the bridge commission temporarily so shift, adjust, accommodate, or remove any such interference or impediment, as fully to meet the exigencies occasioning such action. Upon completion of such construction, the actual cost of such measures, if reasonable, otherwise the reasonable cost of such measures, and other incidental damages, shall be promptly paid to such person by the bridge commission. In case of disagreement as to reasonable cost, the damages sustained shall be ascertained and determined as provided in sections 76-704 to 76-724 and shall be paid at once by the bridge commission out of funds provided for in sections 14-1201 to 14-1252. Similar powers may be exercised in an adjoining state if and in the manner authorized by an act of Congress or the law of that state.

Source: Laws 1929, c. 176, § 18, p. 627; C.S.1929, § 14-1218; R.S.1943, § 14-1240; Laws 1951, c. 101, § 42, p. 465; Laws 2022, LB800, § 273.
Operative date July 21, 2022.

14-1241 Bridges; damage to property; payment; how ascertained.

The city council of a city of the metropolitan class shall cause to be assessed the damages to property by reason of the construction and operation of any bridge property and appurtenances and to pay such damages out of funds provided for in sections 14-1201 to 14-1252. The damages sustained shall be ascertained and determined as provided in sections 76-704 to 76-724. Similar powers may be exercised in an adjoining state if and in the manner authorized by an act of Congress or the law of that state.

Source: Laws 1929, c. 176, § 19, p. 627; C.S.1929, § 14-1219; R.S.1943, § 14-1241; Laws 1951, c. 101, § 43, p. 466; Laws 2022, LB800, § 274.
Operative date July 21, 2022.

14-1242 Bridges; injury to public ways, works, or utilities; repair.

Any public ways or public works, including those of a metropolitan utilities district, damaged or destroyed by reason of the construction of a bridge or approaches as provided in sections 14-1201 to 14-1252 shall be restored or repaired by or at the expense of the bridge commission created by a city of the metropolitan class and placed in their original condition as near as practicable, or, at the option of the owner of such property, such property may be repaired or restored by the owner and the bridge commission shall reimburse the owner for the reasonable cost of such repair or restoration.

Source: Laws 1929, c. 176, § 20, p. 628; C.S.1929, § 14-1220; R.S.1943, § 14-1242; Laws 2022, LB800, § 275.
Operative date July 21, 2022.

14-1243 Bridge commission; dissolution.

Any bridge commission of a city of the metropolitan class provided for in sections 14-1227 and 14-1244 may be dissolved by the city council at any time after the acquisition, construction, and equipment of any bridges under its care have been completed and all the costs of such bridges have been paid from the funds provided by the bond issues provided for in sections 14-1215 to 14-1217 and 14-1223. The city council shall assume the further duties in connection with any such bridges, including the operation, maintenance, and repair of such bridges, the administration of funds, the collection of tolls, and all other necessary or proper acts. At any time the city council may create a new bridge commission to effect any of the purposes authorized by sections 14-1201 to 14-1252.

Source: Laws 1929, c. 176, § 21, p. 628; C.S.1929, § 14-1221; R.S.1943, § 14-1243; Laws 2022, LB800, § 276.
Operative date July 21, 2022.

14-1244 Joint bridge commission; organization; powers and duties.

(1) In case the city council of a city of the metropolitan class, having been authorized by the electors as required in section 14-1251, shall at any stage of the proceedings determine to cooperate with any such properly authorized political subdivision in this or an adjoining state in the joint acquisition and operation of any bridge, a joint bridge commission shall be created.

(2) Such joint bridge commission shall be created and the members selected by the action of each political unit cooperating, in the same manner provided for the creation of a local bridge commission by the statutes applicable to each political unit, and upon which representation may be proportioned to the respective contribution of funds by the political units cooperating for the purpose of such acquisition except that the total membership shall not exceed ten members. The joint bridge commission shall select a chairperson and a vice-chairperson to represent each political subdivision cooperating in the enterprise and shall maintain a single office at the place selected by the joint bridge commission but for legal purposes shall be domiciled within the jurisdiction of each political unit cooperating and shall have the power to sue and be sued. The joint bridge commission shall constitute a public body corporate and politic, shall select and adopt its own name, and shall be vested with such powers and subject to such conditions as may be conferred and imposed by the government of the United States and such powers and conditions in the State of Nebraska as are conferred and imposed in sections 14-1201 to 14-1252 upon a local bridge commission, and such powers and subject to such conditions in an adjoining state as may be conferred and imposed by the laws of such state.

(3) The plans and specifications, the location, size, type, and method of construction, the boundaries and approaches, and the estimates of the costs of construction, acquisition of property, and financing, shall be first submitted to the governing bodies of the political units cooperating and receive their approval by resolution before final adoption by the joint bridge commission, which shall not enter into contracts and shall have no power to proceed further unless and until such approval has been given.

(4) If such joint bridge commission is created after any work has been done, any funds provided, or any liabilities incurred by the city council or by a local

bridge commission, such joint bridge commission shall take over, succeed to, assume and be liable for such work, funds, or liabilities.

Source: Laws 1929, c. 176, § 22, p. 628; C.S.1929, § 14-1222; R.S.1943, § 14-1244; Laws 2022, LB800, § 277.
Operative date July 21, 2022.

14-1245 Joint bridge commission; bonds; sale; proceeds; how expended.

A city of the metropolitan class is authorized and empowered to authorize or require a joint bridge commission created pursuant to section 14-1244 to conduct and to complete the sale of bonds provided for in sections 14-1215 to 14-1217 and 14-1223 at the same time and to the same purchaser under the best conditions obtainable, together with the bonds of the political subdivision with which such joint bridge commission is cooperating so that the benefits of a joint offering and sale may be obtained. The funds derived from the sale of the bonds of all political subdivisions cooperating may be mingled and shall be administered and expended by the joint bridge commission as one common fund. As nearly as may be, and subject to any rules and regulations which may be adopted by the joint bridge commission for that purpose, the fund shall be deposited and maintained in equitable proportions within the territory of each political subdivision, and applied to the purchase or redemption of the separate bond issues in an equitable manner. All contracts, evidences of indebtedness, and payment vouchers shall be signed by the treasurer and countersigned by each vice-chairperson.

Source: Laws 1929, c. 176, § 22, p. 629; C.S.1929, § 14-1222; R.S.1943, § 14-1245; Laws 2022, LB800, § 278.
Operative date July 21, 2022.

14-1246 Joint bridge commission; property; title; in whom vested; disagreements; arbitration.

Title to all real and personal property and to a bridge constructed by a joint bridge commission and all appurtenances and incidents to such bridge shall vest in the political subdivisions cooperating as tenants in common in the same proportion as the contributions made to the joint fund as provided in section 14-1245. In the event of the inability of the governing bodies of the political subdivisions cooperating or the joint bridge commission to agree, the specific controversy may be submitted to arbitration in such manner as may be agreed upon by the parties.

Source: Laws 1929, c. 176, § 22, p. 630; C.S.1929, § 14-1222; R.S.1943, § 14-1246; Laws 2022, LB800, § 279.
Operative date July 21, 2022.

14-1247 Bridges; joint purchase.

Any city of the metropolitan class exercising the power granted in section 14-1202 to jointly purchase by bargain and sale any existing bridge may do so either when the electors have authorized such joint purchase or have authorized any independent purchase of such bridge. The city council may enter into a joint contract with the other political unit as to all the conditions of purchase and the conditions of subsequent reconditioning, operation, toll charges, repair, maintenance, renewal, replacement, enlargement, and extension of such bridge. Title to the bridge shall vest in the political units cooperating as tenants

in common and operation shall be by the joint bridge commission provided for in section 14-1244 and subject to the conditions provided with reference to such joint bridge commission.

Source: Laws 1929, c. 176, § 23, p. 630; C.S.1929, § 14-1223; R.S.1943, § 14-1247; Laws 2022, LB800, § 280.
Operative date July 21, 2022.

14-1248 Bridges; joint condemnation; procedure.

(1) Any city of the metropolitan class may acquire an existing bridge by entering into joint condemnation proceedings with other political units as authorized by section 14-1202. Where the property to be condemned is situated within the jurisdiction of more than one political unit or partly in the State of Nebraska and partly in an adjoining state, the political units cooperating shall first enter into a contract electing in what jurisdiction and in which state a single joint proceeding to condemn the property as an entirety shall be instituted and the proceedings shall be conducted subject to the law of and in the manner provided for that jurisdiction, or such proceedings may be conducted subject to the law and in the manner provided by an act of Congress conferring the power of condemnation where the property to be acquired is situated in more than one state.

(2) For purposes of this section, cities of the metropolitan class in this state are authorized to become parties to a single proceeding in an adjoining state and to subject themselves to the law of that state governing such proceedings. In the event of such joint proceedings in this state, the procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

(3) The contract provided for in this section shall be similar to the contract provided for in section 14-1247, shall fix the proportionate contribution to be made by each political unit cooperating, and shall provide for the creation of a joint bridge commission to take over the operation of the property in the event of its acquisition, subject to the conditions provided in sections 14-1244 to 14-1250 with reference to such joint bridge commission.

(4) Title to the property condemned under this section shall vest in the political units cooperating as tenants in common when, as, and if the approval of the electors has been given as provided in section 14-1251.

Source: Laws 1929, c. 176, § 24, p. 630; C.S.1929, § 14-1224; R.S.1943, § 14-1248; Laws 1951, c. 101, § 44, p. 466; Laws 2022, LB800, § 281.
Operative date July 21, 2022.

14-1249 Bridges; joint construction; joint management and control.

Whenever the electors of any city of the metropolitan class have authorized the construction of a bridge as provided in section 14-1201, the city council shall have the power to construct such bridge independently or jointly with any state or political unit as authorized in section 14-1202. Such cities are authorized to enter into any contract which may be necessary to effectuate this purpose. The title to all property thus acquired shall vest in the political units cooperating as tenants in common. The actual control of all construction and subsequent operation, including all property necessary to the bridge, all maintenance and repair of such bridge, and all funds and the collection and custody of tolls, shall vest in a joint bridge commission as provided in section 14-1244.

Such joint bridge commission and its control shall not be terminated until such tenancy in common is terminated.

Source: Laws 1929, c. 176, § 25, p. 631; C.S.1929, § 14-1225; R.S.1943, § 14-1249; Laws 2022, LB800, § 282.
Operative date July 21, 2022.

14-1250 Bridges; rights of cities in adjoining states.

Any city in an adjoining state which has been properly authorized by the laws of that state or the United States, may exercise in the State of Nebraska any and all of the powers granted in sections 14-1201 to 14-1252 to cities in Nebraska, subject to the conditions and requirements of such sections.

Source: Laws 1929, c. 176, § 26, p. 632; C.S.1929, § 14-1226; R.S.1943, § 14-1250; Laws 2022, LB800, § 283.
Operative date July 21, 2022.

14-1251 Bridges; acquisition; elections; rules governing.

(1) Elections on propositions arising in connection with the exercise of any of the powers granted by sections 14-1201 to 14-1252 may be submitted by the city council of a city of the metropolitan class to the electors of such city at any general, city, or state election or at any special election called for that purpose. Any proposition shall be carried if a majority of the electors voting on such proposition vote in favor of such proposition.

(2) No bridge shall be finally or irrevocably acquired, whether by purchase, condemnation, or construction, until such action and the necessary financing have been approved by a majority of the electors voting on the proposition at a general city or state election or at a special election called for that purpose or have been approved by the city council, as authorized by such sections.

(3) Two or more propositions or questions may be submitted at the same election and on the same ballot provided each is so presented that the electors may vote separately upon each proposition. A vote of the electors authorizing independent action shall be held to also authorize joint action for the purpose so authorized but a vote on a proposition of joint action shall not be held to authorize independent action.

(4) The city council is authorized to determine what shall be included in the proposition to be stated in notices of election and upon the ballots in its full discretion, except that any proposition must indicate whether the bridge shall be acquired by purchase, by the condemnation of an existing bridge, or by the construction of a new bridge, and the kind of bonds to be issued to finance such bridge and the amount of such bonds may be set forth in any manner authorized in such sections.

Source: Laws 1929, c. 176, § 27, p. 632; C.S.1929, § 14-1227; Laws 1931, c. 27, § 4, p. 113; C.S.Supp.,1941, § 14-1227; R.S.1943, § 14-1251; Laws 2022, LB800, § 284.
Operative date July 21, 2022.

14-1252 Bridges; cities with home rule charter; powers.

Any city of the metropolitan class that has adopted a home rule charter may exercise any powers granted in sections 14-1201 to 14-1251 in the method provided by this section or by such other method, in whole or in part, as may

from time to time be provided in whole or in part by such home rule charter. The powers conferred by such sections shall be exercised without any restriction or limitation under the home rule charter or laws of the state except the provisions of the Constitution of Nebraska, and are supplementary and additional to powers which have been or may hereafter be conferred upon the city by the laws of the state or such home rule charter. All powers granted or provided to be conferred upon bridge commissions authorized by such sections are likewise granted to and conferred upon and may be exercised by the city council and such city council may delegate to any bridge commission created for such city under such sections, in the discretion of such city council, any or all of the powers, privileges, and rights of approval and restraint conferred upon it by such sections.

Source: Laws 1929, c. 176, § 28, p. 633; C.S.1929, § 14-1228; Laws 1931, c. 27, § 5, p. 114; C.S.Supp.,1941, § 14-1228; R.S.1943, § 14-1252; Laws 2022, LB800, § 285.
Operative date July 21, 2022.

ARTICLE 13

MUNICIPAL UNIVERSITY

Section
14-1301. Repealed. Laws 1978, LB 756, § 59.
14-1302. Repealed. Laws 1978, LB 756, § 59.
14-1303. Repealed. Laws 1978, LB 756, § 59.
14-1304. Repealed. Laws 1978, LB 756, § 59.
14-1305. Repealed. Laws 1978, LB 756, § 59.
14-1306. Repealed. Laws 1978, LB 756, § 59.
14-1307. Repealed. Laws 1978, LB 756, § 59.
14-1308. Repealed. Laws 1978, LB 756, § 59.
14-1309. Repealed. Laws 1978, LB 756, § 59.
14-1310. Repealed. Laws 1978, LB 756, § 59.
14-1311. Repealed. Laws 1978, LB 756, § 59.
14-1312. Repealed. Laws 1978, LB 756, § 59.
14-1313. Repealed. Laws 1978, LB 756, § 59.
14-1314. Repealed. Laws 1978, LB 756, § 59.
14-1315. Repealed. Laws 1978, LB 756, § 59.
14-1316. Repealed. Laws 1978, LB 756, § 59.
14-1317. Repealed. Laws 1978, LB 756, § 59.
14-1318. Repealed. Laws 1978, LB 756, § 59.
14-1319. Repealed. Laws 1978, LB 756, § 59.
14-1320. Repealed. Laws 1978, LB 756, § 59.
14-1321. Repealed. Laws 1978, LB 756, § 59.
14-1322. Repealed. Laws 1978, LB 756, § 59.
14-1323. Repealed. Laws 1978, LB 756, § 59.
14-1324. Repealed. Laws 1978, LB 756, § 59.
14-1325. Repealed. Laws 1978, LB 756, § 59.
14-1326. Repealed. Laws 1978, LB 756, § 59.
14-1327. Repealed. Laws 1978, LB 756, § 59.
14-1328. Repealed. Laws 1978, LB 756, § 59.
14-1329. Repealed. Laws 1978, LB 756, § 59.
14-1330. Repealed. Laws 1978, LB 756, § 59.
14-1331. Repealed. Laws 1978, LB 756, § 59.

14-1301 Repealed. Laws 1978, LB 756, § 59.

14-1302 Repealed. Laws 1978, LB 756, § 59.

14-1303 Repealed. Laws 1978, LB 756, § 59.

14-1304 Repealed. Laws 1978, LB 756, § 59.

14-1305 Repealed. Laws 1978, LB 756, § 59.

14-1306 Repealed. Laws 1978, LB 756, § 59.

14-1307 Repealed. Laws 1978, LB 756, § 59.

14-1308 Repealed. Laws 1978, LB 756, § 59.

14-1309 Repealed. Laws 1978, LB 756, § 59.

14-1310 Repealed. Laws 1978, LB 756, § 59.

14-1311 Repealed. Laws 1978, LB 756, § 59.

14-1312 Repealed. Laws 1978, LB 756, § 59.

14-1313 Repealed. Laws 1978, LB 756, § 59.

14-1314 Repealed. Laws 1978, LB 756, § 59.

14-1315 Repealed. Laws 1978, LB 756, § 59.

14-1316 Repealed. Laws 1978, LB 756, § 59.

14-1317 Repealed. Laws 1978, LB 756, § 59.

14-1318 Repealed. Laws 1978, LB 756, § 59.

14-1319 Repealed. Laws 1978, LB 756, § 59.

14-1320 Repealed. Laws 1978, LB 756, § 59.

14-1321 Repealed. Laws 1978, LB 756, § 59.

14-1322 Repealed. Laws 1978, LB 756, § 59.

14-1323 Repealed. Laws 1978, LB 756, § 59.

14-1324 Repealed. Laws 1978, LB 756, § 59.

14-1325 Repealed. Laws 1978, LB 756, § 59.

14-1326 Repealed. Laws 1978, LB 756, § 59.

14-1327 Repealed. Laws 1978, LB 756, § 59.

14-1328 Repealed. Laws 1978, LB 756, § 59.

14-1329 Repealed. Laws 1978, LB 756, § 59.

14-1330 Repealed. Laws 1978, LB 756, § 59.

14-1331 Repealed. Laws 1978, LB 756, § 59.

ARTICLE 14
HOUSING AUTHORITY

Section
14-1401. Repealed. Laws 1969, c. 552, § 40.

Section
14-1402. Repealed. Laws 1969, c. 552, § 40.
14-1403. Repealed. Laws 1969, c. 552, § 40.
14-1404. Repealed. Laws 1969, c. 552, § 40.
14-1405. Repealed. Laws 1969, c. 552, § 40.
14-1406. Repealed. Laws 1969, c. 552, § 40.
14-1407. Repealed. Laws 1969, c. 552, § 40.
14-1408. Repealed. Laws 1969, c. 552, § 40.
14-1409. Repealed. Laws 1969, c. 552, § 40.
14-1410. Repealed. Laws 1969, c. 552, § 40.
14-1411. Repealed. Laws 1969, c. 552, § 40.
14-1412. Repealed. Laws 1969, c. 552, § 40.
14-1413. Repealed. Laws 1969, c. 552, § 40.
14-1414. Repealed. Laws 1969, c. 552, § 40.
14-1415. Repealed. Laws 1969, c. 552, § 40.
14-1416. Repealed. Laws 1969, c. 552, § 40.
14-1417. Repealed. Laws 1969, c. 552, § 40.
14-1418. Repealed. Laws 1969, c. 552, § 40.
14-1419. Repealed. Laws 1969, c. 552, § 40.
14-1420. Repealed. Laws 1969, c. 552, § 40.
14-1421. Repealed. Laws 1969, c. 552, § 40.
14-1422. Repealed. Laws 1969, c. 552, § 40.
14-1423. Repealed. Laws 1969, c. 552, § 40.
14-1424. Repealed. Laws 1969, c. 552, § 40.
14-1425. Repealed. Laws 1969, c. 552, § 40.
14-1426. Repealed. Laws 1969, c. 552, § 40.
14-1427. Repealed. Laws 1969, c. 552, § 40.
14-1428. Repealed. Laws 1969, c. 552, § 40.
14-1429. Repealed. Laws 1969, c. 552, § 40.
14-1430. Repealed. Laws 1969, c. 552, § 40.

14-1401 Repealed. Laws 1969, c. 552, § 40.

14-1402 Repealed. Laws 1969, c. 552, § 40.

14-1403 Repealed. Laws 1969, c. 552, § 40.

14-1404 Repealed. Laws 1969, c. 552, § 40.

14-1405 Repealed. Laws 1969, c. 552, § 40.

14-1406 Repealed. Laws 1969, c. 552, § 40.

14-1407 Repealed. Laws 1969, c. 552, § 40.

14-1408 Repealed. Laws 1969, c. 552, § 40.

14-1409 Repealed. Laws 1969, c. 552, § 40.

14-1410 Repealed. Laws 1969, c. 552, § 40.

14-1411 Repealed. Laws 1969, c. 552, § 40.

14-1412 Repealed. Laws 1969, c. 552, § 40.

14-1413 Repealed. Laws 1969, c. 552, § 40.

14-1414 Repealed. Laws 1969, c. 552, § 40.

14-1415 Repealed. Laws 1969, c. 552, § 40.

14-1416 Repealed. Laws 1969, c. 552, § 40.

14-1417 Repealed. Laws 1969, c. 552, § 40.

14-1418 Repealed. Laws 1969, c. 552, § 40.

14-1419 Repealed. Laws 1969, c. 552, § 40.

14-1420 Repealed. Laws 1969, c. 552, § 40.

14-1421 Repealed. Laws 1969, c. 552, § 40.

14-1422 Repealed. Laws 1969, c. 552, § 40.

14-1423 Repealed. Laws 1969, c. 552, § 40.

14-1424 Repealed. Laws 1969, c. 552, § 40.

14-1425 Repealed. Laws 1969, c. 552, § 40.

14-1426 Repealed. Laws 1969, c. 552, § 40.

14-1427 Repealed. Laws 1969, c. 552, § 40.

14-1428 Repealed. Laws 1969, c. 552, § 40.

14-1429 Repealed. Laws 1969, c. 552, § 40.

14-1430 Repealed. Laws 1969, c. 552, § 40.

ARTICLE 15
PEOPLES POWER COMMISSION LAW

Section
14-1501. Repealed. Laws 1945, c. 159, § 1.
14-1502. Repealed. Laws 1945, c. 159, § 1.
14-1503. Repealed. Laws 1945, c. 159, § 1.
14-1504. Repealed. Laws 1945, c. 159, § 1.
14-1505. Repealed. Laws 1945, c. 159, § 1.
14-1506. Repealed. Laws 1945, c. 159, § 1.
14-1507. Repealed. Laws 1945, c. 159, § 1.
14-1508. Repealed. Laws 1945, c. 159, § 1.
14-1509. Repealed. Laws 1945, c. 159, § 1.
14-1510. Repealed. Laws 1945, c. 159, § 1.
14-1511. Repealed. Laws 1945, c. 159, § 1.
14-1512. Repealed. Laws 1945, c. 159, § 1.
14-1513. Repealed. Laws 1945, c. 159, § 1.
14-1514. Repealed. Laws 1945, c. 159, § 1.
14-1515. Repealed. Laws 1945, c. 159, § 1.
14-1516. Repealed. Laws 1945, c. 159, § 1.
14-1517. Repealed. Laws 1945, c. 159, § 1.
14-1518. Repealed. Laws 1945, c. 159, § 1.
14-1519. Repealed. Laws 1945, c. 159, § 1.
14-1520. Repealed. Laws 1945, c. 159, § 1.
14-1521. Repealed. Laws 1945, c. 159, § 1.
14-1522. Repealed. Laws 1945, c. 159, § 1.
14-1523. Repealed. Laws 1945, c. 159, § 1.

14-1501 Repealed. Laws 1945, c. 159, § 1.

14-1502 Repealed. Laws 1945, c. 159, § 1.

14-1503 Repealed. Laws 1945, c. 159, § 1.

14-1504 Repealed. Laws 1945, c. 159, § 1.

14-1505 Repealed. Laws 1945, c. 159, § 1.

14-1506 Repealed. Laws 1945, c. 159, § 1.

14-1507 Repealed. Laws 1945, c. 159, § 1.

14-1508 Repealed. Laws 1945, c. 159, § 1.

14-1509 Repealed. Laws 1945, c. 159, § 1.

14-1510 Repealed. Laws 1945, c. 159, § 1.

14-1511 Repealed. Laws 1945, c. 159, § 1.

14-1512 Repealed. Laws 1945, c. 159, § 1.

14-1513 Repealed. Laws 1945, c. 159, § 1.

14-1514 Repealed. Laws 1945, c. 159, § 1.

14-1515 Repealed. Laws 1945, c. 159, § 1.

14-1516 Repealed. Laws 1945, c. 159, § 1.

14-1517 Repealed. Laws 1945, c. 159, § 1.

14-1518 Repealed. Laws 1945, c. 159, § 1.

14-1519 Repealed. Laws 1945, c. 159, § 1.

14-1520 Repealed. Laws 1945, c. 159, § 1.

14-1521 Repealed. Laws 1945, c. 159, § 1.

14-1522 Repealed. Laws 1945, c. 159, § 1.

14-1523 Repealed. Laws 1945, c. 159, § 1.

ARTICLE 16
SLUM CLEARANCE

Section
14-1601. Transferred to section 18-2101.
14-1602. Transferred to section 18-2102.
14-1603. Transferred to section 18-2103.
14-1604. Transferred to section 18-2104.
14-1605. Transferred to section 18-2105.
14-1606. Transferred to section 18-2106.
14-1607. Transferred to section 18-2107.
14-1608. Transferred to section 18-2108.
14-1609. Transferred to section 18-2109.
14-1610. Transferred to section 18-2110.
14-1611. Transferred to section 18-2111.
14-1612. Transferred to section 18-2112.
14-1613. Transferred to section 18-2113.
14-1614. Transferred to section 18-2114.
14-1615. Transferred to section 18-2115.
14-1616. Transferred to section 18-2116.
14-1617. Transferred to section 18-2117.

Section
14-1618. Transferred to section 18-2118.
14-1619. Transferred to section 18-2119.
14-1620. Transferred to section 18-2120.
14-1621. Transferred to section 18-2121.
14-1622. Transferred to section 18-2122.
14-1623. Transferred to section 18-2123.
14-1624. Transferred to section 18-2124.
14-1625. Transferred to section 18-2125.
14-1626. Transferred to section 18-2126.
14-1627. Transferred to section 18-2127.
14-1628. Transferred to section 18-2128.
14-1629. Transferred to section 18-2129.
14-1630. Transferred to section 18-2130.
14-1631. Transferred to section 18-2131.
14-1632. Transferred to section 18-2132.
14-1633. Transferred to section 18-2133.
14-1634. Transferred to section 18-2134.
14-1635. Transferred to section 18-2135.
14-1636. Transferred to section 18-2136.
14-1637. Transferred to section 18-2137.
14-1638. Transferred to section 18-2138.
14-1639. Transferred to section 18-2139.
14-1640. Transferred to section 18-2140.
14-1641. Transferred to section 18-2141.
14-1642. Transferred to section 18-2142.
14-1643. Transferred to section 18-2143.

14-1601 Transferred to section 18-2101.

14-1602 Transferred to section 18-2102.

14-1603 Transferred to section 18-2103.

14-1604 Transferred to section 18-2104.

14-1605 Transferred to section 18-2105.

14-1606 Transferred to section 18-2106.

14-1607 Transferred to section 18-2107.

14-1608 Transferred to section 18-2108.

14-1609 Transferred to section 18-2109.

14-1610 Transferred to section 18-2110.

14-1611 Transferred to section 18-2111.

14-1612 Transferred to section 18-2112.

14-1613 Transferred to section 18-2113.

14-1614 Transferred to section 18-2114.

14-1615 Transferred to section 18-2115.

14-1616 Transferred to section 18-2116.

14-1617 Transferred to section 18-2117.

14-1618 Transferred to section 18-2118.

14-1619 Transferred to section 18-2119.

14-1620 Transferred to section 18-2120.

14-1621 Transferred to section 18-2121.

14-1622 Transferred to section 18-2122.

14-1623 Transferred to section 18-2123.

14-1624 Transferred to section 18-2124.

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14-1626 Transferred to section 18-2126.

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14-1631 Transferred to section 18-2131.

14-1632 Transferred to section 18-2132.

14-1633 Transferred to section 18-2133.

14-1634 Transferred to section 18-2134.

14-1635 Transferred to section 18-2135.

14-1636 Transferred to section 18-2136.

14-1637 Transferred to section 18-2137.

14-1638 Transferred to section 18-2138.

14-1639 Transferred to section 18-2139.

14-1640 Transferred to section 18-2140.

14-1641 Transferred to section 18-2141.

14-1642 Transferred to section 18-2142.

14-1643 Transferred to section 18-2143.

ARTICLE 17
PARKING FACILITIES

(a) PARKING AUTHORITY LAW OF 1955

Section
14-1701. Act, how cited.
14-1702. Parking Authority Law; policy.
14-1703. Terms, defined.

Section
14-1704. Parking authority; Governor; establish; when; proclamation; copy filed with Secretary of State; effect.
14-1705. Parking authority; board; members; qualifications; term; vacancy; oath; bond.
14-1706. Parking authority; board; officers; quorum; secretary, treasurer; bond; compensation.
14-1707. Parking authority; powers and duties.
14-1708. Parking authority; use of ground below courthouse site and streets; grants by county and city; adjoining property; acquire by lease, purchase, gift, grant.
14-1709. Parking authority; facilities; construction and maintenance; duties; city and county cooperate.
14-1710. Parking authority; purchases, construction, maintenance, improvement, or extension; contract; bids.
14-1711. Parking authority; concessions; competitive bidding.
14-1712. Parking authority; bonds; form; issuance.
14-1713. Bonds; pledging of income; trust agreement; limitations.
14-1714. Bonds; pledging of revenue; lien.
14-1715. Bonds; performance of agreement; cause of action; execution, when.
14-1716. Parking authority; alienating or encumbering property; pledging credit; levy of tax; prohibited; when.
14-1717. Parking authority; prepare statement.
14-1718. Bonds; legal investment; considered securities.
14-1719. Funds received; deposits authorized.
14-1720. Bonds and obligations; paid in full; net income; distribution.
14-1721. Property; bonds; exempt from taxation; when.
14-1722. Parking authority; records; audit; expense.
14-1723. Parking authority; termination; improvements; funds.
14-1724. Parking authority; termination; effect.
14-1725. Parking Authority Law; supplementary to existing law; severability.

(b) PARKING FACILITIES

14-1726. Parking facilities; legislative findings and declarations.
14-1727. Terms, defined.
14-1728. Parking facilities; leased for operation; limitation.
14-1729. Revenue bonds; issuance.
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(c) OFFSTREET PARKING

14-1731. Offstreet parking; legislative findings and declarations.
14-1732. Offstreet parking; location; powers; limitation.
14-1733. Offstreet parking; cost; revenue bonds; parking district assessments; gifts, leases, devises, grants, funds, agreements; conditions; procedure.
14-1734. Revenue bonds; plans and specifications; prepare.
14-1735. Rules and regulations; contracts; operation.
14-1736. Repealed. Laws 1977, LB 238, § 5.
14-1737. Facility; lease; restrictions.
14-1738. Multilevel parking structure; not subject to eminent domain; when.
14-1739. Revenue bonds; contract with holder; conditions.
14-1740. Sections; supplementary to existing law.

(a) PARKING AUTHORITY LAW OF 1955

14-1701 Act, how cited.

Sections 14-1701 to 14-1725 shall be known and may be cited as the Parking Authority Law.

Source: Laws 1955, c. 22, § 1, p. 101.

Parking Authority Law sustained as constitutional. Omaha Parking Authority v. City of Omaha, 163 Neb. 97, 77 N.W.2d 862 (1956).

14-1702 Parking Authority Law; policy.

The Legislature finds and declares that:

(1) Traffic in the streets of the business section of cities of the metropolitan class has become congested by the great number of motor vehicles entering and traversing such streets, and the trend is for an ever-increasing number of vehicles on such streets and that, unless appropriate action is taken, the congestion will become worse and constitute a public nuisance;

(2)(a) Such traffic congestion has created a hazard to life, limb, and property of those using such streets, (b) the free circulation of traffic of all kinds is necessary to the health, safety, and general welfare of the public, and (c) any impeding of the free flow of traffic might seriously affect the rapid and effective fighting of fires and the disposition of the police force and emergency vehicles;

(3) There is insufficient space, on the streets or places adjacent to such streets, to provide the required parking and that convenient offstreet parking would facilitate the free flow of traffic. The space below the surface of property, owned by the county for courthouse sites or other public uses, and the space below the surface of the streets could properly and beneficially be used for parking areas and such use would promote public safety, convenience, and welfare; and

(4) Providing for the relieving of traffic congestion is a matter of public welfare, of general public interest, of statewide concern, and within the powers reserved to the state.

Source: Laws 1955, c. 22, § 2, p. 101; Laws 2022, LB800, § 286.
Operative date July 21, 2022.

14-1703 Terms, defined.

As used in the Parking Authority Law, unless the context otherwise requires:

(1) Authority means a parking authority created pursuant to the Parking Authority Law;

(2) Board means the governing body of such authority, constituted as is provided by section 14-1705;

(3) City means the city of the metropolitan class which requested the Governor to establish a parking authority within the city;

(4) County means the county in Nebraska where the authority is located; and

(5) Facilities means the entire subsurface parking area and all improvements in such parking area or appurtenances used in connection with such parking area, including entrances and exits, and all equipment, machinery, and accessories necessary or convenient for the parking of vehicles.

Source: Laws 1955, c. 22, § 3, p. 102; Laws 2022, LB800, § 287.
Operative date July 21, 2022.

14-1704 Parking authority; Governor; establish; when; proclamation; copy filed with Secretary of State; effect.

The Governor shall establish a parking authority whenever requested by the city council of a city of the metropolitan class in which the county seat is located. The authority shall be established by the Governor issuing a proclamation declaring the existence of such an authority and filing a copy of such

proclamation with the Secretary of State. The authority shall be a body corporate and politic to be known as ..... Parking Authority, therein inserting the name of the city requesting the authority. Such an authority shall be a governmental subdivision of the State of Nebraska with the powers and authority provided by the Parking Authority Law. Such authority is declared to be an instrumentality of the state exercising public and essential governmental functions in the performance of the powers conferred upon it by the Parking Authority Law, and shall be deemed located in the county where the city requesting the establishment of the parking authority is located.

Source: Laws 1955, c. 22, § 4, p. 103; Laws 2022, LB800, § 288.
Operative date July 21, 2022.

14-1705 Parking authority; board; members; qualifications; term; vacancy; oath; bond.

(1) The governing body of the authority shall be a board consisting of seven members, two of whom shall be the mayor of the city requesting the establishment of the authority and the chairperson of the board of county commissioners of the county in which the authority is located, both serving as ex officio members. Each of these ex officio members shall serve without bond during their respective terms as mayor and chairperson.

(2) The remaining five members shall be residents of the county in which the authority is located. Two of such members shall be originally appointed for a term of two years and three for a term of four years from the date of their appointment, and thereafter the members shall hold office for a term of four years and until their successors are appointed and have qualified. The Governor, in making the original appointments, shall designate the term of each appointee. Any vacancy in the appointed members of the board for any reason shall be filled for the unexpired term by an appointment by the Governor. No appointive member shall hold office for more than three successive full terms.

(3) Each appointive member, before entering upon the duties of office, shall file with the Secretary of State an oath that such person will duly and faithfully perform to the best of such person's ability all duties of such office, as provided in the Parking Authority Law, and a bond in the penal sum of five thousand dollars executed by one or more qualified sureties for the faithful performance of all such person's duties as a member of the board of such authority. If any appointive member fails to file such oath and bond with the Secretary of State within thirty days after written notice of such appointment, the office shall be deemed to be vacant and a new appointment made.

Source: Laws 1955, c. 22, § 5, p. 103; Laws 2022, LB800, § 289.
Operative date July 21, 2022.

14-1706 Parking authority; board; officers; quorum; secretary, treasurer; bond; compensation.

The board shall annually elect a chairperson and vice-chairperson from its members and a secretary and treasurer who shall not be a member of the board. A quorum for the transaction of business shall consist of four members of the board. The affirmative vote of four members shall be necessary for any action taken by the board. No vacancy in the membership shall impair the right of the quorum to exercise all the rights and perform all the duties of the board. The members of the board shall receive no compensation for services rendered,

but shall be reimbursed for all expenses incurred by them in the exercise of their duties in the same manner as provided in section 23-1112 for county officers and employees and for the cost of their bonds. The secretary and treasurer may be compensated in such amounts as the board shall fix from time to time, and such persons may be required to give bond, in the amount prescribed by the board, before entering upon the duties of secretary or treasurer. The premium of such bond shall be paid for by the board.

Source: Laws 1955, c. 22, § 6, p. 104; Laws 1981, LB 204, § 16; Laws 2022, LB800, § 290.
Operative date July 21, 2022.

14-1707 Parking authority; powers and duties.

(1) For the purpose of accomplishing the object and purpose of the Parking Authority Law, the authority shall possess all the necessary powers of a public body corporate and governmental subdivision of the State of Nebraska, including the following powers which shall not be construed as a limitation on the general powers conferred by the Parking Authority Law:

(a) To adopt bylaws for the regulation of its affairs and for the conduct of its business;

(b) To adopt the official seal of the authority and to alter such seal;

(c) To maintain an office within the county where the authority is located;

(d) To sue and be sued in its own name;

(e) To make and enter into any and all contracts and agreements with any individual, public or private corporation, or agency of this state or the United States, as may be necessary or incidental to the performance of its duties and the execution of its powers under the Parking Authority Law;

(f) To acquire, lease, and hold such real or personal property or any rights, interest, or easements in such property as may be necessary or convenient for the purpose of the authority and to sell, assign, and convey such property;

(g) To (i) employ a general manager, engineers, accountants, attorneys, financial experts, and such other employees and agents as the authority may deem necessary, (ii) fix the compensation of such employees and agents, and (iii) discharge such employees and agents;

(h) To borrow money and issue and sell negotiable bonds, notes, or other evidence of indebtedness, to provide for the rights of the holders of such bonds, notes, or other evidence of indebtedness, and to pledge all or any part of the income of the authority received, as provided in the Parking Authority Law, to secure the payment thereof, except that the authority shall not have the power to pledge the credit or taxing power of the state or any political subdivision thereof or to place any lien or encumbrance on property owned by the state, the county, or the city which requested the establishment of the authority;

(i) To receive and accept from the federal government, or any agency thereof, the State of Nebraska, or any subdivision thereof, or from any person or corporation, donations or grants for or in aid of the construction of parking facilities, and to hold, use, and apply such donations or grants for the purpose for which such donations or grants may have been made; and

(j) To have and exercise all powers usually granted to the board of directors of corporations which are necessary or convenient to carry out the powers given the authority under the Parking Authority Law.

(2) The authority shall operate only in the county in which it is located.

(3) The authority shall have no rights of eminent domain.

Source: Laws 1955, c. 22, § 7, p. 104; Laws 2022, LB800, § 291.
Operative date July 21, 2022.

14-1708 Parking authority; use of ground below courthouse site and streets; grants by county and city; adjoining property; acquire by lease, purchase, gift, grant.

Upon establishing an authority, the county in which the authority is located shall grant to the authority the right to use any space below the plot of ground used as a courthouse site and such portion of the surface of such plot not then used by the county for a courthouse. The city shall likewise grant to the authority the right to use the space below the surface of the streets abutting on such courthouse site including the street intersections connecting such streets. The governing bodies of the county and city shall have the authority to execute the required grants without a vote of the electorate or any authorization other than that contained in the Parking Authority Law. All such grants shall be for a period of fifty years. The authority may also acquire by lease, purchase, gift, grant, or any lawful manner, such adjoining privately owned property as may be necessary or convenient for the exercise of its powers for the construction of entrances to or exits from its facilities.

Source: Laws 1955, c. 22, § 8, p. 106; Laws 2022, LB800, § 292.
Operative date July 21, 2022.

14-1709 Parking authority; facilities; construction and maintenance; duties; city and county cooperate.

The authority shall construct and maintain facilities at the location acquired under section 14-1708, with all necessary entrances, exits, air vents, and other appurtenances required for efficient facilities. In constructing and maintaining the facilities, the surface above such facilities shall not be disturbed more than shall be necessary. Any portion of such location not required by the facilities shall, on completion of the facilities, be restored to a good usable condition. If it is necessary to relocate or do other work to protect any sewer line or utility, the authority shall do the necessary work or bear the expense of such relocation or other work and the authority shall reimburse the county and city for any expense or liability incurred as a result of the construction or maintenance of the facilities. The authority shall also protect the owners of private property abutting the facility against loss of lateral support for improvements erected on their property at the time of the construction of the facilities or reimburse such owners for expenses incurred as a result of the removal of such support, but neither the state, county, city, nor authority shall be otherwise liable to such owners. The county and city shall cooperate with the authority and make available to the authority without cost any information such county or city has that would be useful to the authority in the construction of the facilities. The

authority shall not construct any private entrances or grant the right to others to construct private entrances to its facilities.

Source: Laws 1955, c. 22, § 9, p. 106; Laws 2022, LB800, § 293. Operative date July 21, 2022.

14-1710 Parking authority; purchases, construction, maintenance, improvement, or extension; contract; bids.

All purchases and all contracts relating to the construction, maintenance, improvement, or extension of the authority's facilities, except contracts relating to the acquiring of real property or some interest in such real property or contracts of employment or some specialized service, involving the expenditure of two thousand dollars or more, shall be let to the lowest responsible bidder after not less than twenty days' public notice of request for bids.

Source: Laws 1955, c. 22, § 10, p. 107; Laws 2022, LB800, § 294. Operative date July 21, 2022.

14-1711 Parking authority; concessions; competitive bidding.

The authority shall lease or grant concessions for the use of its facilities or various portions of such facilities to one or more operators to provide for the efficient operation of the facilities. All leases or concessions shall be let on a competitive basis and no lease or concession shall run for a period in excess of thirty years. In granting any lease or concession, the authority shall retain such control of the facilities as may be necessary to insure that the facilities will be properly operated in the public interest and that the prices charged are reasonable.

Source: Laws 1955, c. 22, § 11, p. 107; Laws 2022, LB800, § 295. Operative date July 21, 2022.

Adequate controls are provided to insure that parking facilities are operated in the public interest. Omaha Parking Authority v. City of Omaha, 163 Neb. 97, 77 N.W.2d 862 (1956).

14-1712 Parking authority; bonds; form; issuance.

(1) The authority may from time to time borrow such money, as authorized in this section or subdivision (1)(h) of section 14-1707, as it may require in the exercise of its powers and duties, and to evidence such borrowings and to fund or refund any bonds or interest on such bonds or other indebtedness it may have outstanding, issue its negotiable bonds as provided in this section.

(2) The principal and interest of the bonds shall be payable only out of the revenue, income, and money of the authority, and shall not constitute a debt or liability of the state or any political subdivision thereof, other than of the authority, and neither the credit nor the taxing power of the state or any political subdivision thereof, other than the authority, shall be pledged for the payment of such bonds, and all bonds shall bear on their face a statement to such effect. The bonds shall mature at such time or times, not exceeding twenty-five years from their date, as may be determined by the authority. Such bonds may be redeemable before maturity at the option of the authority at such price or prices, and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of the bonds and fix the denominations and place of payment, which may be at any bank or trust company within or outside the state. The bonds shall be

signed by the chairperson of the authority, or bear the chairperson's facsimile signature. The seal of the authority shall be impressed on such bonds, and attested by the secretary and treasurer of the authority. Any coupons attached to such bonds shall bear the facsimile signature of the chairperson of the authority. In case any officer, whose facsimile signature or signature shall appear on any bond or coupon, shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until such delivery;

(3) The bonds issued under the Parking Authority Law in negotiable form shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the state. The bonds may be issued in coupon or in registered form, or both. The authority may sell such bonds in such a manner and for such price as it determines in the best interests of the authority; and

(4) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which become mutilated, destroyed, or lost.

Source: Laws 1955, c. 22, § 12, p. 107; Laws 1971, LB 4, § 4; Laws 2022, LB800, § 296.
Operative date July 21, 2022.

14-1713 Bonds; pledging of income; trust agreement; limitations.

At the discretion of the authority, any bonds issued under the provisions of the Parking Authority Law may be secured by trust agreement by and between the authority and a corporate trustee which may be any trust company or bank having the powers of a trust company within or outside the state. Such trust agreement may contain provisions which shall be deemed to be for the benefit of the trustee or holders of the bonds as to:

(1) The pledging of all or any part of the income, receipts, and revenue of the authority to secure the payment of the bonds or any issue of bonds, subject to such agreement with bondholders as may then exist;

(2) Provisions for protecting and enforcing the rights and remedies of the bondholders, including the establishment of reasonable charges, construction, improvement, maintenance, and operation of the authority's facilities and insurance upon its properties;

(3) The appointment of a trustee, fiduciary, or depositary for the collection, deposit, and disbursement of the funds of the authority;

(4) Limitations on the issuance of additional bonds and the terms upon which additional bonds may be issued and secured and the issuance of refunding bonds;

(5) The procedure by which any contract with the bondholders may be amended or modified;

(6) The keeping of records and making reports to the trustee or bondholders;

(7) The rights and remedies of the trustee and the bondholders and restrictions on individual actions by the bondholders; and

(8) Any additional provisions which may be reasonable and proper for the security of the bondholders.

Source: Laws 1955, c. 22, § 13, p. 109; Laws 2022, LB800, § 297.
Operative date July 21, 2022.

14-1714 Bonds; pledging of revenue; lien.

Any pledge of revenue or other money of the authority made by the authority, in accordance with the Parking Authority Law, shall be valid and binding from the time when such pledge is made, and the revenue or other money so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind, sort, contract, or otherwise against the authority, irrespective of whether or not such parties have notice of such pledge. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

Source: Laws 1955, c. 22, § 14, p. 110; Laws 2022, LB800, § 298.
Operative date July 21, 2022.

14-1715 Bonds; performance of agreement; cause of action; execution, when.

The holder of any bonds or coupons appertaining to such bonds or coupons issued by the authority, unless the trust agreement vests the right of action solely in the trustee, then the trustee, may by civil action or proceedings, protect and enforce any and all rights under the trust agreement covering the issuance of such bonds, and may enforce and compel the performance of all duties required by the Parking Authority Law or trust agreement to be performed by the authority or any officer of the authority and the court having jurisdiction of the proceedings may, if necessary for the protection of the bondholders, appoint a receiver or other administrator to operate the facilities until such time as the obligations to the bondholders have been paid in full. No execution shall be levied upon, or sale made, of any properties belonging to the authority which are necessary for the operation of the facilities.

Source: Laws 1955, c. 22, § 15, p. 110; Laws 2022, LB800, § 299.
Operative date July 21, 2022.

14-1716 Parking authority; alienating or encumbering property; pledging credit; levy of tax; prohibited; when.

Nothing in the Parking Authority Law shall be construed (1) as granting to the authority any power to alienate or encumber any real property belonging to the state or any of its political subdivisions, (2) to grant to the authority any right or power to pledge the credit of the State of Nebraska, or any of its subdivisions, or (3) to give the authority any power to levy or assess taxes.

Source: Laws 1955, c. 22, § 16, p. 111; Laws 2022, LB800, § 300.
Operative date July 21, 2022.

14-1717 Parking authority; prepare statement.

Before delivering any bonds, the authority shall prepare a written statement under oath setting forth its proceedings authorizing the issuance of the bonds

and a copy of the trust or other bond agreement executed in connection with such bonds.

Source: Laws 1955, c. 22, § 17, p. 111; Laws 2001, LB 420, § 16; Laws 2022, LB800, § 301.
Operative date July 21, 2022.

14-1718 Bonds; legal investment; considered securities.

Bonds issued by the authority under the Parking Authority Law are hereby made securities in which the state and all political subdivisions of the state, their officers, boards, commissions, departments, or other agencies, all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies, insurance associations, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries, and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control. Such bonds or other securities or obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officers or agency of the state for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law.

Source: Laws 1955, c. 22, § 18, p. 111; Laws 2022, LB800, § 302.
Operative date July 21, 2022.

14-1719 Funds received; deposits authorized.

All money received by the authority from whatever source, including sale of its bonds, shall be deemed to be public trust funds to be held and applied in the manner provided in the Parking Authority Law and under such restrictions, if any, as the authority may provide in any resolution authorizing the issuance of bonds or bond agreement executed by the authority. Such money shall be deposited in such banks, capital stock financial institutions, qualifying mutual financial institutions, or trust companies as may be selected by the authority from time to time. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1955, c. 22, § 19, p. 112; Laws 1989, LB 33, § 12; Laws 2001, LB 362, § 13; Laws 2022, LB800, § 303.
Operative date July 21, 2022.

14-1720 Bonds and obligations; paid in full; net income; distribution.

After all bonds or other evidence of indebtedness issued by the authority have been paid in full, and after the authority has set aside a reasonable reserve for working capital, maintenance, and necessary improvements of its facilities, the authority shall annually distribute all of its net income between the city and county in proportion to the area contributed by the city and county respectively for the use of the authority.

Source: Laws 1955, c. 22, § 20, p. 112.

14-1721 Property; bonds; exempt from taxation; when.

The authority shall not be required to pay any taxes or assessments upon its facilities or properties acquired by it and used for a public purpose. Bonds issued under the Parking Authority Law, their transfer and income from such bonds, including any profits made from the sale of such bonds, shall be exempt from taxation.

Source: Laws 1955, c. 22, § 21, p. 112; Laws 2001, LB 173, § 13; Laws 2022, LB800, § 304.
Operative date July 21, 2022.

14-1722 Parking authority; records; audit; expense.

The authority shall keep a full set of books and records showing all of its transactions according to the best business practices. The Auditor of Public Accounts shall cause the books of the account to be examined and audited annually by a certified public accountant under direction of the Auditor of Public Accounts. The reports of all audits made by the Auditor of Public Accounts shall be made and remain a part of the public records in such office. The expense of such audits shall be paid out of the funds of the authority. The auditor shall be given access to all books, papers, contracts, documents, and memoranda of every kind and character and be furnished all additional information that may be essential to the making of a comprehensive and correct audit.

Source: Laws 1955, c. 22, § 22, p. 112; Laws 2022, LB800, § 305.
Operative date July 21, 2022.

14-1723 Parking authority; termination; improvements; funds.

The authority shall not be terminated by any act of the state prior to the payment in full of all obligations incurred by the authority. Unless terminated prior to such date, the authority shall terminate at the end of fifty years from the date of its establishment and shall liquidate its affairs and convey to the city and county respectively any improvements on the property contributed by them. Any surplus funds shall be distributed to the county and city in the manner provided by section 14-1720.

Source: Laws 1955, c. 22, § 23, p. 113; Laws 2022, LB800, § 306.
Operative date July 21, 2022.

14-1724 Parking authority; termination; effect.

In the event the authority fails to commence the construction of the facilities within three years from the date of the proclamation issued by the Governor under section 14-1704 establishing the authority, the authority shall terminate and any leases, grants, or rights obtained from the city or county shall terminate and revert to the city and county respectively.

Source: Laws 1955, c. 22, § 24, p. 113; Laws 2022, LB800, § 307.
Operative date July 21, 2022.

14-1725 Parking Authority Law; supplementary to existing law; severability.

The Parking Authority Law shall be independent of and in addition to any other provisions of law of the State of Nebraska with reference to the matters covered by such law and shall be considered as a complete and independent act and not as amendatory of or limited by any other provisions of law of the State

of Nebraska. If any provision of the Parking Authority Law is held unconstitutional or invalid, it shall not affect the other provisions of such law.

Source: Laws 1955, c. 22, § 25, p. 113; Laws 2022, LB800, § 308. Operative date July 21, 2022.

(b) PARKING FACILITIES

14-1726 Parking facilities; legislative findings and declarations.

The Legislature finds and declares that:

(1) Traffic in the streets of the business section of cities of the metropolitan class has become congested by the great number of motor vehicles entering and traversing such streets, and the trend is for an ever-increasing number of vehicles on such streets and that, unless appropriate action is taken, the congestion will become worse and constitute a public nuisance;

(2)(a) Traffic congestion has created a hazard to life, limb, and property of those using such streets, (b) the free circulation of traffic of all kinds is necessary to the health, safety, and general welfare of the public, and (c) any impeding of the free flow of traffic might seriously affect the rapid and effective fighting of fires and the disposition of the police force and emergency vehicles;

(3) There is insufficient space, on the streets or places adjacent to such streets, to provide the required parking and that convenient offstreet parking would facilitate the free flow of traffic. The space below the surface of property, owned by the county for courthouse sites or other public uses, the space below the surface of the streets, and the space above and below the surface of an area adjacent to public buildings within the civic center of such city could properly and beneficially be used for parking areas and such use would promote public safety, convenience, and welfare; and

(4) Providing for the relieving of traffic congestion is a matter of public welfare, of general public interest, of statewide concern, and within the powers reserved to the state.

Source: Laws 1969, c. 57, § 1, p. 359; Laws 2022, LB800, § 309. Operative date July 21, 2022.

14-1727 Terms, defined.

As used in sections 14-1726 to 14-1730, unless the context otherwise requires:

(1) Parking facilities means the entire surface or subsurface parking area and all improvements in such parking area or appurtenances used in connection with such parking area, including entrances and exits, and all equipment, machinery, and accessories necessary or convenient for the parking of vehicles; and

(2) Civic center means the area designated by the city council of a city of the metropolitan class in the master plan of the city as the site for city and county administrative, legislative, and judicial headquarters, together with such other governmental functions and subdivisions as may be deemed appropriate.

Source: Laws 1969, c. 57, § 2, p. 360; Laws 2022, LB800, § 310. Operative date July 21, 2022.

14-1728 Parking facilities; leased for operation; limitation.

Any city of the metropolitan class, any county in which such city is located, or such city and county jointly may construct parking facilities in conjunction with a civic center. When constructed, such parking facilities shall be leased for operation, in which case the lease shall be granted to the highest and best bidder, after publication and notice of such offering for lease in the same manner as required by law for other contracts awarded by the city, county, or city and county. Such facilities shall not be operated by the city, county, or city and county.

Source: Laws 1969, c. 57, § 3, p. 360; Laws 2022, LB800, § 311.
Operative date July 21, 2022.

14-1729 Revenue bonds; issuance.

For the purpose of constructing parking facilities as provided in section 14-1728, the city and county may jointly issue revenue bonds. The principal and interest of such bonds shall be payable only out of the revenue and income of such parking facilities.

Source: Laws 1969, c. 57, § 4, p. 360; Laws 2022, LB800, § 312.
Operative date July 21, 2022.

14-1730 City; air space; leases.

(1) Each city of the metropolitan class shall have the power to lease, upon such terms as the city deems appropriate for a term not to exceed ninety-nine years, air space above any street, alley, major traffic street, connecting link, controlled-access facility, main thoroughfare, boulevard, or other property owned by such city, to one or more of the owners of the fee title adjoining such air space on either or both sides of such street, alley, major traffic street, connecting link, controlled-access facility, main thoroughfare, boulevard, or other city property, but only if the air space to be so leased is not needed for and does not materially interfere with the use of such street, alley, major traffic street, connecting link, controlled-access facility, main thoroughfare, boulevard, or other city property.

(2) All leases of such air space shall provide (a) the minimum clearances to be maintained at various points over the street, alley, major traffic street, connecting link, controlled-access facility, main thoroughfare, boulevard, or other city property, (b) the area of the air space to be leased, (c) the location of supports, columns, pillars, foundations or other similar or supporting structures within or on such street, alley, major traffic street, connecting link, controlled-access facility, main thoroughfare, boulevard, or other city property, and (d) that such supporting structures shall be so located as not to materially interfere with the use of the street, alley, major traffic street, connecting link, controlled-access facility, main thoroughfare, boulevard, or other city property. Such leases may contain such other terms and conditions as shall be deemed appropriate by the city.

(3) In determining rental under any such lease, the city may take into account the public purpose or use, if any, to be served by the lessee.

Source: Laws 1969, c. 57, § 5, p. 361; Laws 2022, LB800, § 313.
Operative date July 21, 2022.

(c) OFFSTREET PARKING

14-1731 Offstreet parking; legislative findings and declarations.

(1) The Legislature hereby finds and declares that the great increase in the number of motor vehicles, including buses and trucks, has created hazards to life and property in cities of the metropolitan class in Nebraska.

(2) In order to remove or reduce the hazards of life and property and the inconvenience of congested traffic on the streets in such cities in this state, it is hereby deemed necessary and of general benefit to the entire State of Nebraska to provide means for such cities to own offstreet vehicle parking facilities exclusively for the parking of motor vehicles.

Source: Laws 1971, LB 238, § 1; Laws 2022, LB800, § 314.
Operative date July 21, 2022.

14-1732 Offstreet parking; location; powers; limitation.

Any city of the metropolitan class is authorized to own, purchase, construct, equip, lease, or operate within such city offstreet motor vehicle parking facilities on property located beneath any elevated segment of the National System of Interstate and Defense Highways or portion thereof, or public property title to which is held by the city on May 7, 1971, or property owned by the city and used in conjunction with and incidental to city-operated facilities, or on property situated so as to serve business in the central business district, or business in long-established outlying neighborhood business districts for the use of the general public. The grant of power in this section does not include the power to engage, directly or indirectly, in the sale of gasoline, oil, or other merchandise or in the furnishing of any service other than that of parking motor vehicles as provided in this section. Any such city shall have the authority to acquire by grant, contract, or purchase, as provided by law for such acquisition, all real or personal property, including a site or sites on which to construct such facilities, necessary or convenient in the carrying out of this grant of power.

Source: Laws 1971, LB 238, § 2; Laws 1977, LB 238, § 1; Laws 2022, LB800, § 315.
Operative date July 21, 2022.

14-1733 Offstreet parking; cost; revenue bonds; parking district assessments; gifts, leases, devises, grants, funds, agreements; conditions; procedure.

(1) In order to pay the cost required by any purchase, construction, or lease of property and equipping of offstreet parking facilities under sections 14-1731 to 14-1740, or the enlargement of presently owned facilities, a city of the metropolitan class may:

(a) Issue revenue bonds to provide the funds for such improvements. Such revenue bonds shall be a lien only upon the revenue and earnings of parking facilities and onstreet parking meters. Such revenue bonds shall mature in no more than forty years and shall be sold at public or private sale. Any such revenue bonds which may be issued shall not be included in computing the maximum amount of bonds which the issuing city of the metropolitan class may be authorized to issue under its home rule charter or any statute of this state. Such revenue bonds may be issued and sold or delivered to the contractor at par and accrued interest for the amount of work performed. The city may

pledge the revenue from any facility or parking meters as security for the bonds;

(b) Upon an initiative petition of the majority of the record owners of taxable property included in a proposed parking district, create, by ordinance, parking districts and delineate the boundaries of such parking districts. If the city council finds that there are common benefits enjoyed by the public at large without reference to the ownership of property, or that there is a common benefit to the property encompassed within a parking district or districts, the city may assess the costs of such improvement or improvements as special assessments against all the property included in such district or districts, according to such rules as the city council, sitting as a board of equalization, shall adopt for the distribution or adjustment of the costs of such improvement or improvements. All such special assessments shall be equalized, levied, and collected as special assessments. Special assessments levied pursuant to this section shall be due, payable, and bear interest as the city council shall determine by ordinance. Installment payments shall not be allowed for any period in excess of twenty years; or

(c) Use, independently or together with revenue derived pursuant to subdivision (1)(a) or (b) of this section, gifts, leases, devises, grants, federal or state funds, or agreements with other public entities.

(2) No real property shall be included in any parking district created pursuant to this section when the zoning district in which such property is located is a residential zoning district or a district where the predominant type of land use authorized is residential in nature.

Source: Laws 1971, LB 238, § 3; Laws 1977, LB 238, § 2; Laws 1979, LB 181, § 1; Laws 1980, LB 703, § 1; Laws 2015, LB361, § 11; Laws 2022, LB800, § 316.
Operative date July 21, 2022.

14-1734 Revenue bonds; plans and specifications; prepare.

Before the issuance of any revenue bonds for improvements as provided under section 14-1733, a city of the metropolitan class shall have an independent and qualified firm of engineers prepare plans and specifications for the improvements financed with such bonds. In the preparation of such plans and specifications, the independent engineer shall collaborate and counsel with any city engineering or traffic department so as to coordinate the program with the program for the control of traffic within such city.

Source: Laws 1971, LB 238, § 4; Laws 2022, LB800, § 317.
Operative date July 21, 2022.

14-1735 Rules and regulations; contracts; operation.

The city council of a city of the metropolitan class shall make all necessary rules and regulations governing the use, operation, and control of facilities authorized by sections 14-1731 to 14-1740. In the exercise of the grant of power set forth in sections 14-1731 to 14-1740, the city of the metropolitan class shall make contracts with others, if such contracts are necessary and needed for the payment of the revenue bonds authorized in sections 14-1731 to 14-1740 and for the successful operation of the parking facilities. If the city is unable to secure a reasonable lease with another party for operation of the facility, the city may operate the facility itself. The city council may also make any other

agreements with the purchasers of the bonds for the security of the city and the purchasers of such bonds not in contravention with sections 14-1731 to 14-1740.

Source: Laws 1971, LB 238, § 5; Laws 1979, LB 181, § 2; Laws 2022, LB800, § 318.
Operative date July 21, 2022.

14-1736 Repealed. Laws 1977, LB 238, § 5.

14-1737 Facility; lease; restrictions.

On the creation of a motor vehicle parking facility for the use of the general public under sections 14-1731 to 14-1740, a city of the metropolitan class shall lease such facility to one or more operators to provide for the efficient operation of the facility. Such lease shall be let on a competitive basis and no lease shall run for a period in excess of four years except that leases of facilities in conjunction with office buildings, shopping centers, public facilities, or redevelopment areas may be for any period not to exceed twenty years. In granting any lease, the city shall retain such control of the facility as may be necessary to insure that the facility will be properly operated in the public interest and that the prices charged are reasonable. If the city is unable to secure a reasonable lease with another party for operation of the facility, the city may operate the facility itself. Sections 14-1731 to 14-1740 shall not be construed to authorize the city or the lessee of the facility to engage in the sale of any commodity, product, or service, or to engage in any business other than the purposes set forth in section 14-1732.

Source: Laws 1971, LB 238, § 7; Laws 1977, LB 238, § 3; Laws 1979, LB 181, § 3; Laws 2022, LB800, § 319.
Operative date July 21, 2022.

14-1738 Multilevel parking structure; not subject to eminent domain; when.

A multilevel parking structure now used or hereafter acquired for offstreet motor vehicle parking by a private operator within a city of the metropolitan class shall not be subject to eminent domain for the purpose of creating a parking facility pursuant to sections 14-1733, 14-1735, 14-1737, and 14-1738 when such multilevel structure has a capacity of more than two hundred automobiles.

Source: Laws 1971, LB 238, § 8; Laws 1977, LB 238, § 4; Laws 1979, LB 181, § 4; Laws 2022, LB800, § 320.
Operative date July 21, 2022.

14-1739 Revenue bonds; contract with holder; conditions.

Sections 14-1731 to 14-1740 and of any ordinance authorizing the issuance of bonds under such sections shall constitute a contract with the holders of such bonds, and any holder of a bond or bonds or any of the coupons of any bond or bonds of a city of the metropolitan class, issued under such sections may either in law or in equity, by suit, action, mandamus, or other proceedings, enforce and compel the performance of all duties required by such sections or by the ordinance authorizing the bonds, including the making and collection of

sufficient charges and fees for service and the use of such charges and fees, and the application of income and revenue from such charges and fees.

Source: Laws 1971, LB 238, § 9; Laws 2022, LB800, § 321.
Operative date July 21, 2022.

14-1740 Sections; supplementary to existing law.

Sections 14-1731 to 14-1740 are supplementary to existing statutes relating to cities of the metropolitan class and confer upon such cities powers not heretofore granted.

Source: Laws 1971, LB 238, § 10.

ARTICLE 18

METROPOLITAN TRANSIT AUTHORITY

Section
14-1801. Metropolitan transit authority; declaration of policy.
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14-1825. Metropolitan transit authority; labor contracts; collective bargaining.
14-1826. Act, how cited.

14-1801 Metropolitan transit authority; declaration of policy.

It is hereby determined and declared as a matter of legislative finding and policy:

(1) That traffic, passenger, truck, and pedestrian, in the streets of cities of the metropolitan class, a county in which such a city is located, adjacent counties, and cities and villages located in such counties, has become severely congested by the great number of motor vehicles operating therein; that such conditions have been accentuating for a period of years, and all signs and indications are that such congestion will continue to increase; that such conditions constitute a hazard and a handicap to the use of streets within such counties, cities, and villages and constitute a continuing detriment to the operation of all characters of business in such counties, cities, and villages; all of which is a matter of statewide concern, and, unless legislative action is taken, will constitute a public nuisance; and these conditions can and should be relieved by mass transportation of passengers, which an authority, as herein created, could provide.

(2) That such street traffic congestion has created a dangerous hazard to the lives and property of pedestrians and those traveling in private and public vehicles.

(3) That uncongested and unobstructed traffic, both of pedestrians and those riding in or transporting merchandise in vehicles, is necessary to the public health, safety, security, prosperity, well-being, and welfare of all the people.

(4) That such existing congestion of the streets in such counties, cities, and villages handicaps and obstructs the administration of firefighting forces and police protection forces.

(5) That the relieving of congestion in the streets of such counties, cities, and villages and the providing of a comprehensive passenger transportation system in such counties, cities, and villages is a matter of public interest and statewide concern and within the powers and authority inhering in and reserved to the state.

Source: Laws 1957, c. 23, § 1, p. 157; Laws 1972, LB 1275, § 1; Laws 2003, LB 720, § 1.

14-1802 Terms, defined.

As used in the Transit Authority Law, unless the context otherwise requires:

(1) Authority means any transit authority created under the Transit Authority Law;

(2) Board means the board of directors of any transit authority created under the Transit Authority Law;

(3) City of the metropolitan class means all cities in the State of Nebraska defined to be cities of the metropolitan class by section 14-101;

(4) Municipality and municipal means any city of the metropolitan class in the State of Nebraska; and

(5) Bonds means revenue bonds of any transit authority established under the Transit Authority Law.

Source: Laws 1957, c. 23, § 2, p. 158; Laws 1972, LB 1275, § 2; Laws 1998, LB 1191, § 6.

14-1803 Metropolitan transit authority; creation; members; appointment; jurisdiction; compensation; expenses; delegation of powers and duties.

(1) Any city of the metropolitan class may create by ordinance a transit authority to be managed and controlled by a board of five members which shall be appointed as provided in section 14-1813 and shall have full and exclusive jurisdiction and control over all facilities owned or acquired by such city for a public passenger transportation system. The governing body of such city, in the exercise of its discretion, shall find and determine in the ordinance creating such transit authority that its creation is expedient and necessary. The chairperson of such transit authority shall be paid as compensation for his or her services not more than six hundred dollars per month. Each other member of such transit authority shall be paid as compensation for his or her services not more than five hundred dollars per month. All salaries and compensation shall be obligations against and paid solely from the revenue of such transit authority. Members of such transit authority shall also be entitled to reimbursement for expenses paid or incurred in the performance of the duties imposed upon them by the Transit Authority Law with reimbursement for mileage to be made at the rate provided in section 81-1176. The board may delegate to one or more of the members or to officers, agents, and employees of the authority such powers and duties as it may deem proper.

(2) Any transit authority created pursuant to such law shall have and retain full and exclusive jurisdiction and control over all public passenger transportation systems in such city, excluding taxicabs, transportation network companies, and interstate railroad systems in such city, and over all public passenger transportation systems operated by such transit authority in any county, city, or village served by the authority, with the right and duty to charge and collect revenue for the operation and maintenance of such systems and for the benefit of the holders of any of its bonds or other liabilities. Unless such authority elects to convert to a regional metropolitan transit authority under the Regional Metropolitan Transit Authority Act, if such authority ceases to exist, its rights and properties shall pass to and vest in such city of the metropolitan class.

Source: Laws 1957, c. 23, § 3, p. 159; Laws 1972, LB 1275, § 3; Laws 1973, LB 69, § 1; Laws 1981, LB 204, § 17; Laws 1989, LB 309, § 1; Laws 1996, LB 1011, § 5; Laws 2003, LB 720, § 2; Laws 2019, LB492, § 33.

Cross References

Regional Metropolitan Transit Authority Act, see section 18-801.

The jurisdiction and powers herein given a transit authority is for local control and does not affect the general control vested in the Public Service Commission by the Constitution. Ritums v. Howell, 190 Neb. 503, 209 N.W.2d 160 (1973).

14-1804 Metropolitan transit authority; establishment; body corporate.

The authority shall be a body corporate and politic and shall be known as Transit Authority of . . . . . (filling out the blank with the name of the city), and shall be a governmental subdivision of the State of Nebraska with the powers and authority provided by the Transit Authority Law. The authority is declared to be an instrumentality of the state exercising public and essential governmental functions in the exercise of the powers conferred upon it by the Transit Authority Law.

Source: Laws 1957, c. 23, § 4, p. 160; Laws 1972, LB 1275, § 4; Laws 1998, LB 1191, § 7.

14-1805 Metropolitan transit authority; general powers.

For the purpose of accomplishing the object and purpose of the Transit Authority Law, the authority shall possess all the necessary powers of a public body corporate and governmental subdivision of the State of Nebraska, including, but not limited to, the following powers:

(1) To maintain a principal office in the city of the metropolitan class in which created;

(2) To adopt the official seal of the authority and to alter the same at its pleasure;

(3) To employ a general manager, engineers, accountants, attorneys, financial experts, and such other employees and agents as may be necessary in its judgment, to fix the compensation of and to discharge the same, to negotiate with employees and enter into contracts of employment, to employ persons singularly or collectively, and, with the consent of such city, to use the services of agents, employees, and facilities of such city, including the city attorney as legal advisor to such authority, for which such authority shall reimburse such city a proper proportion of the compensation or cost thereof;

(4) To adopt bylaws and adopt and promulgate rules and regulations for the regulation of its affairs and for the conduct of its business;

(5) To acquire, lease, own, maintain, and operate for public service a public passenger transportation system, excluding taxicabs and railroad systems, within or without a city of the metropolitan class;

(6) To sue and be sued in its own name, but execution shall not, in any case, issue against any of its property, except that the lessor, vendor, or trustee under any agreement, lease, conditional sales contract, conditional lease contract, or equipment trust certificate, as provided for in subdivision (15) of this section, may repossess the equipment described therein upon default;

(7) To acquire, lease, and hold such real or personal property and any rights, interests, or easements therein as may be necessary or convenient for the purposes of the authority and to sell, assign, and convey the same;

(8) To make and enter into any and all contracts and agreements with any individual, public or private corporation or agency of the State of Nebraska, public or private corporation or agency of any state of the United States adjacent to the city of the metropolitan class, and the United States of America as may be necessary or incidental to the performance of its duties and the execution of its powers under the Transit Authority Law and to enter into agreements authorized under the Interlocal Cooperation Act or the Joint Public Agency Act;

(9) To contract with an operating and management company for the purpose of operating, servicing, and maintaining any public passenger transportation systems of such authority;

(10) To acquire and hold capital stock in any passenger transportation system, excluding taxicabs and railroad systems, solely for the purpose of lawfully acquiring the physical property of such corporation for public use;

(11) To borrow money and issue and sell negotiable bonds, notes, or other evidence of indebtedness, to provide for the rights of the holders thereof, and to pledge all or any part of the income of the authority received as herein provided to secure the payment thereof. The authority shall not have the power to pledge the credit or taxing power of the state or any political subdivision thereof, except such tax receipts as may be authorized herein, or to place any lien or

encumbrance on any property owned by the state, county, or city used by the authority;

(12) To receive and accept from the government of the United States of America or any agency thereof, from the State of Nebraska or any subdivision thereof, and from any person or corporation, donations or loans or grants for or in aid of the acquisition or operation of passenger transportation facilities, and to administer, hold, use, and apply the same for the purposes for which such grants or donations may have been made;

(13) To exercise the right of eminent domain under and pursuant to the Constitution, statutes, and laws of the State of Nebraska to acquire private property, including any existing private passenger transportation system, but excluding any taxicabs, railroad, and air passenger transportation systems, which is necessary for the passenger transportation purposes of the authority and including the right to acquire rights and easements across, under, or over the right-of-way of any railroad. Exercise of the right of eminent domain shall be pursuant to sections 76-704 to 76-724;

(14) Subject to the continuing rights of the public to the use thereof, to use any public road, street, or other public way in any city of the metropolitan class, county in which such city is located, adjacent county, or city or village located in such counties served by the authority for transportation of passengers;

(15) To purchase and dispose of equipment, including motor buses, and to execute any agreement, lease, conditional sales contract, conditional lease contract, and equipment trust note or certificate to effect such purpose;

(16) To pay for any equipment and rentals therefor in installments and to give evidence by equipment trust notes or certificates of any deferred installments, and title to such equipment need not vest in the authority until the equipment trust notes or certificates are paid;

(17) To certify annually to the local lawmaking body of the city of the metropolitan class, county in which such city is located, adjacent county, or city or village located in such counties served by the authority such tax request for the fiscal year commencing on the first day of the following January as, in its discretion and judgment, the authority determines to be necessary, pursuant to section 14-1821. The local lawmaking body of such county, city, or village is authorized to levy and collect such taxes in the same manner as other taxes in such county, city, or village subject to section 77-3443;

(18) To apply for and accept grants and loans from the government of the United States of America, or any agency or instrumentality thereof, to be used for any of the authorized purposes of the authority, and to enter into any agreement with the government of the United States of America, or any agency or instrumentality thereof, in relation to such grants or loans, subject to the provisions hereof;

(19) To determine routes and to change the same subject to the provisions hereof;

(20) To fix rates, fares, and charges for transportation. The revenue derived from rates, from the taxation herein provided, and from any grants or loans herein authorized shall at all times be sufficient in the aggregate to provide for the payment of: (a) All operating costs of the transit authority, (b) interest on and principal of all revenue bonds, revenue certificates, equipment trust notes

or certificates, and other obligations of the authority, and to meet all other charges upon such revenue as may be provided by any trust agreement executed by such authority in connection with the issuance of revenue bonds or certificates under the Transit Authority Law, and (c) any other costs and charges, acquisition, installation, replacement, or reconstruction of equipment, structures, or rights-of-way not financed through the issuance of revenue bonds or certificates;

(21) To provide free transportation for firefighters and police officers in uniform in the city of the metropolitan class, county in which such city is located, adjacent county, or city or village located in such counties served by the authority in which they are employed and for employees of such authority when in uniform or upon presentation of proper identification;

(22) To enter into agreements with the Post Office Department of the United States of America or its successors for the transportation of mail and letter carriers and the payment therefor;

(23) To exercise all powers usually granted to corporations, public and private, necessary or convenient to carry out the powers granted by the Transit Authority Law; and

(24) To establish pension and retirement plans for officers and employees and to adopt any existing pension and retirement plans and any existing pension and retirement contracts for officers and employees of any passenger transportation system purchased or otherwise acquired pursuant to the Transit Authority Law.

Source: Laws 1957, c. 23, § 5, p. 160; Laws 1972, LB 1275, § 5; Laws 1973, LB 69, § 2; Laws 1979, LB 187, § 34; Laws 1986, LB 1012, § 1; Laws 1987, LB 471, § 1; Laws 1997, LB 269, § 17; Laws 1999, LB 87, § 60; Laws 2003, LB 720, § 3.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

The jurisdiction and powers herein given a transit authority is for local control and does not affect the general control vested in the Public Service Commission by the Constitution. Ritums v. Howell, 190 Neb. 503, 209 N.W.2d 160 (1973).

14-1805.01 Metropolitan transit authority; retirement plan reports; duties.

(1) Beginning December 31, 1998, through December 31, 2017, the chairperson of the board shall file with the Public Employees Retirement Board an annual report on each retirement plan established pursuant to section 14-1805 and section 401(a) of the Internal Revenue Code and shall submit copies of such report to the Auditor of Public Accounts. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

(a) The number of persons participating in the retirement plan;

(b) The contribution rates of participants in the plan;

(c) Plan assets and liabilities;

(d) The names and positions of persons administering the plan;

(e) The names and positions of persons investing plan assets;

(f) The form and nature of investments;

(g) For each defined contribution plan, a full description of investment policies and options available to plan participants; and

(h) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(2) Through December 31, 2017, if such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, in addition to the reports required by section 13-2402, the authority shall cause to be prepared an annual report and the chairperson shall file the same with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee of the Legislature and submit to the Auditor of Public Accounts a copy of such report. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the authority does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the authority. All costs of the audit shall be paid by the authority. The report shall consist of a full actuarial analysis of each such retirement plan established pursuant to section 14-1805. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan. The report to the Nebraska Retirement Systems Committee shall be submitted electronically.

(3)(a) Beginning December 31, 2018, and each December 31 thereafter, for a defined benefit plan the chairperson or his or her designee shall prepare and electronically file an annual report with the Auditor of Public Accounts and the Nebraska Retirement Systems Committee of the Legislature. If such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, the report shall be in addition to the reports required by section 13-2402. The report shall be on a form prescribed by the Auditor of Public Accounts and shall include, but not be limited to, the following information:

(i) The levels of benefits of participants in the plan, the number of members who are eligible for a benefit, the total present value of such members' benefits, and the funding sources which will pay for such benefits; and

(ii) A copy of a full actuarial analysis of each such defined benefit plan. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization which offers investment advice or provides investment management services to the retirement plan.

(b) The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the authority does

not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the authority. All costs of the audit shall be paid by the authority.

Source: Laws 1998, LB 1191, § 8; Laws 1999, LB 795, § 4; Laws 2011, LB474, § 4; Laws 2014, LB759, § 5; Laws 2017, LB415, § 4.

14-1806 Metropolitan transit authority; revenue bonds and certificates; issuance; terms and conditions; trust agreements.

The authority shall have the continuing power to borrow money for the purpose of acquiring any transportation system and necessary cash working funds, or for reconstructing, extending, or improving its transportation system or any part thereof, and for acquiring any property and equipment useful for the reconstruction, extension, improvement, and operation of its transportation system or any part thereof. For the purpose of evidencing the obligation of the authority to repay any money borrowed as aforesaid, the authority may pursuant to resolution adopted by the board from time to time issue and dispose of its interest-bearing revenue bonds or certificates. It may also from time to time issue and dispose of its interest-bearing revenue bonds or certificates to refund any bonds or certificates at maturity, or pursuant to redemption provisions, or at any time before maturity with the consent of the holders thereof. All such bonds and certificates shall be payable solely from the revenue or income to be derived from the transportation system, from such tax receipts as may be herein authorized, and from such grants and loans as may be received. Such bonds and certificates may bear such date or dates, may mature at such time or times as may be fixed by the board, may bear interest at such rate or rates as may be fixed by the board, payable semiannually, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be made subject to redemption in such manner and upon such terms with or without premium as is stated on the face thereof, may be authenticated in such manner, and may contain such terms and covenants as may be provided in such resolution. Notwithstanding the form or tenor thereof and in the absence of an express recital on the face thereof that they are nonnegotiable, all such bonds and certificates shall be negotiable instruments. Pending the preparation and execution of any such bonds or certificates, temporary bonds or certificates may be issued with or without interest coupons as may be provided by resolution of the board. To secure the payment of any or all of such bonds or certificates, and for the purpose of setting forth the covenants and undertakings of the authority in connection with the issuance thereof, and the issuance of any additional bonds or certificates, as well as the use and application of the revenue or income to be derived from the transportation system, and from such tax receipts as may be herein authorized, and from any grants or loans, as provided in the Transit Authority Law, the authority may execute and deliver a trust agreement or agreements. No lien upon any physical property of the authority shall be created by such trust agreement or agreements. A remedy for any breach or default of the terms of any such trust agreement by the authority may be by mandamus or other appropriate proceedings in any court of competent jurisdiction to compel performance and compliance therewith. The trust agreement may prescribe by whom or on whose behalf such action may be instituted.

Source: Laws 1957, c. 23, § 6, p. 165; Laws 1972, LB 1275, § 6; Laws 1998, LB 1191, § 9; Laws 2001, LB 420, § 17.

14-1807 Metropolitan transit authority; revenue bonds and certificates; extent of obligation.

Under no circumstances shall any bonds or certificates issued by the authority or any other obligation of the authority be or become an indebtedness or obligation of the State of Nebraska, or of any other political subdivision or body corporate and politic or of any municipality within the state, nor shall any such bond, certificate, or obligation be or become an indebtedness of the authority within the purview of any constitutional limitation or provision, and it shall be plainly stated on the face of each bond and certificate that it does not constitute such an indebtedness or obligation but is payable solely from revenue and income as aforesaid, including such tax revenue as may be received, as herein provided.

Source: Laws 1957, c. 23, § 7, p. 166; Laws 1972, LB 1275, § 7.

14-1808 Metropolitan transit authority; revenue bonds and certificates; sale; advertisement; bids.

Before any such bonds or certificates (excepting refunding bonds or certificates) are sold the entire authorized issue, or any part thereof, shall be offered for sale as a unit after advertising for bids at least three times in a daily newspaper of general circulation published in the city of the metropolitan class, the last publication to be at least ten days before bids are required to be filed. Copies of such advertisement may also be published in any newspaper or financial publication in the United States. All bids shall be sealed, filed, and opened as provided by resolution adopted by the authority, and the bonds or certificates shall be awarded to the highest and best bidder or bidders therefor. The authority shall have the right to reject all bids and readvertise for bids in the manner provided for in the initial advertisement. If no bids are received such bonds or certificates may be sold at the best possible price according to the discretion of the board, without further advertising, within thirty days after the bids are required to be filed pursuant to any advertisement.

Source: Laws 1957, c. 23, § 8, p. 166; Laws 1972, LB 1275, § 8.

14-1809 Metropolitan transit authority; revenue bonds and certificates; legal investment; considered securities.

Bonds issued by the authority under the Transit Authority Law are hereby made securities in which the state and all political subdivisions of the state, their officers, boards, commissions, departments, or other agencies, all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies, insurance associations, and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees, and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control. Such bonds or other securities or obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officers or agency of the state for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law.

Source: Laws 1957, c. 23, § 9, p. 167; Laws 1972, LB 1275, § 9; Laws 1998, LB 1191, § 10.

14-1810 Metropolitan transit authority; property; exempt from taxation; exceptions.

An authority created pursuant to the Transit Authority Law being a governmental subdivision of the State of Nebraska to exercise public and essential governmental functions, all property thereof, all operations thereof, and all rights to operate, of whatsoever character, and all bonds and equipment trust notes or certificates issued by it, shall be exempt from any and all forms of assessment and taxation, and from all other governmental and municipal licenses, excises, and charges, except for assessments under the Nebraska Workers' Compensation Act and any combined tax due or payments in lieu of contributions as required under the Employment Security Law.

Source: Laws 1957, c. 23, § 10, p. 167; Laws 1972, LB 1275, § 10; Laws 1998, LB 1191, § 11; Laws 2022, LB780, § 1.
Effective date July 21, 2022.

Cross References

Employment Security Law, see section 48-601.
Nebraska Workers' Compensation Act, see section 48-1,110.

14-1811 Metropolitan transit authority; equipment; purchase; securities.

(1) The authority shall have power to purchase equipment, including motor buses, and may execute agreements, leases, conditional sales contracts, conditional lease contracts, and equipment trust notes or certificates in the form customarily used in such cases appropriate to effect such purchase, and may dispose of such equipment trust notes or certificates. All money required to be paid by the authority under the provisions of such agreements, leases, and equipment notes or trust certificates shall be payable solely from the revenue or income to be derived from the transportation systems, and from such tax receipts as may be herein authorized and from grants and loans received, as provided in the Transit Authority Law. Payment for such equipment, or rentals therefor, may be made in installments, and the deferred installments may be evidenced by equipment trust notes or certificates payable solely from such sources of income, and title to such equipment need not vest in the authority until the equipment trust notes or certificates are paid, but when payment is accomplished the equipment title shall vest in the authority.

(2) The agreement to purchase may direct the vendor to sell and assign the equipment to a bank or trust company, duly authorized to transact business in the State of Nebraska, as trustee, for the benefit and security of the equipment trust notes or certificates, and may direct the trustee to deliver the equipment to one or more designated officers of the authority, and may authorize the trustee simultaneously therewith to execute and deliver a lease of the equipment to the authority.

(3) The agreements, leases, contracts, or equipment trust certificates shall be duly acknowledged before some person authorized by law to take acknowledgments of deeds, and in the form required for acknowledgment of deeds, and such agreements, leases, and equipment trust notes or certificates shall be authorized by resolution of the board, and shall contain such covenants, conditions, and provisions as may be deemed necessary or appropriate to insure the payment of the equipment trust notes or certificates from the revenue and income of the authority.

(4) The covenants, conditions, and provisions of the agreements, leases, contracts, and equipment trust notes or certificates shall not conflict with any of the provisions of any trust agreement securing the payment of revenue bonds or certificates of the authority.

Source: Laws 1957, c. 23, § 11, p. 168; Laws 1972, LB 1275, § 11; Laws 1998, LB 1191, § 12.

14-1812 Metropolitan transit authority; board; name.

Unless the authority elects to convert into a regional metropolitan transit authority pursuant to the Regional Metropolitan Transit Authority Act, the governing body of the authority shall be a board to be known as The Transit Authority of . . . . . , filling out the blank with the name of the city, which shall consist of five members, to be appointed as provided in section 14-1813. If at any time such authority elects to convert into a regional metropolitan transit authority, then as of the effective date of such conversion, the governing body of a transit authority established under the Transit Authority Law shall become a board known as the Regional Metropolitan Transit Board of . . . . (filling out the blank with the name coinciding with the name of the regional metropolitan transit authority determined pursuant to section 18-804). Thereafter, notwithstanding any provision in the Transit Authority Law to the contrary, such board shall consist of members as determined under and be governed by and subject to the Regional Metropolitan Transit Authority Act.

Source: Laws 1957, c. 23, § 12, p. 169; Laws 1972, LB 1275, § 12; Laws 1973, LB 69, § 3; Laws 2019, LB492, § 34.

Cross References

Regional Metropolitan Transit Authority Act, see section 18-801.

14-1813 Metropolitan transit authority; board; appointment; term; vacancy; oath; bond; removal from office.

(1) Except as provided in subsection (2) of this section, whenever any city of the metropolitan class creates an authority, the board shall consist of five members to be selected as follows: (a) The mayor, with the approval of the city council and the county board of the county in which the city is located, shall appoint one member who shall serve for one year, one member who shall serve for two years, one member who shall serve for three years, one member who shall serve for four years, and one member who shall serve for five years; and (b) upon the expiration of the term of each appointed officer, the mayor, with the approval of the city council and the county board of the county in which the city is located, shall appoint a member who shall serve for a term of five years. Members of such board shall be residents of the transit authority territory described in section 14-1803 and one member of the board shall be nominated and selected as provided in subsection (2) of this section. In cities of the metropolitan class where a board has been heretofore appointed, the mayor, with the approval of the city council and the county board of the county in which the city is located, shall by resolution redesignate the terms of the members of such board in accordance with the provisions of sections 14-1803, 14-1805, 14-1812, and 14-1813, except that until such redesignation is made the terms shall stand as provided for in the original appointment.

(2) Notwithstanding any provisions of the city charter of the city of the metropolitan class to the contrary, when the next vacancy will occur on the

board after August 31, 2003, resulting from the expiration of the term of office of a member of the board, notice of such vacancy shall be communicated to the clerk of each county, city, or village which is part of the transit authority territory. Such notice shall be provided at least forty-five days prior to the expiration of the term of office of the member. Each county, city, and village, other than the city of the metropolitan class, may, by majority vote of their governing bodies, recommend the appointment of one or more residents of their respective jurisdictions to fill the board position. Such nominations shall be filed with the mayor of the city of the metropolitan class not later than the thirtieth day following the date of receipt of notice of the vacancy. The mayor shall make the appointment to fill the board position from such nominations. The individual appointed by the mayor, upon approval by the city council of the city of the metropolitan class, shall become a member of the board. Thereafter, any successor to such board member, either by reason of vacancy or the expiration of such board member's term, shall possess the residence qualifications provided for in this subsection, and such board position shall be filled in the manner provided for in this subsection.

(3) Except as provided in subsection (2) of this section, any vacancy on such board resulting other than from expiration of a term of office shall be filled, not later than six months after the date of such vacancy, by the mayor of the city of the metropolitan class with the approval of the city council and the county board of the county in which the city is located, and such appointee shall possess the same residence qualifications as the member whose office he or she is to fill and shall serve the unexpired portion, if any, of the term of the member whose office was vacated.

(4) Each member, before entering upon the duties of the office, shall file with the city clerk of the city of the metropolitan class an oath that he or she will duly and faithfully perform all the duties of the office to the best of his or her ability, and a bond in the penal sum of five thousand dollars executed by one or more qualified sureties for the faithful performance of his or her duties. If any member shall fail to file such oath and bond on or before the first day of the term for which he or she was appointed or elected, his or her office shall be deemed to be vacant.

(5) A member of such board may be removed from office for incompetence, neglect of duty, or malfeasance in office. An action for the removal of such officer may be brought, upon resolution of the city council of the city of the metropolitan class or the county board of the county in which the city is located, in the district court of the county in which such city is located.

Source: Laws 1957, c. 23, § 13, p. 169; Laws 1972, LB 1275, § 13; Laws 1973, LB 69, § 4; Laws 1997, LB 269, § 18; Laws 2003, LB 720, § 4; Laws 2020, LB1003, § 4.

14-1814 Metropolitan transit authority; board; organization; officers; quorum; meetings; resolutions; public records.

Not later than seven days after the qualification of the members, the board shall organize for the transaction of business, shall select a chairperson and vice-chairperson from among its members, and shall adopt bylaws, rules, and regulations to govern its proceedings. The chairperson and vice-chairperson and their successors shall be elected annually by the board and shall serve for a term of one year. Any vacancy in the offices of chairperson and vice-chairper-

son shall be filled by election by the board. A quorum for the transaction of business shall consist of three members of the board. Regular meetings of the board shall be held at least once in each calendar month at the time and place to be fixed by the board. All actions of the board shall be by resolution, except as may otherwise be provided in the Transit Authority Law, and the affirmative vote of at least three members shall be necessary for the adoption of any resolution. Any such resolution shall be approved by the chairperson of the board, or in his or her absence by the vice-chairperson of the board, before taking effect. If he or she shall approve thereof he or she shall sign the same. If he or she shall not approve thereof, he or she shall return the resolution to the board with his or her objections thereto in writing at the next regular meeting of the board occurring after the passage thereof. If the chairperson shall fail to return any resolution with his or her written objections to the board within the time aforesaid, he or she shall be deemed to have approved the same and it shall take effect; any resolution not approved by the chairperson may be passed by the affirmative vote of at least four members of the board. The board shall cause to be kept accurate minutes of all of its proceedings. All resolutions and all proceedings of the authority and all official documents and records of the authority shall be public records and open to public inspection, except such documents and records as shall be prepared and kept for use in negotiations, actions, or proceedings, to which the authority is a party.

Source: Laws 1957, c. 23, § 14, p. 170; Laws 1972, LB 1275, § 14; Laws 1998, LB 1191, § 13.

14-1815 Repealed. Laws 1972, LB 1275, § 21.

14-1816 Metropolitan transit authority; board; employees; private interest; prohibited.

No member of the board and no officer or employee of the authority shall have any private financial interest, profit, or benefit in any contract, work, or business of the authority and in the sale or lease of any property to or from the authority.

Source: Laws 1957, c. 23, § 16, p. 171.

14-1817 Repealed. Laws 1972, LB 1275, § 21.

14-1818 Metropolitan transit authority; receipts; disbursements; books of account.

The board shall provide by resolution for the manner of handling all receipts, the depositing of same in banks, and the investment of same when practicable, and of all disbursements, and shall provide for the keeping of accurate books of account of all of same.

Source: Laws 1957, c. 23, § 18, p. 172; Laws 1972, LB 1275, § 15.

14-1819 Metropolitan transit authority; fiscal year; budget.

The board shall establish a fiscal operating year at least thirty days prior to the beginning of the first full fiscal year after the creation of the authority, and annually thereafter the board shall cause to be prepared a tentative budget which shall include all operation and maintenance expense for the ensuing fiscal year. The tentative budget shall be considered by the board, and, subject

to any revision and amendments as may be determined, shall be adopted prior to the first day of the ensuing fiscal year as the budget for that year. No expenditure for operations and maintenance in excess of the budget shall be made during any fiscal year except by the affirmative vote of at least four members of the board. It shall not be necessary to include in the annual budget any statement of interest or principal payments on bonds or certificates, or for capital outlays, but it shall be the duty of the board to make provision for payment of same from appropriate funds.

Source: Laws 1957, c. 23, § 19, p. 172.

14-1820 Metropolitan transit authority; financial statement; publication; filing.

As soon after the end of each fiscal year as may be expedient, the board shall cause to be prepared and printed a complete and detailed report and financial statement of its operations and of its assets and liabilities. A reasonably sufficient number of copies of such report shall be printed for distribution to persons interested, upon request, eight copies shall be filed with the Nebraska Publications Clearinghouse, and a copy thereof shall be mailed to the mayor and members of the city council and the governing board of any county in which such city is located, adjacent county, or city or village located within such counties served by the authority, and filed with the clerk of such county, city, or village.

Source: Laws 1957, c. 23, § 20, p. 172; Laws 1972, LB 1275, § 16; Laws 1972, LB 1284, § 12; Laws 2003, LB 720, § 5.

14-1821 Metropolitan transit authority; tax request; certification; levy; collection.

To assist in the defraying of all character of expense of the authority and to such extent as in its discretion and judgment may be necessary, the board shall annually certify a tax request for the fiscal year commencing on the following January 1. Such tax request shall not exceed in any one year ten cents on each one hundred dollars on the taxable value of the taxable property in the city of the metropolitan class or taxable property in any county in which such city is located, adjacent county, or city or village located within such counties served by the authority. The board shall by resolution, on or before September 30 of each year, certify such tax request to the city council of such city and the governing board of any county in which such city is located, adjacent county, or city or village located within such counties served by the authority. Such county, city, or village is hereby authorized to cause such tax to be levied and to be collected as are other taxes by the treasurer of such city or village or county treasurer and paid over by him or her to the treasurer of such board subject to the order of such board and subject to section 77-3443. If in any year the full amount so certified and collected is not needed for the current purposes of such authority, the balance shall be credited to reserves of such authority to be used for acquisition of necessary property and equipment.

Source: Laws 1957, c. 23, § 21, p. 173; Laws 1972, LB 1275, § 17; Laws 1974, LB 875, § 1; Laws 1979, LB 187, § 35; Laws 1986, LB 1012, § 2; Laws 1987, LB 471, § 2; Laws 1992, LB 1063, § 6; Laws 1992, Second Spec. Sess., LB 1, § 6; Laws 1993, LB 734,

§ 23; Laws 1995, LB 452, § 4; Laws 1997, LB 269, § 19; Laws 2003, LB 720, § 6; Laws 2007, LB206, § 3; Laws 2021, LB644, § 8.

14-1822 Metropolitan transit authority; transportation system; operation; rates and fares; adequate revenue.

The board shall make all rules and regulations, according to its discretion, governing the operation of the transportation system, and shall determine all routings and change the same whenever deemed advisable by the board. The board shall fix rates, fares, and charges for transportation, except that such revenue, together with revenue made available through taxation and revenue from any grants or loans received as provided in the Transit Authority Law, shall be at all times sufficient in the aggregate to provide revenue: (1) For the payment of the interest on and principal of all revenue bonds or certificates and equipment trust notes or certificates and other obligations of the authority, and to meet all other charges upon such revenue as provided by any trust agreement executed by the authority in connection with the issuance of revenue bonds or certificates under the Transit Authority Law; (2) for the payment of all operating costs of whatsoever character incidental to the operation of the transportation system; and (3) for the payment of any other costs and charges for the acquisition, installation, replacement, or reconstruction of equipment, structures, or rights-of-way not financed through issuance of revenue bonds or certificates.

Source: Laws 1957, c. 23, § 22, p. 173; Laws 1972, LB 1275, § 18; Laws 1998, LB 1191, § 14.

The jurisdiction and powers herein given a transit authority is for local control and does not affect the general control vested in the Public Service Commission by the Constitution. Ritums v. Howell, 190 Neb. 503, 209 N.W.2d 160 (1973).

14-1822.01 Expired.

14-1823 Metropolitan transit authority; transportation system; modernization; depreciation policy.

It shall be the duty of the board, as promptly as possible, to rehabilitate, reconstruct, and modernize all portions of any transportation system acquired, and to maintain at all times an adequate and modern transportation system suitable and adapted to the needs of the county, city, or village served by the authority, and for safe, comfortable, convenient, and expeditious service. To assure modern, attractive transportation service the board may establish a depreciation policy which makes provision for the continuous and prompt replacement of worn out and obsolete property and the board may make provision for such depreciation of the property of the authority as is not offset by current expenditures for maintenance, repairs, and replacements, under such rules and regulations as may be prescribed by the board.

Source: Laws 1957, c. 23, § 23, p. 174; Laws 1972, LB 1275, § 19; Laws 2003, LB 720, § 7.

14-1824 Repealed. Laws 1972, LB 1275, § 21.

14-1825 Metropolitan transit authority; labor contracts; collective bargaining.

The board may deal with and enter into written contracts with the employees of the authority through accredited representatives of such employees or representatives of any labor organization authorized to act for such employees, concerning wages, salaries, hours, and general working conditions. All employees of all classes serving any passenger transportation company at the time of its acquisition by the authority shall continue in their respective positions and at their respective compensations for three months after any such acquisition. Thereafter, the board shall exercise its discretion as to retention of and compensation of employees of all classes; *Provided,* the terms and conditions of any existing collective-bargaining agreement between any passenger transportation company, acquired by the authority, and its employees shall be recognized and accepted by the board.

Source: Laws 1957, c. 23, § 25, p. 175.

14-1826 Act, how cited.

Sections 14-1801 to 14-1826 shall be known and may be cited as the Transit Authority Law.

Source: Laws 1957, c. 23, § 28, p. 176; Laws 1972, LB 1275, § 20; Laws 1998, LB 1191, § 15.

ARTICLE 19

URBAN RENEWAL

Section
14-1901. Repealed. Laws 1973, LB 225, § 1.

14-1901 Repealed. Laws 1973, LB 225, § 1.

ARTICLE 20

LANDMARK HERITAGE PRESERVATION DISTRICTS

Section
14-2001. Landmark heritage preservation district; commission; creation; purpose.
14-2002. Landmark heritage preservation commission; powers and duties; limitation.
14-2003. City of the metropolitan class; eminent domain; when; procedure.
14-2004. Landmark heritage preservation commission; membership; qualifications; appointed by mayor; terms; officers.

14-2001 Landmark heritage preservation district; commission; creation; purpose.

Any city of the metropolitan class may by ordinance provide for the creation and establishment of landmark heritage preservation districts and a landmark heritage preservation commission for the purpose of preserving buildings, lands, areas, or districts within any such city which are determined by the landmark heritage preservation commission to possess particular historical, architectural, cultural, or educational value.

Source: Laws 1976, LB 711, § 1; Laws 2022, LB800, § 322. Operative date July 21, 2022.

14-2002 Landmark heritage preservation commission; powers and duties; limitation.

(1) The powers and duties of any landmark heritage preservation commission created pursuant to sections 14-2001 to 14-2004 shall be such as are delegated or assigned by the ordinance establishing the landmark heritage preservation commission. The city council shall specifically state in such ordinance which powers the landmark heritage preservation commission shall be allowed to exercise.

(2) The powers of a landmark heritage preservation commission shall not be repugnant to any other provision of law and shall be exercised only in the manner prescribed by the ordinance. No action of the landmark heritage preservation commission shall contravene any provision of a zoning or planning ordinance unless such action is expressly authorized by the city council.

Source: Laws 1976, LB 711, § 2; Laws 2022, LB800, § 323.
Operative date July 21, 2022.

14-2003 City of the metropolitan class; eminent domain; when; procedure.

(1) Each city of the metropolitan class may exercise its power of eminent domain to maintain or preserve buildings, lands, areas, or districts which have been determined by the landmark heritage preservation commission created by such city to be of historical, architectural, cultural, or educational value.

(2) Within a landmark heritage preservation district, a city of the metropolitan class shall not exercise its power of eminent domain to acquire property for the purpose of demolition and reconveyance for private use. This subsection shall not be applicable to any eminent domain action filed by such city prior to September 6, 1991.

(3) Whenever it becomes necessary to take control of property pursuant to and for the purposes stated in this section, the purpose and necessity for such control shall be declared by ordinance. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1976, LB 711, § 3; Laws 1991, LB 247, § 1; Laws 2022, LB800, § 324.
Operative date July 21, 2022.

14-2004 Landmark heritage preservation commission; membership; qualifications; appointed by mayor; terms; officers.

(1) A landmark heritage preservation commission created pursuant to sections 14-2001 to 14-2004 shall have nine members. If available, one of the members shall be an architect, one member shall be a curator or director of an art or other museum, one member shall be a professional artist or historian, three members shall be interested and qualified persons chosen, as far as possible, from any existing historical society, preservation group, architectural, landscape architectural, interior design, or planning association, or cultural organization, two members shall be laypersons, and one member shall be an owner or operator of a business or property within a landmark heritage preservation district, which business or property may be owned or operated by a corporation of which such member is an officer, by a partnership in which such member is a partner, or by a limited liability company in which such member is a member.

(2) Members of the landmark heritage preservation commission shall be appointed by the mayor and approved by the city council and shall serve for

terms of three years. Members shall serve until their successors are appointed and qualified. Members may be appointed to successive terms.

(3) The landmark heritage preservation commission shall select one of its members as chairperson. The director of the planning department of the city shall act as the executive director of the landmark heritage preservation commission, and staff assistance for the landmark heritage preservation commission shall be provided by the planning department of such city.

Source: Laws 1976, LB 711, § 4; Laws 1991, LB 247, § 2; Laws 1993, LB 121, § 129; Laws 2022, LB800, § 325.
Operative date July 21, 2022.

ARTICLE 21

PUBLIC UTILITIES

Section
14-2101. Public utilities district; what shall constitute.
14-2102. Board of directors; qualifications; election; outside member.
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14-2104. Board of directors; vacancy; compensation; benefits; expenses.
14-2105. Board of directors; meetings.
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14-2112. Utilities district; general powers.
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Section
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14-2137. Accounts of district; audit and approval; expenditures; records; public inspection.
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14-2141. Utilities district; funds; management and control; power to borrow.
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14-2153. Utilities district; restriction on sale of equipment or appliances.
14-2154. Utilities district; energy conservation or weatherization programs; establish; powers.
14-2155. Utilities district; public offstreet motor vehicle parking facilities; location.
14-2156. Utilities district; public offstreet motor vehicle parking facilities; bonds; powers.
14-2157. Utilities district; termination; petition; election.

14-2101 Public utilities district; what shall constitute.

Whenever in this state a city of the metropolitan class and one or more adjacent municipalities, sanitary and improvement districts, or unincorporated areas are served in whole or in part by a common public utilities system, owned and controlled by a single corporate public entity as provided for in sections 14-2101 to 14-2157, then the territory within the limits of the city of the metropolitan class and such adjacent municipalities, sanitary and improvement districts, or unincorporated areas, including any sanitary and improvement district or unincorporated area without the city of the metropolitan class or adjacent municipalities that may be now or hereafter served in whole or in part by the common public utilities system, shall form and constitute a public utilities district, except as provided in this section, to be known as the Metropolitan Utilities District of ..... (inserting the name of the city of the metropolitan class). A municipality, not of the metropolitan class, now actually operating a general waterworks system of its own, shall not be included in the utilities district so long as it continues to operate its own water plant. No sanitary and improvement district or unincorporated area without the adjacent municipalities shall become a part of the utilities district except upon formal approval and proclamation by the board of directors.

Source: Laws 1913, c. 143, § 1, p. 349; R.S.1913, § 4243; C.S.1922, § 3745; C.S.1929, § 14-1001; R.S.1943, § 14-1001; R.S.1943, (1991), § 14-1001; Laws 1992, LB 746, § 1.

Sole management and control of all waterworks systems in Omaha have been exercised by district since adoption of this section. Evans v. Metropolitan Utilities Dist., 187 Neb. 261, 188 N.W.2d 851 (1971).

14-2102 Board of directors; qualifications; election; outside member.

(1) In each metropolitan utilities district service area, there shall be a board of directors consisting of seven members. The members shall be elected as provided in section 32-540.

(2) Registered voters within the boundaries of the district shall be registered voters of such district. A registered voter of the district shall be eligible for the office of director subject to the special qualification of residence for the outside member, except that if the board of directors, by resolution, divides the territory of the district into election subdivisions pursuant to subsection (2) of section 32-540, a registered voter of the district shall be eligible for the office of director from the election subdivision in which he or she resides.

(3) The outside member specified in section 32-540 shall be a registered voter residing within the district but outside the corporate limits of the city of the metropolitan class for which the district was created.

In the event of the annexation of the area within which the outside member resides, he or she may continue to serve as the outside member until the expiration of the term of office for which such member was elected and until a successor is elected and qualified.

Source: Laws 1913, c. 143, § 3, p. 350; R.S.1913, § 4245; C.S.1922, § 3747; C.S.1929, § 14-1003; R.S.1943, § 14-1003; Laws 1945, c. 17, § 1, p. 121; Laws 1953, c. 22, § 1, p. 93; Laws 1961, c. 32, § 1, p. 152; Laws 1976, LB 665, § 1; Laws 1977, LB 201, § 3; R.S.1943, (1991), § 14-1003; Laws 1992, LB 746, § 2; Laws 1994, LB 76, § 477; Laws 2009, LB562, § 1; Laws 2014, LB1014, § 1.

14-2103 Board of directors; territory outside city; participation in election; filings; where made.

Whenever a metropolitan utilities district is extended to include sanitary and improvement districts, unincorporated area, towns, villages, or territory lying outside the corporate limits of cities of the metropolitan class or so extended as to include sanitary and improvement districts, unincorporated area, towns, or villages in an adjoining county or counties, then such sanitary and improvement districts, unincorporated area, towns, or villages shall have a right to participate in the nomination and in the election of members of the board of directors of the metropolitan utilities district. The election commissioner or county clerk of each of the counties in which ballots are cast pursuant to this section shall transmit, by mail or otherwise, to the Secretary of State, a copy of the abstract of the votes cast for members of the board of directors. The Secretary of State shall in due course deliver to the candidate receiving the highest number of votes a certificate of election as a member of the board of directors. All filings for such office shall be made with the Secretary of State.

Source: Laws 1921, c. 109, § 1, p. 385; C.S.1922, § 3748; C.S.1929, § 14-1004; R.S.1943, § 14-1004; Laws 1961, c. 32, § 2, p. 152; R.S.1943, (1991), § 14-1004; Laws 1992, LB 746, § 3; Laws 1994, LB 76, § 478; Laws 2014, LB1014, § 2; Laws 2019, LB411, § 19.

Election commissioner of Douglas County receives abstract of votes from clerks of adjoining counties as to officers of Metropolitan Utilities District. Barton v. City of Omaha, 180 Neb. 752, 145 N.W.2d 444 (1966).

14-2104 Board of directors; vacancy; compensation; benefits; expenses.

(1) Any vacancy occurring in the board of directors shall be filled for the unexpired term by the remaining members thereof within thirty days after the vacancy occurs. It is the intent and purpose to render the board of directors nonpartisan in character.

(2) The chairperson of the board of directors of a metropolitan utilities district shall be paid, as compensation for his or her services, not to exceed the sum of one thousand two hundred sixty dollars per month. Each of the other members of the board of directors shall be paid, as compensation for his or her services, not to exceed the sum of one thousand one hundred twenty dollars per month. Any adjustments in compensation shall be made only at regular meetings of the board of directors, and the salaries of the chairperson and other members of such board shall not be increased more often than once in any calendar year.

(3) Members of the board of directors may be considered employees of the district for purposes of participation in medical and dental plans of insurance offered to regular employees. The dollar amount of any health insurance premiums paid from the funds of the district for the benefit of a member of the board of directors may be in addition to the amount of compensation authorized to be paid to such director pursuant to this section.

(4) The chairperson and other members of such board of directors shall also be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

Source: Laws 1913, c. 143, § 4, p. 351; R.S.1913, § 4246; Laws 1919, c. 33, § 1, p. 107; C.S.1922, § 3749; C.S.1929, § 14-1005; R.S.1943, § 14-1005; Laws 1947, c. 20, § 2, p. 108; Laws 1953, c. 22, § 2, p. 94; Laws 1967, c. 45, § 1, p. 176; Laws 1981, LB 311, § 1; Laws 1985, LB 2, § 1; Laws 1990, LB 730, § 1; R.S.1943, (1991), § 14-1005; Laws 1992, LB 746, § 4; Laws 2001, LB 101, § 1.

14-2105 Board of directors; meetings.

Regular meetings of the board of directors shall be held each calendar month at such hour and on such date as the board may designate and at such other stated times as shall be fixed in the bylaws. Special meetings of the board may be held at any time at the call of the chairperson or at the request of any two members filed in writing with the secretary. All meetings of the board, any of its committees, or committees of its employees shall be public.

Source: Laws 1913, c. 143, § 5, p. 351; R.S.1913, § 4247; C.S.1922, § 3750; C.S.1929, § 14-1006; R.S.1943, § 14-1006; R.S.1943, (1991), § 14-1006; Laws 1992, LB 746, § 5; Laws 2019, LB411, § 20.

14-2106 Board of directors; officers; bylaws; quorum.

Upon organization such board of directors shall elect one of its members chairperson and one vice-chairperson, both of whom shall serve for one year, and shall appoint a secretary as provided in section 14-2109. The board shall make such rules governing its procedure and adopt such bylaws governing its business as it may deem proper. A majority of the board shall constitute a

quorum for the transaction of business, but a smaller number may adjourn from time to time until a quorum is secured.

Source: Laws 1913, c. 143, § 6, p. 352; R.S.1913, § 4248; C.S.1922, § 3751; C.S.1929, § 14-1007; R.S.1943, § 14-1007; R.S.1943, (1991), § 14-1007; Laws 1992, LB 746, § 6.

14-2107 Board of directors; investigatory powers.

The board of directors of the metropolitan utilities district or any committee of the members of the board shall have power to compel the attendance of witnesses for investigation of any matters that may come before the board, and the presiding officer of the board, or the chairperson of the committee for the time being, may administer the requisite oaths, and the board or committee thereof shall have the same authority to compel the giving of testimony as is conferred on courts of justice.

Source: Laws 1913, c. 143, § 7, p. 353; R.S.1913, § 4249; C.S.1922, § 3752; C.S.1929, § 14-1008; R.S.1943, § 14-1012; R.S.1943, (1991), § 14-1012; Laws 1992, LB 746, § 7.

The word may in this section makes the administration of oaths a discretionary matter for the board. Flood v. Keller, 214 Neb. 797, 336 N.W.2d 549 (1983).

14-2108 Directors and employees; interest in contracts prohibited.

It shall be unlawful for any member of the board of directors or any employee thereof to have any pecuniary interest, either directly or indirectly, in any contract in connection with the construction or maintenance of water or natural gas utilities of such metropolitan utilities district or be in any way connected with the furnishing of supplies required by the district.

Source: Laws 1913, c. 143, § 11, p. 355; R.S.1913, § 4253; C.S.1922, § 3756; C.S.1929, § 14-1012; R.S.1943, § 14-1018; R.S.1943, (1991), § 14-1018; Laws 1992, LB 746, § 8.

14-2109 Utilities district; personnel; duties; salary.

The board of directors of a metropolitan utilities district shall at its first regular meeting appoint an individual with an official title designated by the board who shall (1) act as secretary of such board, (2) have general supervision of the management, construction, operation, and maintenance of the utility plants and property under the jurisdiction of or owned by such metropolitan utilities district, subject to the direction of the board, (3) hold office at the pleasure of the board, (4) possess business training, executive experience, and knowledge of the development and operation of public utilities, (5) receive such compensation as the board may determine, and (6) devote his or her exclusive time to the duties of the office. The board of directors may employ or authorize the employment of such other employees and assistants as may be deemed necessary for the operation and maintenance of the utility plants under its jurisdiction and of the conduct of the affairs of the board and provide for their compensation. The compensation of the appointed individual and such employees shall be paid from funds under control of the board. In no event shall the compensation, as a salary or otherwise, of any employee or officer exceed ten thousand dollars per annum unless approved by a vote of two-thirds or more of the members of the board of directors. The record of such vote of approval,

together with the names of the directors so voting, shall be made a part of the permanent records of the board.

Source: Laws 1913, c. 143, § 13, p. 356; R.S.1913, § 4255; Laws 1919, c. 33, § 2, p. 108; C.S.1922, § 3758; Laws 1923, c. 134, § 1, p. 329; C.S.1929, § 14-1014; R.S.1943, § 14-1020; Laws 1947, c. 20, § 3, p. 108; R.S.1943, (1983), § 14-1020; R.S.1943, (1991), § 14-1101.01; Laws 1992, LB 746, § 9; Laws 2001, LB 177, § 2; Laws 2007, LB207, § 1; Laws 2013, LB208, § 1.

14-2110 Utilities district; employees; removal.

No regular appointee or employee of the metropolitan utilities district, except the individual appointed in section 14-2109, who has been in its service consecutively for more than one year shall be subject to removal except upon a two-thirds vote of the full board and then only for cause which shall be stated in writing and filed with the secretary of the board at least ten days prior to a hearing preceding such removal.

Source: Laws 1913, c. 143, § 14, p. 356; R.S.1913, § 4256; Laws 1919, c. 33, § 3, p. 108; C.S.1922, § 3759; C.S.1929, § 14-1015; Laws 1941, c. 20, § 1, p. 110; C.S.Supp.,1941, § 14-1015; Laws 1943, c. 38, § 1(1), p. 180; R.S.1943, § 14-1021; R.S.1943, (1991), § 14-1021; Laws 1992, LB 746, § 10; Laws 2007, LB207, § 2; Laws 2013, LB208, § 2.

14-2111 Utilities district; employees; retirement and other benefits; terms and conditions; reports.

(1) The board of directors of any metropolitan utilities district may also provide benefits for, insurance of, and annuities for the present and future employees and appointees of the district covering accident, disease, death, total and permanent disability, and retirement, all or any of them, under such terms and conditions as the board may deem proper and expedient from time to time. Any retirement plan adopted by the board of directors shall be upon some contributory basis requiring contributions by both the district and the employee or appointee, except that the district may pay the entire cost of the fund necessary to cover service rendered prior to the adoption of any new retirement plan. Any retirement plan shall take into consideration the benefits provided for employees and appointees of metropolitan utilities districts under the Social Security Act, and any benefits provided under a contributory retirement plan shall be supplemental to the benefits provided under the Social Security Act as defined in section 68-602 if the employees entitled to vote in a referendum vote in favor of old age and survivors' insurance coverage. To effectuate any plan adopted pursuant to this authority, the board of directors of the district is empowered to establish and maintain reserves and funds, provide for insurance premiums and costs, and make such delegation as may be necessary to carry into execution the general powers granted by this section. Payments made to employees and appointees, under the authority in this section, shall be exempt from attachment or other legal process and shall not be assignable.

(2) Any retirement plan adopted by the board of directors of any metropolitan utilities district may allow the district to pick up the employee contribution required by this section for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions in

determining federal tax treatment under the Internal Revenue Code, except that the employer shall continue to withhold federal income taxes based upon such contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, such contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The employer shall pay the employee contributions from the same source of funds which is used in paying earnings to the employees. The employer shall pick up the contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Employee contributions picked up shall be treated in the same manner and to the same extent as employee contributions made prior to the date picked up.

(3) Beginning December 31, 1998, through December 31, 2017:

(a) The chairperson of the board shall file with the Public Employees Retirement Board an annual report on each retirement plan established pursuant to this section and section 401(a) of the Internal Revenue Code and shall submit copies of such report to the Auditor of Public Accounts. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

(i) The number of persons participating in the retirement plan;

(ii) The contribution rates of participants in the plan;

(iii) Plan assets and liabilities;

(iv) The names and positions of persons administering the plan;

(v) The names and positions of persons investing plan assets;

(vi) The form and nature of investments;

(vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and

(viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits; and

(b) If such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, in addition to the reports required by section 13-2402, the board of directors of any metropolitan utilities district shall cause to be prepared an annual report and shall file the same with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee of the Legislature and submit to the Auditor of Public Accounts a copy of such report. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the board of directors does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the metropolitan utilities district. All costs of the audit shall be paid by the metropolitan utilities district. The report shall

consist of a full actuarial analysis of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan. The report to the Nebraska Retirement Systems Committee shall be submitted electronically.

(4)(a) Beginning December 31, 2018, and each December 31 thereafter, for a defined benefit plan the chairperson of the board or his or her designee shall prepare and electronically file an annual report with the Auditor of Public Accounts and the Nebraska Retirement Systems Committee of the Legislature. If such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, the report shall be in addition to the reports required by section 13-2402. The report shall be on a form prescribed by the Auditor of Public Accounts and shall include, but not be limited to, the following information:

(i) The levels of benefits of participants in the plan, the number of members who are eligible for a benefit, the total present value of such members' benefits, and the funding sources which will pay for such benefits; and

(ii) A copy of a full actuarial analysis of each such defined benefit plan. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization which offers investment advice or provides investment management services to the retirement plan.

(b) The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the board of directors does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the district. All costs of the audit shall be paid by the district.

Source: Laws 1919, c. 33, § 3, p. 108; C.S.1922, § 3759; C.S.1929, § 14-1015; Laws 1941, c. 20, § 1, p. 110; C.S.Supp.,1941, § 14-1015; Laws 1943, c. 38, § 1(2), p. 181; R.S.1943, § 14-1022; Laws 1951, c. 31, § 1, p. 129; Laws 1955, c. 25, § 1, p. 118; Laws 1985, LB 353, § 1; R.S.1943, (1991), § 14-1022; Laws 1992, LB 746, § 11; Laws 1995, LB 574, § 16; Laws 1998, LB 1191, § 16; Laws 1999, LB 795, § 5; Laws 2011, LB474, § 5; Laws 2012, LB916, § 1; Laws 2014, LB759, § 6; Laws 2015, LB40, § 1; Laws 2017, LB415, § 5.

14-2112 Utilities district; general powers.

A metropolitan utilities district shall be a body corporate and possess all the usual powers of a corporation for public purposes and in its name may sue and be sued and purchase, hold, and sell personal property and real estate. It shall have the sole management and control of its assets, including all utility rents, revenue, and income authorized by law, all utility property, real and personal, now or hereafter owned by the metropolitan utilities district or which may

become a part of the common utilities system. It may exercise any and all the powers that are now or may be granted to cities and villages by the general statutes of this state for the construction or extension of utilities.

Source: Laws 1913, c. 143, § 2, p. 350; R.S.1913, § 4244; Laws 1917, c. 90, § 1, p. 242; C.S.1922, § 3746; C.S.1929, § 14-1002; R.S.1943, § 14-1002; R.S.1943, (1991), § 14-1002; Laws 1992, LB 746, § 12.

The Legislature had right to transfer powers hereunder to the metropolitan utilities district. Lynch v. Metropolitan Utilities Dist., 192 Neb. 17, 218 N.W.2d 546 (1974).

A metropolitan water district is a body corporate. Erickson v. Metropolitan Utilities Dist., 171 Neb. 654, 107 N.W.2d 324 (1961).

Operation and maintenance of water and gas plants is not exercise of governmental functions but a private enterprise. Metropolitan Utilities District v. City of Omaha, 112 Neb. 93, 198 N.W. 858 (1924).

14-2113 Board of directors; natural gas and water supply; powers; jurisdiction; relocation of facilities.

The board of directors of the metropolitan utilities district shall have general charge, supervision, and control of all matters pertaining to the natural gas supply and the water supply of the district for domestic, mechanical, public, and fire purposes. This shall include the general charge, supervision, and control of the design, construction, operation, maintenance, and extension or improvement of the necessary plant to supply natural gas, to develop power, and to pump water. It shall have the authority to enter upon and utilize streets, alleys, and public grounds therefor upon due notice to the proper authorities controlling same, subject to the provisions of sections 39-1361 and 39-1362, except that while any permit hereafter granted by the Department of Transportation under such provisions shall not be construed to be a contract as referred to within the provisions of section 39-1304.02, such parties may separately contract in relation to relocation of facilities and reimbursement therefor. The board shall also have the power to appropriate private property required by the district for natural gas and water service, to purchase and contract for necessary materials, labor, and supplies, and to supply water and natural gas without the district upon such terms and conditions as it may deem proper. The authority and power conferred in this section upon the board of directors shall extend as far beyond the corporate limits of the metropolitan utilities district as the board may deem necessary.

Source: Laws 1913, c. 143, § 7, p. 352; R.S.1913, § 4249; C.S.1922, § 3752; C.S.1929, § 14-1008; R.S.1943, § 14-1008; Laws 1957, c. 20, § 2, p. 153; Laws 1959, c. 35, § 3, p. 193; R.S.1943, (1991), § 14-1008; Laws 1992, LB 746, § 13; Laws 2017, LB339, § 78.

This and related sections designed to give metropolitan water district exclusive control of water supply within district. Dunmar Inv. Co. v. Northern Nat. Gas Co., 185 Neb. 400, 176 N.W.2d 4 (1970).

14-2114 Utility service; rates; suspension and resumption of service; powers of board of directors.

The board of directors of the metropolitan utilities district shall have power and authority to determine and fix all water and natural gas rates and to determine what shall be a reasonable rate for any particular service, the conditions and methods of service, and the collection of all charges for service or the sale of water or natural gas. The board of directors shall also have authority to make such rules and regulations for the conduct of the utilities controlled and operated by the metropolitan utilities district and the use and

measurement of water or natural gas supplied by the district as it may deem proper, including the authority to cut off any natural gas or water service for nonpayment, for nonmaintenance of the pipes and plumbing connected with the supply main, or for noncompliance on the part of any natural gas or water user with the rules and regulations adopted by the board for the conduct of its business and affairs. The board may authorize its employees to require payments, in addition to the regular rates charged for water or natural gas, before turning on any service that has been turned off because of such nonpayment or noncompliance with the provisions of this section and the rules and regulations adopted by the board.

Source: Laws 1913, c. 143, § 8, p. 354; R.S.1913, § 4250; C.S.1922, § 3753; C.S.1929, § 14-1009; R.S.1943, § 14-1015; Laws 1969, c. 63, § 1, p. 373; R.S.1943, (1991), § 14-1015; Laws 1992, LB 746, § 14; Laws 2001, LB 177, § 3.

Power and authority to determine what shall be a reasonable water rate is not without restrictions. Erickson v. Metropolitan Utilities Dist., 171 Neb. 654, 107 N.W.2d 324 (1961).

Officials of M.U.D. in complying with statute providing for shutting off services for nonpayment did not violate civil rights statute. Morgan v. Kennedy, 331 F.Supp 861 (D. Neb. 1971).

14-2115 Utilities district; general powers and duties; operation of utilities separately; actions prohibited.

(1) A metropolitan utilities district shall operate and account for each of its several utilities separately and, as to each separate utility, shall possess all powers granted on behalf of that utility or on behalf of any other utility being operated by such district, or granted generally to such district, and all such powers are hereby declared to be cumulative, though separate, as to each utility, except that limitations or restrictions which by their nature or intent are applicable only to a utility of one type shall not apply to other different utilities. The financial obligations of each utility shall be separate and independent from the financial obligations of any other utility.

(2) A metropolitan utilities district shall keep all funds, accounts, and obligations relating to any one utility under its management separate and independent from the funds and accounts of each other utility under its management. The cost of any consolidated operation shall be allocated to the various utilities upon some reasonable basis which is open to investigation, comment, or protest by members of the public. Such allocation methodologies shall be determined by the board of directors and shall provide for the allocation of costs and expenses in a manner that accurately reflects the actual cost of service for each utility under the management of the board, except that for purposes of this section, the collection of sewer use fees for cities of the metropolitan class shall not be considered as a utility. The district shall have separate power to provide for the cost of operation, maintenance, depreciation, extension, construction, and improvement of any utility under its management, applying thereto standard accounting principles.

(3) A metropolitan utilities district shall not discount its water rates or connection fees to any customer in order to obtain an agreement to provide natural gas service to any customer.

(4) A metropolitan utilities district shall not delay or condition in any manner the installation of water service or other agreements related to water service to the purchase of natural gas service from the district.

(5) The Auditor of Public Accounts shall have the authority to initiate an audit or to take any action necessary to ensure compliance with this section.

Source: Laws 1921, c. 111, § 2, p. 391; C.S.1922, § 3776; C.S.1929, § 14-1102; R.S.1943, § 14-1102; Laws 1947, c. 20, § 1, p. 107; R.S.1943, (1991), § 14-1102; Laws 1992, LB 746, § 15; Laws 1999, LB 78, § 1.

Power to convey property of metropolitan water district has been transferred to the metropolitan utilities district. Lynch v. Metropolitan Utilities Dist., 192 Neb. 17, 218 N.W.2d 546 (1974).

14-2116 Utilities district; power of eminent domain; exercise.

(1) In addition to any other rights and powers conferred upon metropolitan utilities districts under sections 14-2101 to 14-2157, such districts shall have and may exercise the power of eminent domain for the purpose of erecting, constructing, locating, maintaining, or supplying such waterworks, gas works, or mains or the extension of any system of waterworks, water supply, gas works, or gas supply, and any such district may go beyond its territorial limits and may take, hold, or acquire rights, property, and real estate, or either or any of the same, by purchase or otherwise. Such a district may for such purposes take, hold, and condemn any and all necessary property.

(2) Any metropolitan utilities district shall have the power to condemn or to exercise the power of eminent domain to acquire parts of an existing utility's facilities only when such facilities are within, annexed to, or otherwise consolidated within the corporate boundary limits of a city of the metropolitan class. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724. Within a municipal county, the power to condemn or to exercise the power of eminent domain for purposes of this subsection may be exercised by a metropolitan utilities district to the extent and in the manner provided by the Legislature as required by section 13-2802.

Source: Laws 1957, c. 21, § 1, p. 154; R.S.1943, (1991), § 14-1103.02; Laws 1992, LB 746, § 16; Laws 2001, LB 142, § 30.

14-2117 Utilities district; extend or enlarge service area; when prohibited; filings required.

No metropolitan utilities district may extend or enlarge its service area unless it is economically feasible to do so. In determining whether or not to extend or enlarge its service area, the district shall take into account the cost of such extension or enlargement to its existing ratepayers.

All books, records, vouchers, papers, contracts, or other data indicating the economic feasibility of such extension or enlargement shall be filed with the secretary of the board of directors of the district and shall be open to public inspection.

Source: Laws 1992, LB 746, § 17.

14-2118 Utilities district; use of streets, alleys, or public grounds; duty to repair.

After entering the streets, alleys, or public grounds of the district in connection with the operation, construction, and maintenance of the utility facilities, it shall be the duty of the metropolitan utilities district and the board of directors, upon the completion of any such work, to resurface and repave the streets,

alleys, or public grounds and leave the streets, alleys, or public grounds in the same condition as they were before the same were utilized by the district and the board of directors for such purpose.

Source: Laws 1913, c. 143, § 7, p. 353; R.S.1913, § 4249; C.S.1922, § 3752; C.S.1929, § 14-1008; R.S.1943, § 14-1010; R.S.1943, (1991), § 14-1010; Laws 1992, LB 746, § 18.

14-2119 Board of directors; water or natural gas; powers over supplier.

In case any portion of the metropolitan utilities district is supplied with natural gas or water for domestic, mechanical, public, or fire purposes by any individual, partnership, limited liability company, or corporation, then the board shall have the power and authority to fix rates and regulate the conditions of service and the conduct of the utility affording such supply.

Source: Laws 1913, c. 143, § 7, p. 353; R.S.1913, § 4249; C.S.1922, § 3752; C.S.1929, § 14-1008; R.S.1943, § 14-1011; R.S.1943, (1991), § 14-1011; Laws 1992, LB 746, § 19; Laws 1993, LB 121, § 130.

Section not applicable to defendant supplying steam and chilled water for purposes of heating and air conditioning. Dunmar Inv. Co. v. Northern Nat. Gas Co., 185 Neb. 400, 176 N.W.2d 4 (1970).

14-2120 Board of directors; franchise; power to grant; election required.

No franchise or permit for the use of streets, alleys, or other public property within the metropolitan utilities district for the laying of pipes in connection with a water or natural gas utility designed for public or private service shall be granted except by the board of directors, but no such franchise or permit shall be valid until approved by a majority vote of the registered voters of the metropolitan utilities district at a regular election, or a special election called for such purpose, and of which due notice is given in the case of the submission of a proposal to vote bonds. If the board of directors refuses upon request to grant and submit to a vote of the registered voters of the district such a franchise or permit, then upon the filing of a petition with the board of ten percent or more of the registered voters of the district requesting that the franchise or permit be submitted, it shall be the duty of the board to submit such proposition at a general election or a special election held for that purpose within sixty days of the date of filing the petition, and if a majority of the votes cast upon such proposition are in favor of granting such franchise or permit, the franchise or permit shall be deemed to be granted.

Source: Laws 1913, c. 143, § 7, p. 352; R.S.1913, § 4249; C.S.1922, § 3752; C.S.1929, § 14-1008; R.S.1943, § 14-1009; R.S.1943, (1991), § 14-1009; Laws 1992, LB 746, § 20.

Defendant's use of streets in supplying steam and chilled water for purposes of heating and air conditioning did not require granting of franchise. Dunmar Inv. Co. v. Northern Nat. Gas Co., 185 Neb. 400, 176 N.W.2d 4 (1970).

14-2121 Utilities district; contracts; bids; powers of board of directors.

The board of directors shall have authority to receive bids for all work which it may desire to have done by contract or for material and supplies to be used in connection with such work, which bids shall be received after reasonable advertisement therefor and when opened shall be read in public session. The board of directors may award contracts based upon the bids to the lowest responsible bidders, except that the board of directors may, for such reasons as

appear to it good and substantial, reject all bids. The board of directors shall have power and authority to do all of such work and to purchase materials and supplies without advertising for bids and without entering into contract with any other persons or companies in relation thereto.

Source: Laws 1913, c. 143, § 9, p. 354; R.S.1913, § 4251; C.S.1922, § 3754; C.S.1929, § 14-1010; R.S.1943, § 14-1016; R.S.1943, (1991), § 14-1016; Laws 1992, LB 746, § 21.

14-2122 Utilities district; gas mains and service lines; extension.

In addition to any other rights and powers conferred upon metropolitan utilities districts under sections 14-2101 to 14-2157 and Chapter 18, article 4, for the purpose of extending gas mains and service pipes, such districts shall have the power and authority to extend or enlarge gas mains and service pipes whenever it is deemed proper and economically feasible to do so in such nondiscriminatory manner as may be determined from time to time by the board of directors of such districts.

Source: Laws 1957, c. 20, § 1, p. 152; R.S.1943, (1991), § 14-1103.01; Laws 1992, LB 746, § 22.

14-2123 Board of directors; power to adopt rules and regulations; fix prices.

The board of directors of a metropolitan utilities district is hereby empowered to (1) adopt all necessary rules and regulations for the operation and conducting of the business and affairs of its natural gas and water utilities for the purpose of supplying gas for heat and power purposes for public and private use and for the purpose of supplying water for domestic, mechanical, public, and fire purposes and (2) fix the prices to be charged therefor.

Source: Laws 1919, c. 187, § 2, p. 421; C.S.1922, § 3772; C.S.1929, § 14-1028; Laws 1939, c. 9, § 1, p. 74; C.S.Supp.,1941, § 14-1028; Laws 1943, c. 36, § 21, p. 176; R.S.1943, § 14-1038; Laws 1945, c. 19, § 2, p. 124; Laws 1967, c. 46, § 2, p. 177; R.S.1943, (1991), § 14-1038; Laws 1992, LB 746, § 23.

14-2124 Utilities district; gas utility; rules and regulations.

In addition to all other proper subjects for rules and regulations, the board of directors of a metropolitan utilities district may adopt rules and regulations, in the interest of public health and safety and the conservation of gas, relating to the use, installation, and maintenance of piping, equipment, and appliances for gas on the premises of consumers. Such district may adopt and promulgate rules and regulations to establish priorities for the use of gas, including the curtailment and denial of its use. All rules and regulations shall be published once in the official paper of the particular city within such district and be kept posted at the main office of the district for public inspection. When such rules and regulations are so adopted, published, and posted, they shall have the same legal force and effect as a city ordinance and be binding upon the consumers of the district as one of the conditions to their service. Nothing in this section shall be construed to prevent any qualified person or persons from installing or

maintaining appliances in connection with any of the public utilities mentioned in this section.

Source: Laws 1939, c. 9, § 1, p. 75; C.S.Supp.,1941, § 14-1028; Laws 1943, c. 36, § 21, p. 176; R.S.1943, § 14-1039; Laws 1945, c. 19, § 3, p. 125; Laws 1974, LB 599, § 1; R.S.1943, (1991), § 14-1039; Laws 1992, LB 746, § 24.

14-2125 Utilities district; utilization of gas or propane supplies; pipeline for transportation of gas; agreements; purpose.

(1) A metropolitan utilities district may enter into agreements with other companies or municipalities operating gas distribution systems and with gas pipeline companies, whether within or outside the state, for the transportation, purchase, sale, or exchange of available gas supplies or propane supplies held for peak-shaving purposes, so as to realize full utilization of available gas supplies and for the mutual benefit of the contracting parties.

(2) A metropolitan utilities district may own, construct, maintain, and operate an interstate or intrastate pipeline, whether within or outside of the district's boundaries, for purposes of securing and transporting natural gas supplies for itself or others and may enter into contractual agreements with other pipeline companies, gas distribution companies, municipalities, or political subdivisions or any other legal entity whatsoever for such purposes.

Source: Laws 1977, LB 499, § 1; Laws 1987, LB 177, § 1; R.S.1943, (1991), § 14-1103.03; Laws 1992, LB 746, § 25.

Based on the plain language of this section, there is no legal requirement to seek competitive bids before entering into a contract for interstate transmission of natural gas. Bruno v. Metropolitan Utilities Dist., 287 Neb. 551, 844 N.W.2d 50 (2014).

14-2126 Utilities district; hydrants; location; maintenance.

The metropolitan utilities districts shall maintain free of charge the number of hydrants heretofore established for fire protection in the streets of the municipalities constituting such districts and, in addition thereto, maintain regular fire hydrants on service mains in the streets of the municipalities not now equipped therewith and also upon service mains that may hereafter be installed in such municipalities. The board of directors may adopt such rules for the placement and maintenance of such hydrants as long as such rules do not violate any rules and regulations adopted and promulgated by the Department of Health and Human Services. Intermediate hydrants or fire hydrants placed between regular hydrants shall be installed by the district at such points as may be designated and ordered by any one of the municipalities. One-half of the cost of such intermediate hydrants, connections, and installation shall be borne by the municipality ordering the same. The district shall also lower water mains and reset hydrants at their original locations whenever necessary.

Source: Laws 1913, c. 143, § 15, p. 357; R.S.1913, § 4257; Laws 1919, c. 33, § 4, p. 109; C.S.1922, § 3760; C.S.1929, § 14-1016; Laws 1943, c. 42, § 1, p. 186; R.S.1943, § 14-1023; R.S.1943, (1991), § 14-1023; Laws 1992, LB 746, § 26; Laws 2013, LB208, § 3.

Cited but not discussed. R-R Realty Co. v. Metropolitan Utilities Dist., 184 Neb. 237, 166 N.W.2d 746 (1969).

Promise of water company, assumed by city purchasing waterworks, is matured by above statute, though conditions not fulfilled. Creighton Real Estate Co. v. City of Omaha, 112 Neb. 802, 204 N.W. 66 (1925).

Part of section requiring cities to pay the cost of lowering of gas and water mains is unconstitutional. Metropolitan Utilities District v. City of Omaha, 112 Neb. 93, 198 N.W. 858 (1924).

14-2127 Utilities district; water for public use by municipalities and schools; duty to provide.

The metropolitan utilities district may, in its discretion, also afford, free of charge, water required for public use by each of the municipalities and schools within the limits of such municipalities. It shall be the duty of each of the municipalities and schools to reasonably conserve such water and to install and maintain all plumbing and services required in connection with such use in good condition and free from leaks, subject to the rules and bylaws governing water service in such district. If any flush tank maintained in connection with the sewage system of any such municipality uses more than fifty thousand gallons of water per month, as determined by meter measurement, the board of directors of the district may collect for the excess water used at the established rates maintained by the board.

Source: Laws 1913, c. 143, § 15, p. 357; R.S.1913, § 4257; Laws 1919, c. 33, § 4, p. 109; C.S.1922, § 3760; C.S.1929, § 14-1016; Laws 1943, c. 42, § 1, p. 187; R.S.1943, § 14-1024; Laws 1945, c. 18, § 1, p. 122; R.S.1943, (1991), § 14-1024; Laws 1992, LB 746, § 27.

Cited but not discussed. R-R Realty Co. v. Metropolitan Utilities Dist., 184 Neb. 237, 166 N.W.2d 746 (1969).

14-2128 Utilities district; water; sale; cities and villages; authorized.

In addition to any and all powers heretofore granted to metropolitan utilities districts, any such district may, in its discretion, by authorization of its board of directors, contract to sell water for use by a waterworks and water distribution system owned and operated by a city of any class or village except a city of the metropolitan class. The water so sold shall be used for the same domestic, mechanical, public, and fire purposes as water which a metropolitan utilities district supplies the consumers served water directly by it. The rates for water so sold shall be fixed by the metropolitan utilities district, including therein a demand or capacity charge in addition to a charge for the volume of water delivered. All water so delivered shall be metered at its point of delivery. The cost of any main extensions necessary to deliver the water to the city or village contracting for such supply shall be paid by it and set forth in the contract. The term of such contract shall not exceed twenty-five years.

Source: Laws 1965, c. 79, § 1, p. 314; R.S.1943, (1991), § 14-1111; Laws 1992, LB 746, § 28.

14-2129 Utilities district; water; sale; cities, villages, and sanitary and improvement districts; sewer use; charges; contract; fees.

If a metropolitan utilities district supplies water at retail to residents of a city or village other than a city of the metropolitan class or residents of a sanitary and improvement district, whether or not such city, village, or sanitary and improvement district is within the district boundaries, such city, village, or sanitary and improvement district and metropolitan utilities district shall have power and authority to enter into a contract to obtain the use of facilities and services of the water utility of such district in order to collect from the residents supplied water by the district sewer use or rental fees or charges for other utility services for such city, village, or sanitary and improvement district in the same manner and to the same extent as is provided for such services to cities of

the metropolitan class by sections 14-2134 to 14-2136. No utility service under this section shall be discontinued for nonpayment of charges for unrelated services.

Source: Laws 1972, LB 1188, § 1; R.S.1943, (1991), § 14-1111.01; Laws 1992, LB 746, § 29.

14-2130 Utilities district; water; sale; natural resources district; contract; uses.

(1) A metropolitan utilities district may contract to sell water to a natural resources district at such rates, for such charges, and upon such other terms and conditions as may be agreed upon in the contract.

(2) Such water shall be used by the natural resources district in a special improvement project supplying water for any beneficial use. With the consent of the metropolitan utilities district, such water may be used by the natural resources district in a special improvement project to supply the municipal waterworks and distribution system of a city of any class or village outside the boundaries of the metropolitan utilities district.

(3) Such municipalities are hereby empowered to contract with a natural resources district to purchase water at such rates, for such charges, and upon such terms and conditions as may be agreed upon in the contract.

Source: Laws 1975, LB 245, § 1; R.S.1943, (1991), § 14-1111.02; Laws 1992, LB 746, § 30.

14-2131 Utilities district; water; sale; cities and villages; contract; charges; resolution by governing body.

To accomplish the purposes of section 14-2128, cities of all classes and villages, except cities of the metropolitan class, shall have the power to contract with a metropolitan utilities district and pay the charges and costs in the manner provided in the contract for the purpose of maintaining an adequate supply of water for the waterworks and distribution system serving such municipality, such contract to be approved by resolution of the governing body of such municipality.

Source: Laws 1965, c. 79, § 2, p. 315; R.S.1943, (1991), § 14-1112; Laws 1992, LB 746, § 31.

14-2132 Utilities district; water; sale; cities and villages; sections; effect.

Notwithstanding any provisions of law applicable to cities, villages, and metropolitan utilities districts to the contrary, sections 14-2128 to 14-2132 shall be deemed to be an act complete within itself, to cover the entire subject to which it relates, and to be an independent act.

Source: Laws 1965, c. 79, § 3, p. 315; R.S.1943, (1991), § 14-1113; Laws 1992, LB 746, § 32.

14-2133 Utilities district; bills; how rendered.

Metropolitan utilities districts in rendering bills and statements may set forth therein the net amount that shall be due without setting forth the amount of the discount, if any. When bills are so rendered, the metropolitan utilities district may collect an additional charge of not more than ten percent when bills or statements rendered are not paid at maturity, it being understood that the

additional charge is not added by way of penalty but as a means of economizing in bookkeeping and in rendering bills and statements by which the items of discount are omitted therefrom.

Source: Laws 1921, c. 111, § 5, p. 391; C.S.1922, § 3779; C.S.1929, § 14-1105; R.S.1943, § 14-1005; R.S.1943, (1991), § 14-1105; Laws 1992, LB 746, § 33.

14-2134 Utilities district; collection of other fees for city authorized; contracts authorized.

In addition to any and all powers granted to cities of the metropolitan class and metropolitan utilities districts within and serving such cities, a city of the metropolitan class may enter into a contract with the metropolitan utilities district within its area in order to obtain the use of facilities and services of the water utility of such a district and in order to collect all or any part of a sewer use or rental fee or all or any part of a garbage and refuse removal, disposal, or recycling fee which such city may lawfully be entitled to charge and collect.

Source: Laws 1959, c. 32, § 1, p. 187; R.S.1943, (1991), § 14-1108; Laws 1992, LB 746, § 34; Laws 1992, LB 1257, § 64.

This section and two succeeding sections upheld as constitutional. Metropolitan Utilities Dist. v. City of Omaha, 171 Neb. 609, 107 N.W.2d 397 (1961).

14-2135 Utilities district; collection of sewer use fee for city; payment; discontinuance of service.

To accomplish the purposes of section 14-2134, a city of the metropolitan class is empowered to pay such metropolitan utilities district the charges for such services as set forth in the contract, and such district may discontinue water service to its customers for failure to pay the sewer rental or use fee.

Source: Laws 1959, c. 32, § 2, p. 187; R.S.1943, (1991), § 14-1109; Laws 1992, LB 746, § 35.

Officials of M.U.D. in complying with statute providing for shutting off services for nonpayment did not violate civil rights statute. Morgan v. Kennedy, 331 F.Supp. 861 (D. Neb. 1971).

14-2136 Utilities district; collection of sewer use fee for city; powers cumulative.

The powers granted in sections 14-2134 and 14-2135 to cities of the metropolitan class and metropolitan utilities districts are cumulative and not in derogation or amendment of the existing powers of each.

Source: Laws 1959, c. 32, § 3, p. 187; R.S.1943, (1991), § 14-1110; Laws 1992, LB 746, § 36.

14-2137 Accounts of district; audit and approval; expenditures; records; public inspection.

All accounts of the metropolitan utilities district shall be audited by the secretary and approved by a committee of the board to be styled the committee on accounts and expenditures. No money shall be appropriated out of any fund except on the recorded affirmative vote of a majority of all the members of the

board. The records of the metropolitan utilities district shall be at all times subject to inspection and examination by the public during business hours.

Source: Laws 1913, c. 143, § 7, p. 353; R.S.1913, § 4249; C.S.1922, § 3752; C.S.1929, § 14-1008; R.S.1943, § 14-1013; R.S.1943, (1991), § 14-1013; Laws 1992, LB 746, § 37.

14-2138 Utilities district; payment to city of the metropolitan class; allocation.

The metropolitan utilities district shall pay to the city of the metropolitan class a sum equivalent to two percent of the annual gross revenue derived from all retail sales of water and gas sold by such district within such city, except that retail sales of gas shall not include the retail sale of natural gas used as vehicular fuel. Such sum shall be paid on a quarterly basis, the last quarterly payment to be made not later than the thirtieth day of January of the next succeeding year, except that annual payments to such city shall not be less than five hundred thousand dollars. Such city shall not levy or collect any license, occupation, or excise tax upon or from such district. All payments provided by this section shall be allocated by the district among the several utilities operated by it upon such basis as the district shall determine.

Source: Laws 1919, c. 187, § 4, p. 421; C.S.1922, § 3774; C.S.1929, § 14-1030; Laws 1943, c. 36, § 23, p. 177; R.S.1943, § 14-1041; Laws 1945, c. 19, § 5, p. 125; Laws 1947, c. 21, § 2, p. 112; Laws 1961, c. 33, § 1, p. 153; Laws 1967, c. 47, § 1, p. 179; R.S.1943, (1991), § 14-1041; Laws 1992, LB 746, § 38; Laws 2014, LB867, § 4; Laws 2019, LB476, § 1.

Revenue from sale of water and gas by metropolitan utilities district are not taxes and section as amended by L.B. 425 (Laws 1967) is constitutional. Evans v. Metropolitan Utilities Dist., 187 Neb. 261, 188 N.W.2d 851 (1971).

Class action could not be used to test constitutionality of section. Evans v. Metropolitan Utilities Dist., 185 Neb. 464, 176 N.W.2d 679 (1970).

Cited but not discussed. Evans v. Metropolitan Utilities Dist., 184 Neb. 172, 166 N.W.2d 411 (1969).

Allocation of cost of various utilities must be on a reasonable basis. Metropolitan Utilities Dist. v. City of Omaha, 171 Neb. 609, 107 N.W.2d 397 (1961).

14-2139 Utilities district; payment to cities or villages; allocation.

A metropolitan utilities district shall pay to every city or village of any class, other than metropolitan, in which such district sells water or gas, or both, at retail, a sum equivalent to two percent of the annual gross revenue derived from all retail sales of water or gas, or both, sold by such district within the city or village, except that retail sales of gas shall not include the retail sale of natural gas used as vehicular fuel. Such sums shall be paid not later than the thirtieth day of January of the next succeeding year. Such cities or villages shall not levy or collect any license, occupation, or excise tax upon or from such district. All payments provided by this section shall be allocated by the district among the several utilities operated by it upon such basis as the district shall determine.

Source: Laws 1967, c. 47, § 2, p. 179; R.S.1943, (1991), § 14-1042; Laws 1992, LB 746, § 39; Laws 2014, LB867, § 5; Laws 2019, LB476, § 2.

Revenue from sale of water and gas by metropolitan utilities district are not taxes and section created by L.B. 425 (Laws 1967) is constitutional. Evans v. Metropolitan Utilities Dist., 187 Neb. 261, 188 N.W.2d 851 (1971).

Cited but not discussed. Evans v. Metropolitan Utilities Dist., 184 Neb. 172, 166 N.W.2d 411 (1969).

14-2140 Repealed. Laws 2001, LB 177, § 11.

14-2141 Utilities district; funds; management and control; power to borrow.

Metropolitan utilities districts may, when deemed necessary by a resolution of the board of directors, temporarily lend the funds of one utility to the fund of another utility under its control, at the current market rate of interest as determined by the board of directors. In the case of emergency, or for the purpose of short-term financing of extensions, improvements, additions, and capital investments, the district may, by resolution of its board of directors, borrow money, for a term not to exceed five years, but the amount so borrowed shall not exceed ten percent of the depreciated plant value of the utility for which such money is borrowed.

Source: Laws 1921, c. 111, § 4, p. 391; C.S.1922, § 3778; C.S.1929, § 14-1104; Laws 1939, c. 9, § 3, p. 76; Laws 1941, c. 19, § 1, p. 108; C.S.Supp.,1941, § 14-1104; R.S.1943, § 14-1104; Laws 1953, c. 23, § 2, p. 97; Laws 1967, c. 48, § 1, p. 180; R.S.1943, (1991), § 14-1104; Laws 1992, LB 746, § 41.

14-2142 Utilities district; bonds; issuance; sale; election required; when; obligations without election; when authorized; powers of board of directors.

(1) In case the board of directors deems it necessary and expedient for such metropolitan utilities district to vote mortgage or revenue bonds for the construction, extension, or improvement of a water plant or any other public utility under its control or for any other purpose, to the end of supplying the district with water or other service for domestic, mechanical, public, or other purposes, the board may determine the amount of such bonds, when principal and interest is payable, and the rate of interest and may issue the bonds when voted. The board of directors shall submit a proposition to vote such bonds to the registered voters of the metropolitan utilities district at an election called by the board for such purpose, or at any regular election, notice of which has been given for at least ten days in one or more daily papers published in the district. If a majority of the votes cast upon such proposition is in favor of the issuance of such bonds, the board of directors may issue and sell such bonds in the manner as the board shall determine.

(2) In addition to the power provided in subsection (1) of this section as to issuance of bonds, and notwithstanding such provisions requiring a vote of the registered voters, and in addition to the limited power to borrow heretofore vested in any such district, the board of directors of such district without a vote of the registered voters and at their own discretion (a) may borrow, to be used solely for the purpose of extensions, improvements, additions, and capital investments, such sum as the board of directors by resolution determines to be needed for such purposes and (b) in the exercise of such additional power may issue warrants, notes, debentures, revenue bonds, or refunding obligations of the same classes, each of which shall be payable solely from the revenue of the district. The obligations issued by the district without a vote of the registered voters are hereby declared to be negotiable instruments, and such instruments and the interest paid thereon shall be exempt from any and all forms of taxation.

(3) The district may (a) refund all or any part of the obligations issued by the district without a vote of the registered voters by exchange or other means through the issuance of any of such forms of obligation at any time and in an amount equal to or exceeding the original amount, (b) invest the proceeds of refunding obligations for a temporary period until they are needed for the purpose of retirement of other obligations, (c) covenant as to rates, (d) create and provide for reserves or amortization funds, and (e) covenant as to the limitation of the creation of further indebtedness. All such evidences of indebtedness issued by the district without a vote of the registered voters shall be offered upon such terms and in such manner as the board determines. The same power to covenant and to provide funds shall also exist in the case of obligations authorized by the registered voters. The board of directors of any such district in the exercise of any of the borrowing powers, with or without a vote of the registered voters provided for in this section, may appoint as agents of such district corporations doing business within or without the State of Nebraska to act for it in receiving, redeeming, and paying for any of the securities so issued.

Source: Laws 1913, c. 143, § 18, p. 359; R.S.1913, § 4260; Laws 1921, c. 112, § 1, p. 392; C.S.1922, § 3763; C.S.1929, § 14-1019; R.S.1943, § 14-1029; Laws 1947, c. 20, § 4, p. 109; Laws 1953, c. 23, § 1, p. 95; Laws 1969, c. 64, § 1, p. 374; Laws 1969, c. 51, § 20, p. 284; R.S.1943, (1991), § 14-1029; Laws 1992, LB 746, § 42.

14-2143 Water fund; sources; purposes; tax; how levied.

The water fund shall consist of all money received on account of the water plant owned and operated by the metropolitan utilities district for water service or otherwise, including a water tax for public fire protection purposes levied by the municipal authorities of each municipality forming such metropolitan utilities district or, in the case of a sanitary and improvement district or unincorporated area forming a part of the metropolitan utilities district but outside the limits of a municipality, by the board of county commissioners of the county in which the sanitary and improvement district or unincorporated area is located. Such tax shall be levied at the same time and in the same manner as other funds provided for municipal purposes or county purposes under the provisions of the charter of such municipality or municipalities or of the general laws in the case of a county or a sanitary and improvement district. The amount of the tax shall be certified to the municipal authorities or the county commissioners, as the case may be, by the board of directors of the metropolitan utilities district in time for the annual levy of taxes in each year. The gross amount of such tax shall not exceed the sum of five and two-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such utilities district, and it shall be mandatory upon such municipal authorities or county commissioners to levy same as provided in this section.

Source: Laws 1913, c. 143, § 16, p. 358; R.S.1913, § 4258; Laws 1919, c. 33, § 5, p. 110; C.S.1922, § 3761; C.S.1929, § 14-1017; R.S.1943, § 14-1026; Laws 1947, c. 21, § 1, p. 112; Laws 1953, c. 287, § 4, p. 930; Laws 1972, LB 1272, § 1; Laws 1979, LB 187, § 33; R.S.1943, (1991), § 14-1026; Laws 1992, LB 746, § 43; Laws 1992, LB 719A, § 39.

Levy imposed pursuant to this section is not a state levy for state purposes, therefore constitutional prohibition on property taxes for state purposes not violated. R-R Realty Co. v. Metropolitan Utilities Dist., 184 Neb. 237, 166 N.W.2d 746 (1969).

Law requiring cities to levy tax to pay hydrant rentals is constitutional. State ex rel. Metropolitan Utilities Dist. v. City of Omaha, 112 Neb. 694, 200 N.W. 871 (1924).

14-2144 Funds of district; authorized investments.

The funds of the metropolitan utilities district may be invested at the discretion of the board of directors in the warrants and bonds of the district and the municipalities constituting the district, including the warrants and bonds of the improvement districts thereof. In addition to such securities, the funds also may be invested in any securities that are legal investments for the school funds of this state.

Source: Laws 1913, c. 143, § 16, p. 359; R.S.1913, § 4258; Laws 1919, c. 33, § 5, p. 111; C.S.1922, § 3761; C.S.1929, § 14-1017; R.S.1943, § 14-1027; R.S.1943, (1991), § 14-1027; Laws 1992, LB 746, § 44.

14-2145 Utilities district; annual audit; filing.

In each metropolitan utilities district in the State of Nebraska, the board of directors shall cause the accounts of the district to be examined and audited annually. Such examination shall show (1) the gross income from all sources of the district for the previous year, (2) the gross amount of water and gas supplied in the district, (3) the amount expended during the previous year for repairs, (4) the amount expended during the previous year for new machinery, (5) the amount expended in the previous year for property purchased, (6) the amount of depreciation of the plant during the previous year, (7) the cost per thousand gallons of supplying water and per thousand cubic feet for supplying natural gas, (8) the amount collected from the sale and rent of meters, (9) the total assessment made against property for the extension of mains, (10) a detailed statement of all items of expense, (11) the number of employees, (12) the salaries paid employees, (13) the total amount of direct taxes levied by such metropolitan utilities district upon the property within the district, and (14) all other facts necessary to give an accurate and comprehensive view of the cost of maintaining and operating the plant. The audit report shall be filed with the Auditor of Public Accounts within six months after the end of the district's fiscal year.

Source: Laws 1915, c. 211, § 1, p. 470; C.S.1922, § 3768; C.S.1929, § 14-1024; R.S.1943, § 14-1034; R.S.1943, (1991), § 14-1034; Laws 1992, LB 746, § 45; Laws 2000, LB 692, § 3.

14-2146 Utilities district; annual audit; information; access.

The Auditor of Public Accounts and the person making the examination and audit pursuant to section 14-2145 shall have access to all books, records, vouchers, papers, contracts, or other data containing information on the subject in the office of the board of such metropolitan utilities district, in the office of the individual appointed in section 14-2109, or in the possession or under the control of any of the agents or employees of the district. It is hereby made the duty of all officers, agents, and employees of the district to furnish to the

auditor and his or her agents and employees such information regarding the auditing of the metropolitan utilities district as may be demanded.

Source: Laws 1915, c. 211, § 2, p. 470; C.S.1922, § 3769; C.S.1929, § 14-1025; R.S.1943, § 14-1035; R.S.1943, (1991), § 14-1035; Laws 1992, LB 746, § 46; Laws 2000, LB 692, § 4; Laws 2007, LB207, § 3.

14-2147 Utilities district; annual audit; reports; filing; expenses.

Upon the completion of such examination and audit, the person making the same shall file and furnish to the village or city clerk of each village or city within the district one copy of his or her report. Another copy shall be furnished to the county board of the counties in which the metropolitan utilities district is located. A copy shall also be placed on file with the individual appointed in section 14-2109. The original copy shall be filed in the office of the Auditor of Public Accounts. The cost and expense of making such audit shall be paid by the metropolitan utilities district in which such audit and examination have been made. The auditor shall make out and certify a bill for the expense of making such an audit. Upon presentation of the bill to the secretary of the board of the metropolitan utilities district, it shall be the duty of the board to allow and pay the claim. The amount thereof shall be paid to the State Treasurer.

Source: Laws 1915, c. 211, § 3, p. 471; C.S.1922, § 3770; C.S.1929, § 14-1026; R.S.1943, § 14-1036; Laws 1957, c. 21, § 2, p. 154; R.S.1943, (1991), § 14-1036; Laws 1992, LB 746, § 47; Laws 2007, LB207, § 4.

14-2148 Utilities district; entry upon private property; when authorized.

Whenever it may be deemed necessary, the board of directors of the metropolitan utilities district or its employees shall have the authority, in the discharge of their duties, to enter upon any lands or premises for the examination or survey thereof, for the purpose of repairing any water or natural gas pipe, for the purpose of inspecting any water or natural gas service or the plumbing connected with any such service, for the purpose of removing or connecting any apparatus required in connection with such service and plumbing under the rules and regulations of the board, for the purpose of reading any meter or meters attached to the service, or for any other purpose whatsoever in connection with or relating to the water or natural gas service.

Source: Laws 1913, c. 143, § 10, p. 355; R.S.1913, § 4252; C.S.1922, § 3755; C.S.1929, § 14-1011; R.S.1943, § 14-1017; R.S.1943, (1991), § 14-1017; Laws 1992, LB 746, § 48.

14-2149 Prohibited acts; penalty.

Any person who willfully interferes with or obstructs any employee of the metropolitan utilities district in the discharge of his or her duties, who willfully tampers with or injures such water or natural gas facilities or the pipes, apparatus, or any service connected therewith, or who changes or alters the plumbing or connection between the water or gas meter and service main affording the water or natural gas supply without securing a permit as required

by the rules and regulations of the board of directors shall be deemed guilty of a Class III misdemeanor.

Source: Laws 1913, c. 143, § 12, p. 355; R.S.1913, § 4254; C.S.1922, § 3757; C.S.1929, § 14-1013; R.S.1943, § 14-1019; R.S.1943, (1991), § 14-1019; Laws 1992, LB 746, § 49.

14-2150 Surplus property; sale proceeds; disposition.

Whenever any of the property of a utility under the control of a metropolitan utilities district, whether real property or personal property, is no longer required for the operation of such utility, the district may sell and convey such surplus property, whether the property was acquired directly by the district or as a part of the utility plant or system acquired by the city of the metropolitan class or any municipality or other political subdivision constituting a part of the district. Proceeds of the sale of such surplus property shall be credited to the utility of which the property was a part, or when funds of more than one utility have been invested in property involved in a consolidated operation of the district, proceeds of such sale shall be apportioned among the utilities involved in such consolidated operation upon some reasonable basis determined by the board of directors of the district.

Source: Laws 1972, LB 1250, § 1; R.S.1943, (1991), § 14-1115; Laws 1992, LB 746, § 50.

This section removed from metropolitan city any right to sell and convey utility property, gave that right to the metropolitan utilities district, and determined manner of disposition of proceeds of sale. Lynch v. Metropolitan Utilities Dist., 192 Neb. 17, 218 N.W.2d 546 (1974).

14-2151 Utilities district; bonds; when not required.

No bond for costs, appeal, supersedeas, injunction, or attachment shall be required of any metropolitan utilities district or of any officer, board, head of any department, agent, or employee of any such district in any proceeding or court action in which the metropolitan utilities district or any officer, board, head of department, agent, or employee is a party litigant in its, his, or her official capacity.

Source: Laws 1965, c. 34, § 1, p. 225; R.S.1943, (1991), § 14-1114; Laws 1992, LB 746, § 51.

14-2152 Utilities district; elections; procedure.

The elections provided for in sections 14-2102, 14-2120, 14-2142, and 14-2157 shall be held according to the Election Act.

Source: Laws 1913, c. 143, § 19, p. 360; R.S.1913, § 4261; C.S.1922, § 3764; C.S.1929, § 14-1020; R.S.1943, § 14-1030; R.S.1943, (1991), § 14-1030; Laws 1992, LB 746, § 52; Laws 1994, LB 76, § 479.

Cross References

Election Act, see section 32-101.

14-2153 Utilities district; restriction on sale of equipment or appliances.

A metropolitan utilities district shall not sell any gas-burning equipment or appliances, at either retail or wholesale, if the retail price of that item exceeds fifty dollars, except that newly developed gas-burning appliances may be

merchandised and sold during the period of time in which any such appliances are being introduced to the public. New models of existing appliances shall not be deemed to be newly developed appliances. A gas-burning appliance shall be considered to be in such introductory period of time until the particular type of appliance is used by twenty-five percent of all the gas customers served by such district, but such period shall in no event exceed seven years from the date of introduction by the manufacturer of the new appliance to the local market.

Source: Laws 1921, c. 111, § 1, p. 390; C.S.1922, § 3775; C.S.1929, § 14-1101; R.S.1943, § 14-1101; Laws 1961, c. 34, § 1, p. 155; R.S.1943, (1991), § 14-1101; Laws 1992, LB 746, § 53.

Name of existing district was derived from this section. Erickson v. Metropolitan Utilities Dist., 171 Neb. 654, 107 N.W.2d 324 (1961).

Metropolitan utilities district is a municipal corporation created by statute to take over, control and operate the water plant formerly owned by the city of Omaha and certain other public utilities. Keystone Investment Company v. Metropolitan Utilities District, 113 Neb. 132, 202 N.W. 416 (1925), 37 A.L.R. 1507 (1925).

Metropolitan utilities district is a corporation, and as such, it succeeded to the rights, powers and duties of the water board and the metropolitan water district. State ex rel. Metropolitan Utilities District v. City of Omaha, 112 Neb. 694, 200 N.W. 871 (1924), 46 A.L.R. 602 (1924).

In 1921, metropolitan utilities district became the successor of the metropolitan water district and has all the powers and authority conferred upon the district as fully and effectually as though the corporate name had not been changed. Metropolitan Utilities District v. City of Omaha, 112 Neb. 93, 198 N.W. 858 (1924).

14-2154 Utilities district; energy conservation or weatherization programs; establish; powers.

A metropolitan utilities district may establish energy conservation or weatherization programs that will encourage and promote the efficient use of energy supplies. A metropolitan utilities district may enter into agreements with companies, service organizations, municipalities, political subdivisions, or state or federal agencies to establish or participate in such programs. Such participation may include the providing of administrative or other similar services from the district's separate gas utility for the support of such programs.

Source: Laws 1983, LB 362, § 1; R.S.1943, (1991), § 14-1102.01; Laws 1992, LB 746, § 54.

14-2155 Utilities district; public offstreet motor vehicle parking facilities; location.

A metropolitan utilities district is hereby authorized to own, purchase, construct, equip, and operate public offstreet motor vehicle parking facilities on property owned or leased by such district within the area designated as the civic center by the city council in the master plan of a city of the metropolitan class. Such parking facilities shall be constructed upon land contiguous to the office or administrative headquarters of such district and shall be used in whole or in part in connection therewith.

Source: Laws 1973, LB 577, § 1; R.S.1943, (1991), § 14-1116; Laws 1992, LB 746, § 55.

14-2156 Utilities district; public offstreet motor vehicle parking facilities; bonds; powers.

A metropolitan utilities district shall have authority to issue bonds and evidences of indebtedness for the purposes of acquiring, purchasing, constructing, and equipping such parking facilities as provided in section 14-2142 for other public utilities under its control and may manage the funds of such

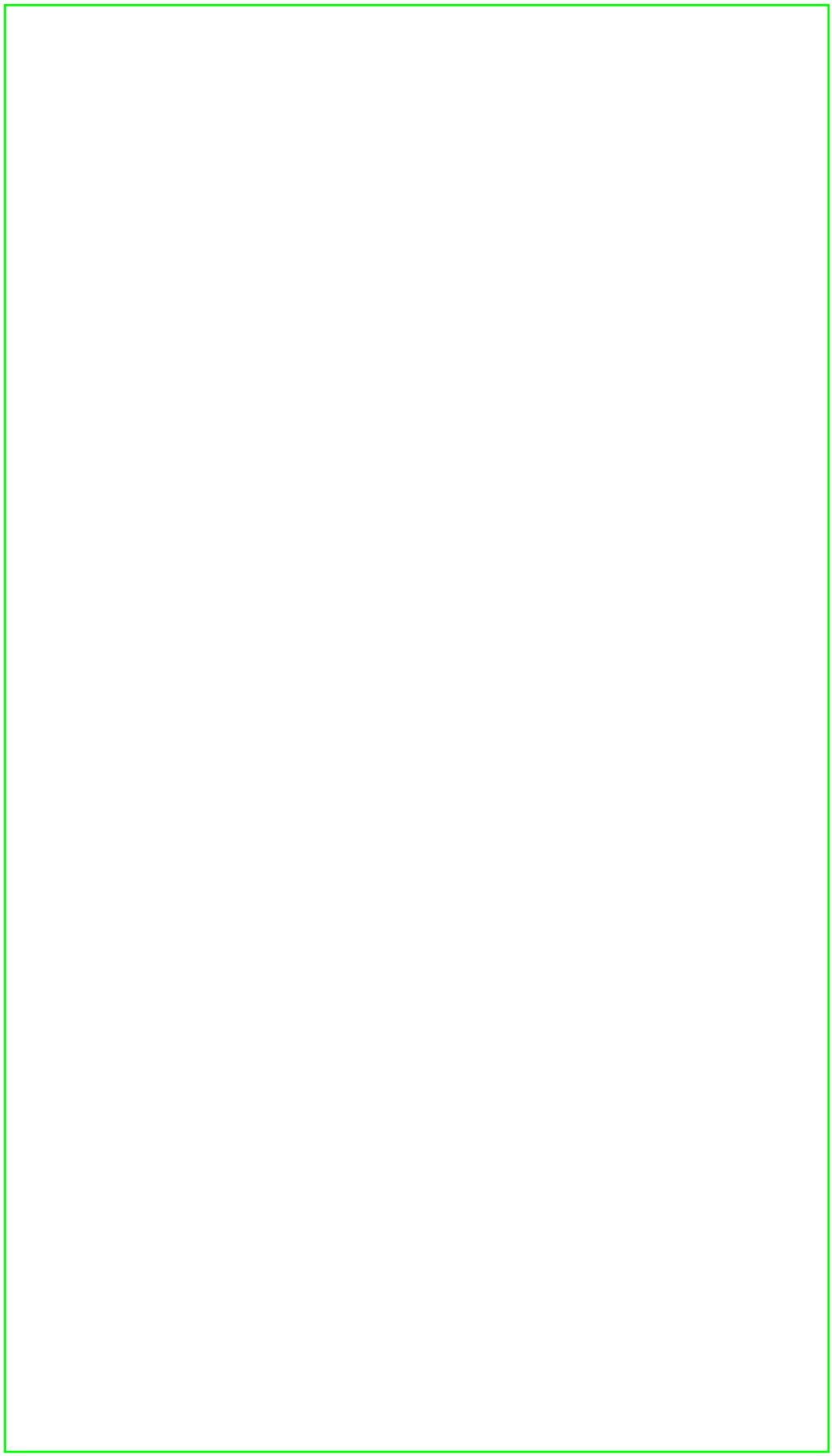
parking facilities and borrow money as provided by section 14-2141 for other utilities.

Source: Laws 1973, LB 577, § 2; R.S.1943, (1991), § 14-1117; Laws 1992, LB 746, § 56.

14-2157 Utilities district; termination; petition; election.

The existence of a metropolitan utilities district may be terminated by the people of the district in the following manner: Upon the filing of a petition with the board of directors signed by fifteen percent of the registered voters of the district at least thirty days prior to the date of any general state election requesting that the question of the continuance or termination of the existence of such district be submitted to a vote of the registered voters of the district, it shall be the duty of such board to submit the question at such general state election, and if a majority of the votes cast thereon shall be in favor of the continuance of such district, then it shall continue, otherwise its existence shall cease at the close of the thirty-first day of the following month.

Source: Laws 1913, c. 143, § 21, p. 361; R.S.1913, § 4263; C.S.1922, § 3766; C.S.1929, § 14-1022; R.S.1943, § 14-1032; R.S.1943, (1991), § 14-1032; Laws 1992, LB 746, § 57.



CHAPTER 15
CITIES OF THE PRIMARY CLASS

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ARTICLE 1

INCORPORATION, EXTENSIONS, ADDITIONS, WARDS, CONSOLIDATION

Section
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15-118. Consolidated or annexed cities and villages; books, records, property; transfer to city; offices; termination.

15-101 Cities of the primary class, defined; population required.

All cities having more than one hundred thousand and less than four hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census shall be known as cities of the primary class. The population of a city of the primary class shall consist of the people residing within the territorial boundaries of such city and the residents of any territory duly and properly annexed to such city.

Source: Laws 1901, c. 16, § 1, p. 71; R.S.1913, § 4404; C.S.1922, § 3780; C.S.1929, § 15-101; R.S.1943, § 15-101; Laws 1947, c. 50, § 2, p.

171; Laws 1961, c. 58, § 2, p. 216; Laws 1965, c. 85, § 2, p. 328; Laws 1993, LB 726, § 4; Laws 2017, LB113, § 7; Laws 2022, LB820, § 3.
Effective date July 21, 2022.

A city may put into its home rule charter any provisions that it deems proper so long as they do not run contrary to the Constitution or to any general statute. Eppley Hotels Co. v. City of Lincoln, 133 Neb. 550, 276 N.W. 196 (1937).

In matters relating exclusively to local and municipal affairs, home rule charter prevails over conflicting provisions in statute. Pester v. City of Lincoln, 127 Neb. 440, 255 N.W. 923 (1934).

Home rule charter may not contravene Constitution or general statutes. Schroeder v. Zehrung, 108 Neb. 573, 188 N.W. 237 (1922).

Classification is not special legislation although only one city in state falls within class. State ex rel. Pentzer v. Malone, 74 Neb. 645, 105 N.W. 893 (1905).

Act was not void as to tax commissioners, nor was it amendatory of state revenue law. State ex rel. Prout v. Aitken, 62 Neb. 428, 87 N.W. 153 (1901).

15-102 Declaration as city of the primary class; when.

Whenever any city of the first class attains a population of more than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, the mayor of such city shall certify such fact to the Secretary of State, who upon the filing of such certificate shall by proclamation declare such city to be a city of the primary class.

Source: Laws 1901, c. 16, § 2, p. 71; R.S.1913, § 4405; C.S.1922, § 3781; C.S.1929, § 15-102; R.S.1943, § 15-102; Laws 1967, c. 53, § 1, p. 189; Laws 2017, LB113, § 8; Laws 2020, LB1003, § 5.

15-103 Declaration as city of the primary class; government pending reorganization.

The government of a city of the first class which is declared to be a city of the primary class pursuant to section 15-102 shall continue in authority from the date of such declaration until reorganization as a city of the primary class.

Source: Laws 1901, c. 16, § 3, p. 71; R.S.1913, § 4406; C.S.1922, § 3782; C.S.1929, § 15-103; R.S.1943, § 15-103; Laws 2020, LB1003, § 6.

15-104 Corporate limits; extension; annexation of villages; powers of city council.

The corporate limits of a city of the first class which is declared to be a city of the primary class pursuant to section 15-102 shall remain as before such declaration. The city council may by ordinance at any time include within the corporate limits of such city any contiguous or adjacent lands, lots, tracts, streets, or highways such distance and in such direction as may be deemed proper. The city council may include, annex, merge, or consolidate with such city, by such extension of its corporate limits, any village which is within the extraterritorial zoning jurisdiction of such city and which it serves with water service or supply or with a sanitary sewerage system and service, or both such water and sanitary sewerage service. Such city shall have power by ordinance to compel owners of land so brought within the corporate limits to lay out streets and public ways to conform to and be continuous with the streets and ways of such city, or otherwise as appears best for the convenience of the inhabitants of such city and the public. Such city may vacate any public road

established through such land when necessary to secure regularity in the general system of its public ways.

Source: Laws 1901, c. 16, § 4, p. 71; R.S.1913, § 4407; Laws 1919, c. 41, § 1, p. 124; C.S.1922, § 3783; C.S.1929, § 15-104; R.S.1943, § 15-104; Laws 1957, c. 51, § 9, p. 242; Laws 1963, c. 86, § 1, p. 295; Laws 1965, c. 43, § 1, p. 238; Laws 2020, LB1003, § 7.

Lands annexed by city of primary class met all requirements set out in this section. Campbell v. City of Lincoln, 182 Neb. 459, 155 N.W.2d 444 (1968).

Agricultural lands may not be annexed to city where the sole object of annexation is to increase its revenue. Witham v. City of Lincoln, 125 Neb. 366, 250 N.W. 247 (1933).

Under conditions stated, council had power to include plaintiff's land in city. Miller v. City of Lincoln, 94 Neb. 577, 143 N.W. 921 (1913).

15-105 Corporate limits; extension; contiguous territory, defined.

For purposes of sections 15-104 to 15-106.02, land shall be deemed contiguous although a stream, embankments, or a strip or parcel of land, not more than five hundred feet wide, lies between such land and the corporate limits.

Source: Laws 1901, c. 16, § 5, p. 72; R.S.1913, § 4408; C.S.1922, § 3784; C.S.1929, § 15-105; R.S.1943, § 15-105; Laws 1972, LB 1147, § 1; Laws 2020, LB1003, § 8.

15-106 Additions; how platted; approval; filed and recorded; effect; powers of mayor, city planning commission, and city planning director; appeal.

(1) The owner of any land within the corporate limits of a city of the primary class or contiguous thereto may lay out such land into lots, blocks, public ways, and other grounds under the name of . . . . . addition to the city of . . . . . and shall cause an accurate plat thereof to be made, designating explicitly the land so laid out and particularly describing the lots, blocks, public ways, and grounds belonging to such addition. The lots shall be designated by number and by street. Public ways and other grounds shall be designated by name and by number. Such plat shall be acknowledged before some officer authorized to take acknowledgment of deeds and shall have appended to it a certificate made by a registered land surveyor that he or she has accurately surveyed such addition and that the lots, blocks, public ways, and other grounds are staked and marked as required by such city.

(2) When such plat is made, acknowledged, and certified, complies with the requirements of section 15-901, and is approved by the city planning commission, such plat shall be filed and recorded in the office of the register of deeds and county assessor of the county in which the land is located. In lieu of approval by the city planning commission, the city council may designate specific types of plats which may be approved by the city planning director. No plat shall be recorded in the office of the register of deeds or have any force or effect unless such plat is approved by the city planning commission or the city planning director. The plat shall, after being filed with the register of deeds, be equivalent to a deed in fee simple absolute to the city, from the owner, of all streets, all public ways, squares, parks, and commons, and such portion of the land as is therein set apart for public use or dedicated to charitable, religious, or educational purposes.

(3) All additions thus laid out shall remain a part of the city, and all additions, except those additions as set forth in sections 15-106.01 and 15-106.02, laid out adjoining or contiguous to the corporate limits of a city of the primary class

shall be included therein and become a part of the city for all purposes. The inhabitants of such addition shall be entitled to all the rights and privileges and subject to all the laws, ordinances, rules, and regulations of the city. The mayor and city council shall have power by ordinance to compel owners of any such addition to lay out streets and public ways to correspond in width and direction and to be continuous with the streets and public ways in the city or additions contiguous to or near the proposed addition.

(4) No addition shall have any validity, right, or privilege as an addition unless the terms and conditions of such ordinance and of this section are complied with, the plats thereof are submitted to and approved by the city planning commission or the city planning director, and the approval of the city planning commission or the city planning director is endorsed thereon. The city council may provide procedures in land subdivision regulations for appeal by any person aggrieved by any action of the city planning commission or city planning director on any plat.

Source: Laws 1901, c. 16, § 6, p. 72; R.S.1913, § 4409; C.S.1922, § 3785; C.S.1929, § 15-106; R.S.1943, § 15-106; Laws 1959, c. 40, § 1, p. 217; Laws 1974, LB 757, § 2; Laws 1975, LB 410, § 1; Laws 1982, LB 909, § 1; Laws 1987, LB 715, § 1; Laws 1993, LB 39, § 1; Laws 2020, LB1003, § 9.

Title conveyed by plat to streets and alleys is a determinable fee. Dell v. City of Lincoln, 170 Neb. 176, 102 N.W.2d 62 (1960).

15-106.01 Certain additions with low population density; included within corporate limits of city; when.

Commencing on April 17, 1982, an addition which has been approved pursuant to section 15-106 and is adjoining or contiguous to the corporate boundaries of a city of the primary class but which includes land which lies wholly or partially (1) outside of the area designated and described as being for future urban uses in the comprehensive plan adopted by the city pursuant to sections 15-1102 and 15-1103 and (2) within a zoning district adopted pursuant to section 15-902 which allows a residential density of not more than one dwelling per acre shall be included within the corporate limits of the city only upon the enactment of a city ordinance specifically annexing such addition.

Source: Laws 1982, LB 909, § 2; Laws 1993, LB 39, § 2; Laws 2020, LB1003, § 10.

15-106.02 Certain agricultural-industrial reserve additions; included within corporate limits of city; when.

Commencing on April 17, 1982, an addition which has been approved pursuant to section 15-106 and is adjoining or contiguous to the corporate boundaries of a city of the primary class, but which (1) includes land which lies wholly or partially within the area designated as being for future urban uses in the comprehensive plan adopted by the city pursuant to sections 15-1102 and 15-1103 and (2) is set aside in such comprehensive plan as an agricultural-industrial reserve shall be included within the corporate limits of the city only upon the enactment of a city ordinance specifically annexing such addition.

Source: Laws 1982, LB 909, § 3; Laws 2020, LB1003, § 11.

15-107 Corporate name; service of process.

The corporate name of each city of the primary class shall be The City of . . . . All process affecting any such city shall be served in the manner provided for service of a summons in a civil action.

Source: Laws 1901, c. 16, § 7, p. 73; R.S.1913, § 4410; C.S.1922, § 3786; C.S.1929, § 15-107; R.S.1943, § 15-107; Laws 1983, LB 447, § 4.

15-108 Reorganization; rights and privileges preserved.

When any city of the first class is declared a city of the primary class pursuant to section 15-102, all trusts, rights, and privileges of such city of the first class shall be transmitted to and be invested in such city of the primary class.

Source: Laws 1901, c. 16, § 8, p. 73; R.S.1913, § 4411; C.S.1922, § 3787; C.S.1929, § 15-108; R.S.1943, § 15-108; Laws 2020, LB1003, § 12.

15-109 Repealed. Laws 1994, LB 76, § 615.

15-110 Precincts; numbering; division.

Precinct lines within the corporate limits of a city of the primary class shall correspond in number with the ward and be coextensive with such limits, except that when a ward is divided into election districts, the precinct corresponding with such ward shall be divided to correspond with the election district.

Source: Laws 1901, c. 16, § 11, p. 74; R.S.1913, § 4413; C.S.1922, § 3789; C.S.1929, § 15-110; R.S.1943, § 15-110; Laws 1961, c. 35, § 1, p. 157; Laws 2020, LB1003, § 13.

15-111 Cities and villages; consolidation; petition; election; ballot forms.

A city of the second class or village, which adjoins a city of the primary class, as well as other villages either adjoining such city of the second class or village, or supplied in whole or in part with gas, electric light, or street transportation service or supply from manufacturing or power plants and systems mainly located in and maintained and operated mainly from chief headquarters or offices within such city of the primary class, may be consolidated with such city of the primary class in the manner provided in sections 15-111 to 15-118. It shall be the duty of the officers of such cities of the second class and villages twenty days prior to any general city or village election, to submit to the electors of such cities or villages at such general city or village election whenever petitioned to do so by twenty percent of the qualified electors of such cities or villages, the question of the consolidation of such adjoining cities or villages with the city of the primary class. Such question shall be submitted in substantially the following form:

Shall the city of . . . . . be consolidated with the city of . . . . . ? Or, as the case may be, Shall the village of . . . . . be consolidated with the city of . . . . . ? The ballot shall provide in the usual manner for a Yes and No vote on the question.

Source: Laws 1921, c. 202, § 1, p. 730; C.S.1922, § 3790; C.S.1929, § 15-111; R.S.1943, § 15-111; Laws 1955, c. 55, § 1, p. 177; Laws 2020, LB1003, § 14.

Action of city council, in passing on validity of proceedings for consolidation, was final in absence of fraud or mistake. State ex rel. Loomis v. City of Lincoln, 119 Neb. 352, 229 N.W. 19 (1930).

15-112 Consolidation; approval at election; certification.

If at an election held pursuant to section 15-111 a majority of the vote cast in a city of the second class or village shall be in favor of consolidation, the result shall be certified to the city council of the city of the primary class. If the city council of such city of the primary class approves of the consolidation, an ordinance shall be passed extending the limits of such city to include all the territory of the city of the second class or village voting for consolidation, and the city or cities, village or villages, so consolidated with the city of the primary class shall become a part thereof.

Source: Laws 1921, c. 202, § 2, p. 730; C.S.1922, § 3791; C.S.1929, § 15-112; R.S.1943, § 15-112; Laws 2020, LB1003, § 15.

15-113 Consolidated or annexed cities and villages; rights and liabilities of city, franchise holders, and licensees.

Whenever any city of the primary class shall extend its boundaries so as to annex any village, or whenever there is consolidation taking effect in the manner provided in sections 15-111 to 15-118, the charter, laws, ordinances, powers, and government of such city of the primary class, shall at once extend over the territory embraced within any such city or village so annexed or consolidated with it. Such city of the primary class shall succeed to all the property and property rights of every kind, contracts, obligations, and choses in action of every kind held by or belonging to such city or village so annexed or consolidated with it. Such city of the primary class shall be liable for and assume and carry out all valid contracts, obligations, franchises, and licenses of any such city or village so annexed or consolidated with it. Such city or village so annexed or consolidated with such city of the primary class shall be deemed fully compensated by virtue of such annexation or consolidation and such assumption of its obligations and contracts for all its property and property rights of every kind so acquired. Any public franchise granted to or held by any person or corporation from such city of the primary class, before such consolidation or annexation, shall not by virtue of such consolidation or annexation be extended into, upon, or over the streets or public places of such city or village so consolidated with or annexed by such city of the primary class. Any public franchise, license, or privilege granted to or held by any person or corporation from any of the cities or villages consolidated with or annexed by such city of the primary class before such consolidation or annexation shall not by virtue of such consolidation be extended into, upon, or over the streets, alleys, or public places of the city of the primary class involved in such consolidation or annexation.

Source: Laws 1921, c. 202, § 3, p. 731; C.S.1922, § 3792; C.S.1929, § 15-113; R.S.1943, § 15-113; Laws 1965, c. 43, § 2, p. 239; Laws 2020, LB1003, § 16.

Upon consolidation of village with city of the primary class, status of streets as to vacation was subject to conditions binding upon the village. Dell v. City of Lincoln, 170 Neb. 176, 102 N.W.2d 62 (1960).

Upon consolidation with another municipality, city of Lincoln became liable for, assumed and was required to carry out all valid obligations of the municipality consolidated with it. Enyeart v. City of Lincoln, 136 Neb. 146, 285 N.W. 314 (1939).

15-114 Repealed. Laws 1961, c. 284, § 1.

15-115 Consolidated or annexed cities and villages; taxes, fines, fees, claims; inure to city of the primary class.

All taxes, assessments, fines, licenses, fees, claims, and demands of every kind assessed or levied against persons or property within any city of the second class or village consolidated with or annexed by any city of the primary class as provided in sections 15-111 to 15-118, shall be paid to and collected by such city of the primary class.

Source: Laws 1921, c. 202, § 5, p. 732; C.S.1922, § 3794; C.S.1929, § 15-115; R.S.1943, § 15-115; Laws 1965, c. 43, § 3, p. 239; Laws 2020, LB1003, § 17.

15-116 Consolidated or annexed cities and villages; authorized taxes, assessments; right of city of the primary class to assess and levy.

All taxes and special assessments which a city of the second class or village consolidated with or annexed by a city of the primary class as provided in sections 15-111 to 15-118 was authorized to levy or assess and which are not levied or assessed at the time of such consolidation or annexation for any kind of public improvements made by it or in process of construction or contracted for, may be levied or assessed by such city of the primary class, and such city of the primary class shall have the power to reassess all special assessments or taxes levied or assessed by any such city of the second class or village thus consolidated or annexed with it, in all cases where such city of the second class or village is authorized to make reassessments or relevies of such taxes and assessments.

Source: Laws 1921, c. 202, § 6, p. 732; C.S.1922, § 3795; C.S.1929, § 15-116; R.S.1943, § 15-116; Laws 1965, c. 43, § 4, p. 240; Laws 2020, LB1003, § 18.

15-117 Consolidated or annexed cities and villages; actions pending; claims; claimants' rights.

All actions at law or in equity pending in any court in favor of or against any city of the second class or village consolidated with or annexed by a city of the primary class as provided in sections 15-111 to 15-118 at the time such consolidation or annexation takes effect, shall be prosecuted by or defended by such city of the primary class, and all rights of action existing against any city of the second class or village consolidated with or annexed by such city of the primary class at the time of such consolidation or annexation or accruing thereafter on account of any transaction had with or under any law or ordinance of such city of the second class or village, may be prosecuted against such city of the primary class.

Source: Laws 1921, c. 202, § 7, p. 732; C.S.1922, § 3796; C.S.1929, § 15-117; R.S.1943, § 15-117; Laws 1965, c. 43, § 5, p. 240; Laws 2020, LB1003, § 19.

Right of action on account of injuries received, due to negligence of municipality prior to consolidation with city of Lincoln, could be prosecuted after consolidation against latter city. Enyeart v. City of Lincoln, 136 Neb. 146, 285 N.W. 314 (1939).

15-118 Consolidated or annexed cities and villages; books, records, property; transfer to city; offices; termination.

All officers of any city of the second class or village consolidated with or annexed by a city of the primary class as provided in sections 15-111 to 15-118 having books, papers, records, bonds, funds, effects, or property of any kind in their hands or under their control belonging to such city of the second class or

village, shall upon taking effect of such consolidation or annexation deliver the same to the respective officers of such city of the primary class as may be by law or ordinance or limitation of such city entitled or authorized to receive the same. Upon such consolidation or annexation taking effect, the terms and tenure of all offices and officers of any such city of the second class or village so consolidated with or annexed by such city of the primary class shall terminate.

Source: Laws 1921, c. 202, § 8, p. 732; C.S.1922, § 3797; C.S.1929, § 15-118; R.S.1943, § 15-118; Laws 1965, c. 43, § 6, p. 241; Laws 2020, LB1003, § 20.

ARTICLE 2
GENERAL POWERS

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15-201 General powers; how exercised; seal.

Cities of the primary class shall be bodies corporate and politic and shall have power:

(1) To sue and be sued;

(2) To purchase, lease, or otherwise acquire as authorized by their home rule charters or state statutes real estate or personal property within or without the limits of the city for its use for a public purpose;

(3) To purchase real or personal property upon sale for general or special taxes or assessments and to lease, sell, convey, or exchange such property so purchased;

(4) To sell, convey, exchange, or lease real or personal property owned by the city in such manner and upon such terms and conditions as shall be deemed in the best interests of the city as authorized by its home rule charter, except that real estate owned by the city may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, shall be conveyed in the manner strictly as provided in sections 18-1001 to 18-1006;

(5) To make contracts and do all acts relative to the property and concerns of the city necessary or incident or appropriate to the exercise of its corporate powers, including powers granted by the Constitution of Nebraska or exercised by or pursuant to a home rule charter adopted pursuant thereto and including the power to execute such bonds and obligations on the part of the city as may be required in judicial proceedings;

(6) To purchase, construct, and otherwise acquire, own, maintain, and operate public service and public utility property and facilities within and without the limits of the city and to redeem such property from prior encumbrance in order to protect or preserve the interest of the city therein and to exercise such other and further powers as may be necessary or incident or appropriate to the powers of such city, including powers granted by the Constitution of Nebraska or exercised by or pursuant to a home rule charter adopted pursuant thereto. If the public service or public utility property or facility is located outside the limits of the city but within the zoning jurisdiction of another political subdivision, the city and the other political subdivision may by interlocal agreement provide or exchange services, including utility services, relating to the property or facilities;

(7) To receive grants, devises, donations, and bequests of money or property for public purposes in trust or otherwise; and

(8) To provide for the planting, maintenance, protection, and removal of shade, ornamental, and other useful trees upon the streets or boulevards; to assess the cost thereof, when appropriate, as a special assessment against the property specially benefited to the extent of benefits received; and to provide by general ordinance for the manner in which such benefits are to be measured and the assessments calculated and the means of notice to the owners of the record title of the property proposed to be improved, including a written statement of the proposed benefits and an estimate of the costs to be assessed according to the method of assessment. The city may create districts by ordinance which shall designate the property within the district to be benefited and the method of assessment. Notwithstanding the provisions of any city charter and except as provided below, no such improvement shall be finally ordered by the city council until a petition, signed by the owners of the record title of property within the proposed district which would be subject to more than fifty percent of the total of all special assessments to be levied for the purposes authorized by this subdivision, is presented and filed with the city clerk petitioning therefor. The sufficiency of the petitions and objections so

presented and the sufficiency of notice as provided in this subdivision shall be determined by the city council and its determination thereof shall be conclusive in the absence of objections made and presented to the city council prior to the letting of the contract for the improvement. If an assessment district is proposed without a prior authorizing petition as described in this subdivision, the owners of the record title of property within the proposed district which would be subject to more than fifty percent of the total of all special assessments to be levied for the purposes authorized by this subdivision may, by petition, stop formation of such district. Such written protest shall be submitted to the city council or city clerk within thirty calendar days after publication of notice concerning the ordinance in a legal newspaper in or of general circulation in the city.

The powers shall be exercised by the mayor and city council except in cases otherwise specified by law. The mayor and city council shall adopt a corporate seal for the use of any officer, board, or agent of the city whose duties require an official seal.

Source: Laws 1901, c. 16, § 9, p. 73; Laws 1905, c. 16, § 1, p. 199; R.S.1913, § 4414; Laws 1915, c. 81, § 1, p. 206; C.S.1922, § 3798; C.S.1929, § 15-201; Laws 1935, Spec. Sess., c. 10, § 5, p. 73; Laws 1941, c. 130, § 11, p. 496; C.S.Supp.,1941, § 15-201; R.S.1943, § 15-201; Laws 1965, c. 44, § 1, p. 242; Laws 1988, LB 793, § 2; Laws 1993, LB 78, § 1; Laws 2005, LB 161, § 2; Laws 2020, LB1003, § 21.

Promise of additional compensation to firemen by member of council does not bind city. Scott v. City of Lincoln, 104 Neb. 546, 178 N.W. 203 (1920).

Municipal corporations engaging in private enterprises are liable the same as private persons. Henry v. City of Lincoln, 93 Neb. 331, 140 N.W. 664 (1913).

Excise board, in providing that common carriers should deliver liquors at one station to consignee personally, did not usurp powers of mayor and council. Barrett v. Rickard, 85 Neb. 769, 124 N.W. 153 (1910).

May sell property acquired at tax sale without vote of electors. State ex rel. Caldwell v. Citizens St. Ry. Co., 80 Neb. 357, 114 N.W. 429 (1907).

Power to sue and be sued includes power to compromise suits. Farnham v. City of Lincoln, 75 Neb. 502, 106 N.W. 666 (1906).

Where suit is commenced by proper law officers of city, authority is presumed. Lincoln Street Ry. Co. v. City of Lincoln, 61 Neb. 109, 84 N.W. 802 (1901).

15-201.01 Extraterritorial zoning jurisdiction or authority; exercise outside of county.

Any extraterritorial zoning jurisdiction or authority which a city of the primary class may exercise outside of its corporate limits by authority of state law may be exercised by such city outside of the county in which such city is located.

Source: Laws 1967, c. 75, § 7, p. 242; Laws 2020, LB1003, § 22.

15-201.02 Purchase of real or personal property; installment contracts authorized.

In addition to any other powers granted to it by law, a city of the primary class may enter into installment contracts for the purchase of real or personal property. Such contracts need not be restricted to a single year and may provide for the purchase of the property in installment payments to be paid over more than one fiscal year. This section shall be in addition to and notwithstanding the provisions of a home rule charter.

Source: Laws 1988, LB 978, § 1; Laws 2006, LB 1175, § 1.

15-202 Property and occupation taxes; power to levy; limitations.

A city of the primary class shall have the power to levy taxes for general revenue purposes on all property within the corporate limits of the city taxable according to the laws of Nebraska and to levy an occupation tax on public service property or corporations in such amounts as may be proper and necessary, in the judgment of the mayor and city council, for purposes of revenue. All such taxes shall be uniform with respect to the class upon which they are imposed. The occupation tax may be based upon a certain percentage of the gross receipts of such public service corporation or upon such other basis as may be determined upon by the mayor and city council. After March 27, 2014, any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under section 77-2704.24. The occupation tax shall be imposed in the manner provided in section 18-1208, except that section 18-1208 does not apply to an occupation tax subject to section 86-704.

Source: Laws 1901, c. 16, § 129, I, p. 126; Laws 1905, c. 16, § 11, p. 212; Laws 1907, c. 9, § 12, p. 84; R.S.1913, § 4416; C.S.1922, § 3800; C.S.1929, § 15-203; R.S.1943, § 15-202; Laws 2001, LB 329, § 13; Laws 2012, LB745, § 3; Laws 2014, LB474, § 2; Laws 2020, LB1003, § 23.

Tax based upon gross receipts, though part received from long distance tolls, is valid. Nebraska Tel. Co. v. City of Lincoln, 82 Neb. 59, 117 N.W. 284 (1908).

15-203 Occupation tax; power to levy; exemptions.

A city of the primary class shall have power to raise revenue by levying and collecting a license or occupation tax on any person, partnership, limited liability company, corporation, or business within the limits of the city and regulate the same by ordinance except as otherwise provided in this section and in section 15-212. After March 27, 2014, any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under section 77-2704.24. The occupation tax shall be imposed in the manner provided in section 18-1208, except that section 18-1208 does not apply to an occupation tax subject to section 86-704. All such taxes shall be uniform in respect to the class upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation as well as concerts and all other musical entertainments given exclusively by the citizens of the city.

Source: Laws 1901, c. 16, § 129, XIV, p. 130; Laws 1905, c. 16, § 11, p. 212; R.S.1913, § 4425; C.S.1922, § 3809; C.S.1929, § 15-212; R.S.1943, § 15-203; Laws 1993, LB 121, § 131; Laws 2012, LB745, § 4; Laws 2014, LB474, § 3.

Assessment of occupation tax based on gross earnings and also a franchise tax is not double taxation. Lincoln Traction Co. v. City of Lincoln, 84 Neb. 327, 121 N.W. 435 (1909); Nebraska Tel. Co. v. City of Lincoln, 82 Neb. 59, 117 N.W. 284 (1908).

Payment of an occupation tax cannot be made a condition precedent to obtaining a license to conduct business sought to be taxed. State ex rel. School Dist. of City of Lincoln v. Aitken, 61 Neb. 490, 85 N.W. 395 (1901).

15-204 Additional taxes; authorized.

A city of the primary class shall have the power to levy any other tax or special assessment authorized by law and to appropriate money and provide for the payment of the debts and expenses of the city.

Source: Laws 1901, c. 16, § 129, II, p. 126; R.S.1913, § 4417; C.S.1922, § 3801; C.S.1929, § 15-204; R.S.1943, § 15-204; Laws 2020, LB1003, § 24.

15-205 Safety regulations; sidewalk structures; powers.

A city of the primary class shall have the power to (1) remove all obstructions from the sidewalk, curbstones, gutters, and crosswalks at the expense of the owners or occupants of the grounds fronting thereon or at the expense of the person placing such obstructions there and (2) regulate the building of bulkheads, cellars, basements, stairways, railways, windows, doorways, awnings, lampposts, awning posts, and all other structures upon or over adjoining excavations through or under the sidewalks of the city.

Source: Laws 1901, c. 16, § 129, VI, p. 128; R.S.1913, § 4418; C.S.1922, § 3802; C.S.1929, § 15-205; R.S.1943, § 15-205; Laws 2020, LB1003, § 25.

Allowing and regulating entrances to basements through sidewalks is within reasonable discretion of mayor and council. State ex rel. McNerney v. Armstrong, 97 Neb. 343, 149 N.W. 786 (1914).

Where boiler room was constructed under proper authority from city, after maintenance for fifteen years, authorities could not have same removed as a nuisance. Tiernan v. Thorp, 88 Neb. 662, 130 N.W. 280 (1911).

City must keep streets and walks free of obstructions for entire width. Chapman v. City of Lincoln, 84 Neb. 534, 121 N.W. 596 (1909).

15-206 Repealed. Laws 1967, c. 54, § 1.

15-207 Traffic; regulations; vehicle tax; powers.

A city of the primary class shall have the power, by ordinance, to regulate the transportation of articles through the streets, to prevent injuries to the streets from overloaded vehicles, and to provide for a vehicle license or tax.

Source: Laws 1901, c. 16, § 129, VIII, p. 129; Laws 1905, c. 16, § 11, p. 212; R.S.1913, § 4420; C.S.1922, § 3804; C.S.1929, § 15-207; R.S.1943, § 15-207; Laws 2020, LB1003, § 26.

15-208 Signs and obstructions on streets and public property; traffic and safety regulations; powers.

A city of the primary class shall have the power to (1) prevent and remove all encroachments on streets, avenues, alleys, and other city property, (2) prevent and punish horseracing, fast driving or riding in the streets, highways, alleys, bridges, or other places in the city, (3) regulate all games, practices, or amusements within the city likely to result in damage to any person or property, (4) regulate the riding, driving, or passing along any street of the city, (5) regulate and prevent the use of streets, sidewalks, and public grounds for signs, signposts, awnings, telephone or other poles, racks, bulletin boards, and the posting of handbills and advertisements, (6) regulate traffic and sales upon the streets, (7) prohibit and punish cruelty to animals, and (8) regulate and prevent the moving of buildings through or upon the streets.

Source: Laws 1901, c. 16, § 129, IX, p. 129; R.S.1913, § 4421; C.S.1922, § 3805; C.S.1929, § 15-208; R.S.1943, § 15-208; Laws 2020, LB1003, § 27.

The fact that the Legislature enacts a law making driving a motor vehicle while intoxicated a crime, does not abrogate city ordinance defining and prescribing a penalty for same offense, or deprive municipality of power to legislate on same subject in future. State v. Hauser, 137 Neb. 138, 288 N.W. 518 (1939).

City of Lincoln does not have power under home rule charter to require by ordinance a sign painter to pay ten dollars annual license fee in addition to inspectors' regulatory permit and fee of one dollar for each sign. State v. Wiggenjost, 130 Neb. 450, 265 N.W. 422 (1936).

15-209 Railroads, depots, warehouses; power to regulate.

A city of the primary class shall have the power, by ordinance, to regulate levees, depots, depot grounds, and places for storing freight and goods and to provide for and regulate the passing of railways through the streets and public grounds of the city, reserving the rights of all persons injured thereby.

Source: Laws 1901, c. 16, § 129, X, p. 129; R.S.1913, § 4422; C.S.1922, § 3806; C.S.1929, § 15-209; R.S.1943, § 15-209; Laws 2020, LB1003, § 28.

Selection and grading of streets by railway company for its track are subject to regulation and control of city. Omaha, L. & B. Ry. Co. v. City of Lincoln, 97 Neb. 122, 149 N.W. 319 (1914).

15-210 Parks, monuments, recreation centers; acquire; construct; maintain; donations.

A city of the primary class shall have the power to (1) acquire, hold, and improve public grounds, parks, playgrounds, swimming pools, recreation centers, or any other park or recreational use or facility within or without the limits of the city, (2) provide for the protection and preservation and use of such grounds, parks, and other uses and facilities, (3) provide for the planting and protection of trees, (4) erect and construct or aid in the erection and construction of statues, memorials, works of art, and other structures upon any public grounds of the city or state or political subdivision thereof, and (5) receive grants, devises, donations, and bequests of money or property for the purposes described in this section, in trust or otherwise.

Source: Laws 1901, c. 16, § 129, XI, p. 129; Laws 1911, c. 11, § 2, p. 91; R.S.1913, § 4423; C.S.1922, § 3807; C.S.1929, § 15-210; R.S.1943, § 15-210; Laws 1959, c. 41, § 1, p. 222; Laws 1967, c. 55, § 1, p. 190; Laws 2020, LB1003, § 29.

15-211 Lots; drainage; costs; special assessment.

A city of the primary class may, by ordinance, require any and all lots or pieces of ground within the city or within its extraterritorial zoning jurisdiction to be drained or filled so as to prevent stagnant water or any other nuisance accumulating thereon. Upon the failure of the owners of such lots or pieces of ground to fill or drain the lots or pieces when so required, the city council may cause such lots or pieces of ground to be drained or filled, and the cost and expenses thereof shall be levied upon the property so filled or drained and collected as a special assessment.

Source: Laws 1901, c. 16, § 129, XII, p. 130; R.S.1913, § 4424; C.S.1922, § 3808; C.S.1929, § 15-211; R.S.1943, § 15-211; Laws 2015, LB266, § 3; Laws 2015, LB361, § 12; Laws 2020, LB1003, § 30.

15-212 Peddlers and vendors; regulation.

A city of the primary class shall have the power, by ordinance, to prescribe the kind and description of articles which may be sold and places to be occupied by vendors and may authorize the immediate seizure and arrest or

removal from the markets of persons violating regulations fixed by ordinance, together with any articles of produce in their possession, and the immediate seizure and destruction of tainted or unsound meat or other provisions. Nothing in this section shall be construed to authorize the city council by ordinance to assess or impose any tax, assessment, fine, or punishment on any farmer or producer for selling at any time within the city any article of provision or vegetables grown or produced by the farmer or producer.

Source: Laws 1901, c. 16, § 129, XVI, p. 131; R.S.1913, § 4426; C.S.1922, § 3810; C.S.1929, § 15-213; R.S.1943, § 15-212; Laws 2020, LB1003, § 31.

15-213 Repealed. Laws 1991, LB 356, § 36.

15-214 Repealed. Laws 1967, c. 54, § 1.

15-215 Theatres, churches, halls; licenses; safety regulations.

A city of the primary class shall have the power to regulate, license, or suppress halls, opera houses, churches, places of amusement, entertainment, or instruction, or other buildings used for the assembly of citizens. A city of the primary class may cause such buildings to be provided with sufficient and ample means of exit and entrance and to be supplied with necessary and appropriate appliances for the extinguishment of fires and for escape from such places in case of fire. A city of the primary class may prevent overcrowding and regulate the placing of seats, chairs, benches, scenery, curtains, blinds, screens, or other appliances in such buildings. A city of the primary class may provide that for any violation of any such regulation a penalty of not to exceed two hundred dollars shall be imposed, and that upon the conviction of any violation of any ordinance regulating such places, the license of such place shall be revoked by the mayor and city council. Whenever the mayor or city council shall by resolution declare any such place to be unsafe, the license thereof shall be thereby revoked, and the city council may provide that in any case where they have so revoked the license, any owner, proprietor, manager, lessee, or person opening, using, or permitting such place to be opened or used, involving the assembling of more than twelve persons, shall upon conviction thereof be deemed guilty of a misdemeanor and fined in any sum not exceeding two hundred dollars.

Source: Laws 1901, c. 16, § 129, XIX, p. 132; R.S.1913, § 4429; C.S.1922, § 3813; C.S.1929, § 15-216; R.S.1943, § 15-215; Laws 2020, LB1003, § 32.

15-216 Buildings; construction; safety devices; regulation.

A city of the primary class shall have the power, by ordinance, to prescribe the thickness, strength, and manner of constructing stone, brick, and other buildings and the number and construction of means of exit and entrance and of fire escapes. A city of the primary class may require the keeper and proprietor of any hotel, boarding house, or dormitory to provide and maintain such kind and number of ladders, ropes, balconies, and stairways, and other appliances, as by ordinance may be prescribed to facilitate the escape of persons from any such building in case of fire.

Source: Laws 1901, c. 16, § 129, XX, p. 133; R.S.1913, § 4430; C.S.1922, § 3814; C.S.1929, § 15-217; R.S.1943, § 15-216; Laws 2020, LB1003, § 33.

15-217 Auctions; licensing; regulation.

A city of the primary class shall have the power to regulate, license, or prohibit the sale of domestic animals, goods, wares, and merchandise at public auction in the streets, alleys, highways, or any public grounds within the city and to regulate or license the auctioneering of goods, wares, and merchandise.

Source: Laws 1901, c. 16, § 129, XXI, p. 133; R.S.1913, § 4431; C.S.1922, § 3815; C.S.1929, § 15-218; R.S.1943, § 15-217; Laws 1997, LB 752, § 74; Laws 2020, LB1003, § 34.

15-218 Animals at large; regulation; penalty.

A city of the primary class shall have the power, by ordinance, to regulate or prohibit the running at large of cattle, hogs, horses, mules, sheep, goats, dogs, and other animals and to cause such animals running at large to be impounded and sold to discharge the cost and penalties provided for violation of such prohibitions, and the fees and expenses of impounding and keeping such animals and of such sale.

Source: Laws 1901, c. 16, § 129, XXII, p. 133; R.S.1913, § 4432; C.S. 1922, § 3816; C.S.1929, § 15-219; R.S.1943, § 15-218; Laws 2020, LB1003, § 35.

15-219 Pounds; power to establish; operation.

A city of the primary class shall have the power to provide for the erection of all needful pens, pounds, and buildings for the use of the city, within or without such city limits, to appoint and compensate keepers thereof, and to establish and enforce rules governing such pens, pounds, and buildings.

Source: Laws 1901, c. 16, § 129, XXIII, p. 133; R.S.1913, § 4433; C.S. 1922, § 3817; C.S.1929, § 15-220; R.S.1943, § 15-219; Laws 2020, LB1003, § 36.

15-220 Dogs and other animals; licensing; regulation.

A city of the primary class shall have the power to regulate, license, or prohibit the running at large of dogs and other animals and guard against injuries or annoyances from such animals and to authorize the destruction of such animals when running at large contrary to the provisions of any ordinance. Any licensing provision shall comply with subsection (2) of section 54-603 for service animals.

Source: Laws 1901, c. 16, § 129, XXIV, p. 133; R.S.1913, § 4434; C.S. 1922, § 3818; C.S.1929, § 15-221; R.S.1943, § 15-220; Laws 1981, LB 501, § 2; Laws 1997, LB 814, § 3; Laws 2008, LB806, § 2; Laws 2020, LB1003, § 37.

Cross References

For other provisions for regulation of dogs and cats, see sections 15-218, 54-601 to 54-624, and 71-4401 to 71-4412.

15-221 Nuisances; prevention; abatement.

A city of the primary class shall have the power, by ordinance, to prevent any person from bringing, having, depositing, or leaving upon or near his or her premises or elsewhere within the city any dead carcass, or other putrid beef,

pork, fish, hides, or skins of any kind, or any other unwholesome substance, and to compel the removal of such substances.

Source: Laws 1901, c. 16, § 129, XXV, p. 133; R.S.1913, § 4435; C.S. 1922, § 3819; C.S.1929, § 15-222; R.S.1943, § 15-221; Laws 2020, LB1003, § 38.

Cross References

Mosquitoes, flies, or other insects, nuisance, abatement, see sections 71-2917 and 71-2918.

15-222 Public utilities; franchises; power to grant; elections required, when.

A city of the primary class shall have the power to make contracts with and authorize any person, company, or association to erect gas works, electric works, or other light works in such city, and give such person, company, or association the privilege of furnishing light for the streets, lanes, and alleys of such city for any length of time not exceeding one year, or for any time not exceeding five years upon being authorized so to do by a majority vote of the electors of such city. The mayor and city council shall not have power to grant a franchise for any purpose for a period longer than twenty-five years. Franchises to be granted for a longer period than twenty-five years shall be submitted to a vote of the people and shall require a majority vote of the electors of the city voting thereon at a general or special election. All franchise ordinances shall require three readings on three separate days before passage by the city council.

Source: Laws 1901, c. 16, § 129, XXVI, p. 133; Laws 1905, c. 16, § 11, p. 213; R.S.1913, § 4436; C.S.1922, § 3820; C.S.1929, § 15-223; R.S.1943, § 15-222; Laws 2020, LB1003, § 39.

15-223 Water; rates; regulation.

A city of the primary class shall have the power to fix the rate to be paid for the use of water furnished by the city or any person or corporation by means of waterworks and provide by ordinance that any tax for the use of water furnished by such city shall be a lien upon the property where such water is furnished.

Source: Laws 1901, c. 16, § 129, XXVII, p. 134; R.S.1913, § 4437; C.S.1922, § 3821; C.S.1929, § 15-224; R.S.1943, § 15-223; Laws 2020, LB1003, § 40.

15-224 Watercourses; wells; reservoirs; regulation.

A city of the primary class shall have the power to establish, alter, and change the channel of watercourses, and to wall and cover such watercourses over, to establish, make, and regulate public wells, cisterns, aqueducts, and reservoirs of water, and to provide for the filling of such wells, cisterns, aqueducts, and reservoirs.

Source: Laws 1901, c. 16, § 129, XXVIII, p. 134; R.S.1913, § 4438; C.S.1922, § 3822; C.S.1929, § 15-225; R.S.1943, § 15-224; Laws 2020, LB1003, § 41.

15-225 Fire department; establishment; government.

A city of the primary class shall have the power to provide for the organization of a fire department, to procure fire engines, hooks, ladders, buckets, and

other apparatus, to organize fire engine, hook, ladder, and bucket companies, to prescribe rules of duty and the government of the fire department, with such penalties as the city council may deem proper, not exceeding a one-hundred-dollar fine, to make all necessary appropriations therefor, and to establish regulations for the prevention and extinguishment of fires.

Source: Laws 1901, c. 16, § 129, XXIX, p. 134; Laws 1907, c. 9, § 13, p. 84; Laws 1913, c. 7, § 1, p. 65; R.S.1913, § 4439; C.S.1922, § 3823; C.S.1929, § 15-226; R.S.1943, § 15-225; Laws 2020, LB1003, § 42.

15-226 Repealed. Laws 1957, c. 24, § 1.

15-227 Repealed. Laws 1967, c. 54, § 1.

15-228 Water districts; water mains; enlarging; construction; assessments.

The city council shall have the power to create water districts for the purpose of supplying water for domestic, industrial, or fire purposes, or for the purpose of enlarging any water mains, now existing or hereafter constructed. All such districts, to be known as water districts, shall be created by ordinance and shall designate the property to be benefited. Upon creation of any water district, the city council shall have the power to construct or cause to be constructed, either by contract with the lowest responsible bidder or directly by the city, such water main or mains, or extensions or enlargements, including all necessary appliances for fire protection, within such districts as the city council shall determine, and assess the costs thereof against the property in such district, not exceeding the special benefits accruing on account thereof. The city council shall have the power and authority to fix the period of time, not to exceed twenty years, in which the special assessments against any property for the payment of the cost of such improvements may be made. The city council shall have the power and authority to issue bonds in accordance with the provisions of a home rule charter of the city or of state law.

Source: Laws 1907, c. 9, § 13, p. 85; Laws 1913, c. 7, § 1, p. 65; R.S.1913, § 4439; C.S.1922, § 3823; C.S.1929, § 15-226; R.S.1943, § 15-228; Laws 1969, c. 66, § 1, p. 378; Laws 2020, LB1003, § 43.

15-229 Eminent domain; power to exercise; procedure; entry to make surveys and tests; damages.

A city of the primary class shall have the power to acquire, either temporarily or permanently, lands, real or personal property, or any interests therein, or any easements deemed to be necessary or desirable for any present or future necessary or authorized public purpose within or without the city by gift, agreement, purchase, condemnation, or otherwise. In all such cases the city shall make the person or persons whose property shall be taken or injured thereby adequate compensation therefor. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724. A city of the primary class shall have authority to enter upon any property to make surveys, examinations, investigations, and tests, and to acquire other necessary and relevant data in contemplation of establishing a location of a necessary or authorized public purpose, acquiring property therefor, or performing other operations incident to construction, reconstruction, or maintenance of such

public purpose, and entry upon any property pursuant to this authority shall not be considered to be a legal trespass and no damages shall be recovered on that account alone. In case of any actual or demonstrable damages to the premises, the city shall pay the owner of the premises the amount of the damages. Upon the failure of the landowner and the city to agree upon the amount of damages, the landowner, in addition to any other available remedy, may file a petition as provided for in section 76-705. The entry by the city or its representatives shall be made only after notice of the entry and its purpose.

Source: Laws 1901, c. 16, § 129, XXX, p. 135; R.S.1913, § 4440; C.S. 1922, § 3824; C.S.1929, § 15-227; R.S.1943, § 15-229; Laws 1951, c. 101, § 46, p. 467; Laws 1961, c. 36, § 1, p. 161; Laws 1967, c. 56, § 1, p. 191; Laws 2020, LB1003, § 44.

15-229.01 Acquisition of land, property, or interest; uneconomic remnants of land; acquire, when.

In connection with the acquisition of lands, property, or interests therein for a public purpose, a city of the primary class may acquire by any lawful means, except through condemnation, an entire lot, block, or tract of land or property if, by so doing, the interests of the public will be best served, even though the entire lot, block, or tract is not immediately needed for public purposes. Without limiting such authority, this may be done where uneconomic remnants of land would be left the original owner or owners or where severance or consequential damages to a remainder make the acquisition of the entire parcel more economical to the city. In the event that any such property is left without access to a street and the cost of acquisition of such landlocked property or land through condemnation would be more economical to the city than the cost of providing a means of reasonable ingress to or egress from the property or land, the city may acquire such landlocked property or land by condemnation.

Source: Laws 1967, c. 56, § 2, p. 192; Laws 2020, LB1003, § 45.

15-229.02 Real property; acquisition.

A city of the primary class may acquire additional real property by gift, agreement, purchase, exchange, or condemnation if such additional real property is needed for the purpose of moving and establishing thereon buildings, structures, or other appurtenances which are situated on real property acquired by the city for a public purpose. The city may make agreements for the exchange of property, to make allowances for differences in the value of the properties being exchanged, and to move or pay the cost of moving buildings, structures, or other appurtenances.

Source: Laws 1967, c. 56, § 3, p. 193; Laws 2020, LB1003, § 46.

15-230 Public libraries; establishment.

A city of the primary class may establish, maintain, and operate public library facilities, purchase books, papers, maps, and manuscripts therefor, receive donations and bequests of money or property for such facilities, books, papers, maps, and manuscripts in trust or otherwise, and pass necessary bylaws and regulations for the protection and government of such facilities, books, papers, maps, and manuscripts.

Source: Laws 1901, c. 16, § 129, XXXI, p. 135; R.S.1913, § 4441; C.S. 1922, § 3825; C.S.1929, § 15-228; R.S.1943, § 15-230; Laws 1961, c. 36, § 2, p. 161; Laws 2020, LB1003, § 47.

15-231 Hospital; establishment.

A city of the primary class may (1) purchase or otherwise acquire ground for and erect, establish, operate, regulate, and repair a city hospital or any hospital, the governing board of which is appointed by the mayor or city council, (2) receive donations and bequests of money or property for such hospital facilities in trust or otherwise, and (3) issue bonds of the city for acquiring, constructing, reconstructing, improving, extending, equipping, or furnishing such hospital facilities.

Source: Laws 1901, c. 16, § 129, XXXII, p. 135; R.S.1913, § 4442; C.S.1922, § 3826; C.S.1929, § 15-229; R.S.1943, § 15-231; Laws 1959, c. 42, § 1, p. 223; Laws 2020, LB1003, § 48.

15-232 Repealed. Laws 1961, c. 37, § 4.

15-233 Repealed. Laws 1961, c. 37, § 4.

15-234 Hospital; rules; management.

For any hospital established under section 15-231, there shall be established rules for the government of such hospital and admission of persons to its privileges as may be deemed expedient. No religious or sectarian association, organization, or body shall be permitted to manage or control such hospital.

Source: Laws 1901, c. 16, § 129, XXXV, p. 136; R.S.1913, § 4445; C.S. 1922, § 3829; C.S.1929, § 15-232; R.S.1943, § 15-234; Laws 1963, c. 55, p 1, p. 235; Laws 2020, LB1003, § 49.

15-235 Hospital; contracts to support; when authorized.

The city council of a city of the primary class may enter into an agreement with a corporation or association organized for charitable purposes in such city for the erection and management of a hospital for the sick and disabled and have a permanent interest therein to an extent and upon such terms and conditions as may be agreed upon between the city council and such corporation or association. The city council shall provide for the payment of the amount agreed upon, for any interests in such hospital, either in one payment or in installments, or so much from year to year as the parties may stipulate. Such agreement shall not be made if the city shall have established a hospital as authorized by section 15-231. No such agreement shall extend more than one year.

Source: Laws 1901, c. 16, § 129, XXXVI, p. 136; R.S.1913, § 4446; C.S.1922, § 3830; C.S.1929, § 15-233; R.S.1943, § 15-235; Laws 2020, LB1003, § 50.

15-235.01 Hospital; terms, defined.

As used in the Hospital Sinking Fund Act, unless the context otherwise requires:

(1) Governmental subdivision shall mean any city of the primary class and also any county in which a city of the primary class is the county seat thereof; and

(2) Hospital shall mean any hospital organized pursuant to section 15-231, or any hospital or hospital facility established by a governmental subdivision in conjunction with or adjoining a hospital organized pursuant to section 15-231.

Source: Laws 1961, c. 38, § 1, p. 165; Laws 2020, LB1003, § 51.

15-235.02 Hospital; sinking fund; levy.

A governmental subdivision shall have the power to levy a tax, known as a hospital sinking-fund tax, upon all of the taxable property in its jurisdiction, which levy shall be in addition to all other authorized levies, for the use and benefit of the hospital, and the proceeds of such taxes when and as collected shall be set aside and deposited in the special account or accounts in which other revenue of the governmental subdivision is deposited. This levy shall be accumulated as a sinking fund by the governmental subdivision from fiscal year to fiscal year to provide funds for hospital improvements, maintenance, and operation.

Source: Laws 1961, c. 38, § 2, p. 165; Laws 1992, LB 719A, § 40.

15-235.03 Hospital; income, revenue, profits; disbursement.

All income, revenue, and profits of the hospital and money derived from the levy provided for in section 15-235.02, or from grants, loans, or contributions from the United States, the State of Nebraska, or any agency or instrumentality of such governments, shall be held by the treasurer of the governmental subdivision having jurisdiction over the hospital, and the treasurer shall not commingle such money with any other money under his or her control. Such money shall be deposited in a separate bank account or accounts and shall be withdrawn only by check or draft signed by such treasurer on requisition of the chairperson of the hospital board or such other person as the hospital board may authorize. The chief auditing officer of the governmental subdivision and his or her legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of such hospital board, including its receipts, disbursements, contracts, leases, sinking funds, and investments, and any other matters relating to its financial standing.

Source: Laws 1961, c. 38, § 2, p. 165; Laws 2020, LB1003, § 52.

15-235.04 Hospital; sinking fund; investment.

A governmental subdivision shall have the power and authority to invest and reinvest all idle funds in the hospital sinking fund, including but not limited to current tax receipts for such period of time as such funds are not immediately needed, in evidences of indebtedness of the United States Government and agencies thereof.

Source: Laws 1961, c. 38, § 5, p. 166.

15-235.05 Act, how cited.

Sections 15-235.01 to 15-235.05 may be cited as the Hospital Sinking Fund Act.

Source: Laws 1961, c. 38, § 6, p. 166.

15-236 Contagious diseases; control; board of health; hospitals.

A city of the primary class may make all such ordinances, bylaws, rules, and regulations not inconsistent with the general laws of the state as may be necessary or expedient to promote the public health, safety, and welfare, including ordinances, bylaws, rules, and regulations as may be necessary or expedient to prevent the introduction or spread of contagious, infectious, or malignant diseases. This power and authority is granted to such city in the area which is within the corporate limits of the city and its extraterritorial zoning jurisdiction. The city may create a department of health, make laws and regulations for that purpose, and enforce such ordinances, bylaws, rules, and regulations as provided in section 15-263.

Source: Laws 1901, c. 16, § 129, XXXVII, p. 137; R.S.1913, § 4447; Laws 1919, c. 40, § 1, p. 123; C.S.1922, § 3831; C.S.1929, § 15-234; R.S.1943, § 15-236; Laws 1967, c. 57, § 1, p. 193; Laws 2020, LB1003, § 53.

The city of Lincoln enacted Municipal Code § 8.44.040, which regulates the disposition of refuse pursuant to a grant of authority found in this section. The court held that the authority to enforce ordinances is granted to an area within the city or within three miles of the city and outside any organized city or village. State v. Austin, 209 Neb. 174, 306 N.W.2d 861 (1981).

15-237 Health regulations; nuisances; abatement; slaughterhouses; stockyards; location.

A city of the primary class shall have the power to regulate in the area which is within the corporate limits of the city and its extraterritorial zoning jurisdiction in order to (1) secure the general health, (2) provide rules for the prevention, abatement, and removal of nuisances, including the pollution of air and water, and (3) make and prescribe regulations for the construction, location, and regulation of all slaughterhouses, stockyards, warehouses, commercial feed lots, stables, or other places where offensive matter is kept or is likely to accumulate.

Source: Laws 1901, c. 16, § 129, XXXVIII, p. 137; R.S.1913, § 4448; Laws 1919, c. 40, § 1, p. 124; C.S.1922, § 3832; C.S.1929, § 15-235; R.S.1943, § 15-237; Laws 1967, c. 57, § 2, p. 194; Laws 2020, LB1003, § 54.

Cross References

Mosquitoes, flies, or other insects, nuisance, abatement, see sections 71-2917 and 71-2918.

15-238 Health regulations; sewer connections; power to compel.

A city of the primary class shall have the power by ordinance to regulate and prohibit cesspools and privy vaults in such city and shall have the power to require the owner or owners of any lot, lots, or lands within such cities, upon which any building or buildings are located, to connect such building or buildings with a sewer, to provide such building or buildings with a suitable privy or watercloset, and to connect such privy or watercloset with a sewer, and to require such owner or owners to keep all privy vaults and cesspools clean. Upon the refusal to connect with a sewer or failure of such owner or owners to provide a suitable watercloset or privy, or to make any sewer connection, or to remove any privy vault or cesspool, or to clean the privy vault or cesspool, after five days' notice by publication, or in place thereof, personal notice to so do, then such city, through its proper officers, shall have power to make any sewer connection, construct any watercloset or privy, regulate or remove any privy vault or cesspool, or clean the same, or cause the same to be

done, and shall have the power to provide by ordinance for assessing the cost thereof by special assessment against the lot, lots, or lands of such owner or owners.

Source: Laws 1915, c. 216, § 1, p. 485; C.S.1922, § 3833; C.S.1929, § 15-236; R.S.1943, § 15-238; Laws 2020, LB1003, § 55.

15-239 Cemeteries; establishment.

A city of the primary class may purchase, hold, and pay for, in the manner provided in sections 15-239 to 15-243, lands outside the corporate limits of such city for the purpose of burial and cemetery grounds and avenues leading thereto.

Source: Laws 1901, c. 16, § 129, XXXIX, p. 137; R.S.1913, § 4449; C.S.1922, § 3834; C.S.1929, § 15-237; R.S.1943, § 15-239; Laws 2020, LB1003, § 56.

15-240 Cemeteries; improvement.

A city of the primary class may survey, plot, map, grade, fence, ornament, and otherwise improve all burial and cemetery grounds and avenues leading thereto owned by such city. The city may construct walks, rear and protect ornamental trees therein, and provide for paying the expenses thereof.

Source: Laws 1901, c. 16, § 129, XL, p. 137; R.S.1913, § 4450; C.S.1922, § 3835; C.S.1929, § 15-238; R.S.1943, § 15-240; Laws 2020, LB1003, § 57.

15-241 Cemeteries; conveyance of lots.

A city of the primary class may convey cemetery lots owned by such city by certificates signed by the mayor and countersigned by the city clerk under seal of the city, specifying that the person to whom such certificate is issued is owner of the lot or lots described therein by number as laid down on such plat or map, for the purpose of interment. Such certificate shall vest in the proprietor, his or her heirs and assigns, a right in fee simple to such lot or lots for the sole purpose of interment under the regulations of the city council.

Source: Laws 1901, c. 16, § 129, XLI, p. 137; R.S.1913, § 4451; C.S.1922, § 3836; C.S.1929, § 15-239; R.S.1943, § 15-241; Laws 2015, LB241, § 1; Laws 2020, LB1003, § 58.

15-242 Cemeteries; ownership of lots; monuments.

A city of the primary class may limit the number of cemetery lots which shall be owned by the same person at the same time, may prescribe rules for enclosing, adorning, and erecting monuments and tombstones on cemetery lots, and may prohibit any diversion of the use of such lots and any improper adornment thereof, but no religious test shall be made as to the ownership of such lots, the burial therein, or the ornamentation of graves or lots.

Source: Laws 1901, c. 16, § 129, XLII, p. 138; R.S.1913, § 4452; C.S. 1922, § 3837; C.S.1929, § 15-240; R.S.1943, § 15-242; Laws 2020, LB1003, § 59.

15-243 Cemeteries; regulation.

A city of the primary class may pass rules and ordinances imposing penalties and fines, not exceeding one hundred dollars, regulating, protecting, and governing the cemetery, the owners of lots therein, visitors thereof, and trespassers therein. The officers of such city shall have full jurisdiction and power in the enforcement of such rules and ordinances as though they related to the city itself.

Source: Laws 1901, c. 16, § 129, XLIII, p. 138; R.S.1913, § 4453; C.S. 1922, § 3838; C.S.1929, § 15-241; R.S.1943, § 15-243; Laws 2020, LB1003, § 60.

15-244 Money; power to borrow; pledges to secure; issuance of bonds; purposes; conditions.

A city of the primary class may borrow money on the credit of the city and pledge the credit, revenue, and public property of the city for the payment thereof when authorized in the manner provided by the home rule charter of the city or as otherwise provided by law. Such city shall have the power to issue general obligation bonds of the city, general obligation notes, and refunding bonds, as provided in its home rule charter or as otherwise provided by law. Such city shall have the power to issue revenue bonds for the purpose of acquiring, constructing, reconstructing, improving, extending, equipping, or furnishing any revenue-producing facility within or without the city which is for a public purpose, except that unless authorized by a majority of the voters of such city voting upon the question, no revenue bonds shall be issued for entering the public transportation, natural gas distribution, or telephone fields or functions. Such city shall also have the power to contract for the acquisition of the electric facilities and properties used or useful in connection therewith of a public power district within or without the city and to pay for all or any part of the acquisition out of the earnings of electric facilities and properties.

Source: Laws 1901, c. 16, § 129, XLIV, p. 138; R.S.1913, § 4454; C.S. 1922, § 3839; C.S.1929, § 15-242; R.S.1943, § 15-244; Laws 1965, c. 45, § 1, p. 244; Laws 2020, LB1003, § 61.

15-245 Repealed. Laws 1967, c. 54, § 1.

15-246 Repealed. Laws 1967, c. 54, § 1.

15-247 Election districts; establishment.

A city of the primary class may divide the city into election districts, establish the boundaries thereof, and number the election districts.

Source: Laws 1901, c. 16, § 129, XLVII, p. 139; R.S.1913, § 4457; C.S.1922, § 3842; C.S.1929, § 15-245; R.S.1943, § 15-247; Laws 2020, LB1003, § 62.

15-248 Repealed. Laws 1965, c. 44, § 3.

15-249 Officers; removal; vacancies; how filled.

A city of the primary class may provide for removing officers of the city for misconduct, except as otherwise provided in Chapter 15, and may provide for

filling vacancies in any elective office as provided in sections 32-568 and 32-569.

Source: Laws 1901, c. 16, § 129, XLIX, p. 140; R.S.1913, § 4459; C.S. 1922, § 3844; C.S.1929, § 15-247; R.S.1943, § 15-249; Laws 1961, c. 37, § 1, p. 163; Laws 1994, LB 76, § 480.

Provisions of general election law for filling vacancies apply to alderman where no ordinance is inconsistent therewith, and appointee holds until successor is chosen at next general election. State ex rel. Castle v. Schroeder, 79 Neb. 759, 113 N.W. 192 (1907).

15-250 Officers; powers, duties; compensation; power to prescribe.

A city of the primary class may regulate and prescribe the powers, duties, and compensation of officers of the city not otherwise provided by law.

Source: Laws 1901, c. 16, § 129, L, p. 140; R.S.1913, § 4460; C.S.1922, § 3845; C.S.1929, § 15-248; R.S.1943, § 15-250; Laws 2020, LB1003, § 63.

15-251 Officers and employees; bonds or insurance.

A city of the primary class may require all officers or employees elected or appointed to give bond or evidence of equivalent insurance for the faithful performance of their duties. No officer shall become surety upon the official bond of another or upon any contractor's bond, license, or appeal bond given to the city or under any ordinance thereof. It shall be optional with such officers to give a surety or guaranty company bond.

Source: Laws 1901, c. 16, § 129, LI, p. 140; R.S.1913, § 4461; C.S.1922, § 3846; C.S.1929, § 15-249; R.S.1943, § 15-251; Laws 1961, c. 37, § 2, p. 163; Laws 2007, LB347, § 4.

15-252 Officers; reports required.

A city of the primary class may require of any officer of the city, at any time, a detailed report of the transactions of his or her office or any matters connected therewith.

Source: Laws 1901, c. 16, § 129, LII, p. 140; R.S.1913, § 4462; C.S.1922, § 3847; C.S.1929, § 15-250; R.S.1943, § 15-252; Laws 2020, LB1003, § 64.

15-253 Repealed. Laws 1961, c. 37, § 4.

15-254 Ordinances; revision; publication.

A city of the primary class may provide for the revision of the ordinances of such city from time to time and for their publication in pamphlet, book, or electronic form, with or without the statutes relative to cities of the primary class.

Source: Laws 1901, c. 16, § 129, LIV, p. 141; R.S.1913, § 4464; C.S.1922, § 3849; C.S.1929, § 15-252; R.S.1943, § 15-254; Laws 2020, LB1003, § 65.

15-255 Public safety; measures to protect.

A city of the primary class may (1) prohibit riots, routs, noise, or disorderly assemblies, (2) prevent use of firearms, rockets, powder, fireworks, or other dangerous and combustible material, (3) prohibit carrying of concealed weap-

ons, except the carrying of a concealed handgun in compliance with the Concealed Handgun Permit Act, (4) regulate and prevent the transportation of gunpowder or combustible articles, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitroglycerine, dynamite, petroleum or its products, or other explosives or inflammables, (5) regulate use of lights in stables, shops, or other places and building of bonfires, and (6) regulate and prohibit the piling of building material or any excavation or obstruction of the streets.

Source: Laws 1901, c. 16, § 129, LV, p. 141; R.S.1913, § 4465; C.S.1922, § 3850; C.S.1929, § 15-253; R.S.1943, § 15-255; Laws 2009, LB430, § 2; Laws 2020, LB1003, § 66.

Cross References

Concealed Handgun Permit Act, see section 69-2427.

15-256 Public safety; disturbing the peace; power to punish.

A city of the primary class may punish disturbance of the peace or good order, clamor, intoxication, drunkenness, fighting, or other violations of the public peace by indecent or disorderly conduct, or blockading any street, sidewalk, way, or space, or interfering with the passing of people.

Source: Laws 1901, c. 16, § 129, LVI, p. 141; R.S.1913, § 4466; C.S.1922, § 3851; C.S.1929, § 15-254; R.S.1943, § 15-256; Laws 2020, LB1003, § 67.

15-257 Vagrancy; offenses against public morals; punishment.

A city of the primary class may provide for the punishment of vagrants, tramps, or street beggars, prostitutes, disturbers of the peace, pickpockets, gamblers, burglars, thieves, or persons who practice any game, trick, or device with intent to swindle.

Source: Laws 1901, c. 16, § 129, LVII, p. 141; R.S.1913, § 4467; C.S.1922, § 3852; C.S.1929, § 15-255; R.S.1943, § 15-257; Laws 2020, LB1003, § 68.

15-258 Billiard halls; disorderly houses; prohibition; exceptions.

A city of the primary class may restrain, prohibit, and suppress unlicensed billiard tables, bowling alleys, houses of prostitution, opium and illicit drug dens, and other disorderly houses and practices, games, and gambling houses, may prohibit all public amusements, shows, or exhibitions, and may prohibit all lotteries, all fraudulent devices and practices for the purposes of obtaining money or property, all shooting galleries except as provided in the Nebraska Shooting Range Protection Act, and all kinds of public indecencies, except that nothing in this section shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act.

Source: Laws 1901, c. 16, § 129, LVIII, p. 142; R.S.1913, § 4468; C.S.1922, § 3853; C.S.1929, § 15-256; R.S.1943, § 15-258; Laws 1986, LB 1027, § 187; Laws 1991, LB 849, § 60; Laws 1993, LB 138, § 62; Laws 2009, LB503, § 12; Laws 2020, LB1003, § 69.

Cross References

Nebraska Bingo Act, see section 9-201.
Nebraska Lottery and Raffle Act, see section 9-401.
Nebraska Pickle Card Lottery Act, see section 9-301.
Nebraska Shooting Range Protection Act, see section 37-1301.
Nebraska Small Lottery and Raffle Act, see section 9-501.
State Lottery Act, see section 9-801.

Ordinance prohibiting all business except of necessity on Sunday is not void as discriminatory. Liberman v. State, 26 Neb. 464, 42 N.W. 419 (1889).

15-259 Jail facilities; establishment.

A city of the primary class may erect, establish, and regulate houses of correction, jails, community residential centers, work release centers, halfway houses, and such other places of control or confinement as may be designated as a jail facility from time to time by the city, including station houses and other buildings necessary for keeping and confining prisoners, and may provide for the government and support of such facilities.

Source: Laws 1901, c. 16, § 129, LIX, p. 142; R.S.1913, § 4469; C.S.1922, § 3854; C.S.1929, § 15-257; R.S.1943, § 15-259; Laws 1979, LB 315, § 1; Laws 2020, LB1003, § 70.

15-260 Repealed. Laws 1967, c. 54, § 1.

15-261 Railroads; railroad crossings; buses; safety regulations; installation of safety devices.

A city of the primary class may regulate railroad crossings, provide precautions, and prescribe rules for running railway engines or cars, and their speed, for prevention of accidents at crossings or on tracks or by fires from railway engines. A city of the primary class may regulate the running of buses and require heating and cleaning thereof. A city of the primary class may require reasonable lighting of railway crossings in such manner as the city council may prescribe. If the owner or operator fails to comply, the city may cause such requirement to be complied with and assess the expense of such requirements against such railway company to be collected as other taxes and to be a lien on the real estate belonging to such company, or may enforce compliance by action of mandamus. The city may enforce such regulations as are otherwise provided by law and may require railways to keep flagpersons at all railway street crossings where necessary to protect the public against injury to person or property, and require the installation, maintenance, and proper operation of gates, flashing signals, or other warning devices to ensure such safety. A city of the primary class may compel railways to conform tracks to grades at any time established, to keep tracks level with the street surface, and may compel railways to keep streets open, construct and keep in repair ditches, drains, sewers, and culverts along or under their right-of-way or tracks, and lay and maintain paving upon their whole right-of-way on paved streets.

Source: Laws 1901, c. 16, § 129, LXI, p. 142; R.S.1913, § 4471; C.S.1922, § 3856; C.S.1929, § 15-259; R.S.1943, § 15-261; Laws 1961, c. 36, § 3, p. 162; Laws 2020, LB1003, § 71.

Selection and grading of streets by railway company for its track are subject to regulation and control of city. Omaha, L. & B. Ry. Co. v. City of Lincoln, 97 Neb. 122, 149 N.W. 319 (1914).

15-262 Census; city may take.

A city of the primary class may provide for and cause to be taken a census of the city.

Source: Laws 1901, c. 16, § 129, LXII, p. 143; R.S.1913, § 4472; C.S. 1922, § 3857; C.S.1929, § 15-260; R.S.1943, § 15-262; Laws 2020, LB1003, § 72.

15-263 General welfare; ordinances to insure; powers; enforcement; penalties; imposition.

(1) A city of the primary class may make all such ordinances, bylaws, rules, and regulations 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, (a) for maintaining the peace, good government, and welfare of the city, and its trade, commerce, and manufactories, (b) for preserving order and securing persons or property from violence, danger, and destruction, (c) for protecting public and private property, and (d) for promoting the public health, safety, convenience, comfort, morals, and general interests and welfare of the inhabitants of the city.

(2) A city of the primary class may enforce all such ordinances by providing for imprisonment of those convicted of violations and may impose forfeitures, fines, and penalties not exceeding five hundred dollars for any one offense, recoverable with costs, and, in the default of the payment thereof, provide for confinement in the city or county jail until the judgment and costs are paid.

Source: Laws 1901, c. 16, § 129, LXIII, p. 143; R.S.1913, § 4473; C.S. 1922, § 3858; C.S.1929, § 15-261; R.S.1943, § 15-263; Laws 1955, c. 27, § 1, p. 122; Laws 1965, c. 44, § 2, p. 243; Laws 2020, LB1003, § 73.

15-264 City; keeping prisoners; contract.

Any city of the primary class shall have the right to contract with any other governmental subdivision or agency, whether local, state, or federal, for the keeping of prisoners, either in a facility of the city or in a facility of the other governmental subdivision or agency. Payment shall be made as provided in any such contract or agreement.

Source: Laws 1901, c. 16, § 124, p. 124; R.S.1913, § 4474; C.S.1922, § 3859; C.S.1929, § 15-262; R.S.1943, § 15-264; Laws 1961, c. 35, § 2, p. 157; Laws 1969, c. 67, § 1, p. 383; Laws 2020, LB1003, § 74.

The 1969 amendments of sections 15-264 and 47-306 did not affect sections 16-252 and 17-566. City of Grand Island v. County of Hall, 196 Neb. 282, 242 N.W.2d 858 (1976).

City is not liable to sheriff but is to county. Douglas County v. Coburn, 34 Neb. 351, 51 N.W. 965 (1892).

15-265 Public grounds and highways; control.

The mayor and city council of a city of the primary class shall have supervision and control of all public ways and public grounds within the city and shall require the same to be kept open, in repair, and free from nuisances.

Source: Laws 1901, c. 16, § 96, p. 105; R.S.1913, § 4475; C.S.1922, § 3860; C.S.1929, § 15-263; R.S.1943, § 15-265; Laws 2020, LB1003, § 75.

Performance of duty under this section is part of business of city of Lincoln within contemplation of compensation law. Sentor v. City of Lincoln, 124 Neb. 403, 246 N.W. 924 (1933).

Allowing and regulating entrances to basements through sidewalks is within discretion of city authorities. State ex rel. McNerney v. Armstrong, 97 Neb. 343, 149 N.W. 786 (1914).

City has general control of its streets and of the grades thereof. Omaha, L. & B. Ry. Co. v. City of Lincoln, 97 Neb. 122, 149 N.W. 319 (1914).

City must keep streets and sidewalks free of obstructions for entire width, and is not estopped by past failure to enforce. Chapman v. City of Lincoln, 84 Neb. 534, 121 N.W. 596 (1909).

Owners need not repair until notified. City of Lincoln v. Janesch, 63 Neb. 707, 89 N.W. 280 (1902).

15-266 Streets; lights; telephone lines; regulation.

The mayor and city council of a city of the primary class shall have power to regulate and provide for the lighting of streets, laying down gas, water, and other pipes, and the erection of lampposts, electric towers, or other apparatus. The mayor and city council may regulate the sale and use of gas and electric lights and fix and determine the price of gas, the charge of electric lights and power, and the rents of gas meters within the city, and regulate the inspection thereof. The mayor and city council may regulate telephone service and the use of telephones within the city, prohibit or regulate the erection of telephone or electric wire poles or other poles for whatsoever purpose desired or used in the public grounds, streets, or alleys, and the placing of wires thereon, require the removal from the public grounds, streets, or alleys of any or all such poles, and require the removal and placing under ground of any or all telephone or electric wires.

Source: Laws 1901, c. 16, § 129, XIII, p. 130; R.S.1913, § 4476; C.S.1922, § 3861; C.S.1929, § 15-264; R.S.1943, § 15-266; Laws 2020, LB1003, § 76.

15-267 Repealed. Laws 1983, LB 44, § 1.

15-268 Weeds; destruction and removal; procedure; special assessment.

A city of the primary class may provide for the destruction and removal of weeds and worthless vegetation growing upon any lot, lots, or lands within the corporate limits of such city or within its extraterritorial zoning jurisdiction or upon the streets and alleys abutting upon any lot, lots, or lands, and such city may require the owner or owners of such lot, lots, or lands to destroy and remove such weeds and worthless vegetation therefrom and from the streets and alleys abutting thereon. If, after five days' notice by publication, by certified United States mail, or by the conspicuous posting of the notice on the lot or land upon which the nuisance exists, the owner or owners fail, neglect, or refuse to destroy or remove the nuisance, the city, through its proper officers, shall destroy and remove the nuisance, or cause the nuisance to be destroyed or removed, from the lot, lots, or lands and streets and alleys abutting thereon and shall assess the cost thereof against such lot, lots, or lands as a special assessment.

Source: Laws 1915, c. 215, § 1, p. 484; C.S.1922, § 3863; C.S.1929, § 15-266; R.S.1943, § 15-268; Laws 1988, LB 973, § 1; Laws 2009, LB495, § 2; Laws 2015, LB266, § 4; Laws 2015, LB361, § 13; Laws 2020, LB1003, § 77.

This section provides local governing bodies with adequate limitations and standards for carrying out the statute's duties. Thus, the statute does not violate constitutional standards regarding delegations of legislative powers. Howard v. City of Lincoln, 243 Neb. 5, 497 N.W.2d 53 (1993).

It is the duty of city to destroy weeds if owner does not. Greenwood v. City of Lincoln, 156 Neb. 142, 55 N.W.2d 343 (1952).

15-268.01 Garbage or refuse; constituting a nuisance; collection and removal; notice.

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

(2) Notice that removal of garbage or refuse is necessary shall be given to (a)(i) the owner or owners, or (ii) the duly authorized agent, and (b) the tenant. Such notice shall be provided by personal service or by certified mail. After providing such notice, the city 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, lots, or land, and streets, roads, or alleys abutting thereon.

(3) If the mayor of such city shall declare that the accumulation of such garbage or refuse upon any lot, lots, or land constitutes an immediate nuisance and hazard to public health and safety, the city shall remove the garbage or refuse from such lot, lots, or land twenty-four hours after notice by personal service in accordance with subsection (2) of this section if such garbage or refuse has not been removed.

Source: Laws 1977, LB 74, § 1; Laws 2020, LB1003, § 78.

15-268.02 Garbage or refuse; nuisance; removal by city; assess cost.

Whenever any city of the primary class removes any garbage or refuse from any lot, lots, or land pursuant to section 15-268.01, it shall, after a hearing before and conducted by the city council, assess the cost of the removal against such lot, lots, or land.

Source: Laws 1977, LB 74, § 2.

15-269 Offstreet parking; legislative findings; necessity.

The Legislature finds and declares that the great increase in the number of motor vehicles, including buses and trucks, has created hazards to life and property in cities of the primary class in Nebraska. In order to remove or reduce the hazards to life and property and the inconvenience of congested traffic on the streets in such cities in this state, it is deemed necessary and of general benefit to the entire State of Nebraska to provide means for such cities in Nebraska to own offstreet parking facilities for the parking of motor vehicles.

Source: Laws 1967, c. 51, § 1, p. 185; Laws 2020, LB1003, § 79.

Cross References

For other provisions on offstreet parking, see section 19-3301 et seq.

15-270 Offstreet parking; own, purchase, construct, equip, lease, or operate; right of eminent domain.

Any city of the primary class in Nebraska may own, purchase, construct, equip, lease, or operate within such city offstreet motor vehicle parking facilities for the use of the general public. Any such city shall have the authority to

acquire by grant, contract, purchase, or through the condemnation of property, as provided in sections 76-704 to 76-724, all real or personal property, including a site or sites on which to construct such facilities, necessary or convenient in the carrying out of this grant of power.

Source: Laws 1967, c. 51, § 2, p. 185; Laws 2020, LB1003, § 80.

15-271 Offstreet parking; revenue bonds; authorized.

(1) In order to pay the cost required by any purchase, construction, lease, or condemnation of property and equipping of offstreet motor vehicle parking facilities, or the enlargement of presently owned offstreet motor vehicle parking facilities, a city of the primary class may issue revenue bonds to provide the funds for such improvements, except that any such city may not issue revenue bonds under sections 15-269 to 15-276 to acquire any privately owned parking garage or privately owned commercial parking lot having space for the parking of two hundred or more motor vehicles.

(2) Any ordinance authorizing such revenue bonds may contain such covenants and provisions to protect and safeguard the security of the holders of such bonds as shall be deemed necessary to assure the prompt payment of the principal thereof and the interest thereon.

(3) Such revenue bonds shall not be sold at discounts exceeding five percent, and such bonds shall not bear interest in excess of the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature. Such bonds shall be issued for such terms as the ordinance authorizing them shall prescribe but shall not mature later than fifty years after the date of issuance thereof.

(4) Any such revenue bonds which may be issued shall not be included in computing the maximum amount of bonds which the issuing city of the primary class may be authorized to issue under its charter or any statute of this state. If any city has installed or installs onstreet parking meters, it may pledge all or any part of the revenue of such parking meters, not previously pledged, as security for the bonds authorized by this section.

Source: Laws 1967, c. 51, § 3, p. 186; Laws 1980, LB 933, § 6; Laws 1981, LB 167, § 7; Laws 2020, LB1003, § 81.

15-272 Offstreet parking; revenue bonds; agreements; terms.

A city of the primary class may make and enter into any and all contracts and agreements with any individual, public or private corporation, or agency of this state or of the United States, as may be necessary or incidental to the performance of its duties and the execution of its powers under sections 15-269 to 15-276. In the exercise of this authority, such city may make such contracts and agreements as may be needed for the payment of the revenue bonds authorized by sections 15-269 to 15-276 and for the successful operation of the parking facilities. In the exercise of this authority, the city may lease or grant concessions for the use of the facilities or various portions thereof to one or more operators to provide for the efficient operation of the facilities, but no lease or concession shall run for a period in excess of thirty years. In granting any lease or concession, or in making any contract or agreement, the city shall retain such control of the facilities as may be necessary to insure that the

facilities will be properly operated in the public interest and that the rates, charges, or prices are reasonable.

Source: Laws 1967, c. 51, § 4, p. 186; Laws 2020, LB1003, § 82.

15-273 Offstreet parking; rules and regulations; security for bonds.

A city of the primary class is authorized to make all necessary rules and regulations governing the use, operation, and control of offstreet motor vehicle parking facilities constructed or acquired under sections 15-269 to 15-276. Such city shall establish and maintain equitable rates sufficient in amount to pay for the cost of the operation, repair, and upkeep of the facilities to be purchased, acquired, or leased, and the principal of and interest on any revenue bonds issued pursuant to sections 15-269 to 15-276. The city may also make any other agreements with the purchasers of the bonds for the security of the issuing city and the purchasers of such bonds not in contravention of sections 15-269 to 15-276.

Source: Laws 1967, c. 51, § 5, p. 187; Laws 2020, LB1003, § 83.

15-274 Offstreet parking; revenue bonds; performance; action to compel.

The provisions of sections 15-269 to 15-276 and of any ordinance authorizing the issuance of bonds under such sections shall constitute a contract with the holders of such bonds, and any holder of a bond or bonds or any of the coupons of any bond or bonds of such city of the primary class, issued under sections 15-269 to 15-276, may either in law or in equity, by suit, action, mandamus, or other proceedings, enforce and compel the performance of all duties required by such sections or by the ordinance authorizing the bonds, including the making and collection of sufficient charges and fees for service and the use thereof, and the application of income and revenue thereof.

Source: Laws 1967, c. 51, § 6, p. 187; Laws 2020, LB1003, § 84.

15-275 Offstreet parking; revenue from onstreet parking meters; use.

Any city of the primary class is authorized to use any or all of the revenue from onstreet parking meters for the purpose set forth in section 15-270 if such revenue has not been pledged for the payment of revenue bonds authorized by the provisions of sections 15-269 to 15-276.

Source: Laws 1967, c. 51, § 7, p. 187.

15-276 Offstreet parking; sections; supplementary to existing law.

Sections 15-269 to 15-276 are supplementary to existing statutes relating to cities of the primary class and confer upon such cities powers not heretofore granted.

Source: Laws 1967, c. 51, § 8, p. 188.

15-277 Commission on the status of women; establish; fund.

A city of the primary class may establish and fund a commission on the status of women. Such commission shall advise the mayor and city council on the existence of social, economic, and legal barriers affecting women and ways to eliminate such barriers.

Source: Laws 1980, LB 780, § 3.

15-278 Commission on the status of women; purposes.

The purpose of a commission established under section 15-277 shall be to emphasize studying the changing and developing roles of women in American society including:

(1) Recognition of socioeconomic factors that influence the status of women;

(2) Development of individual potential;

(3) Encouragement of women to utilize their capabilities and assume leadership roles;

(4) Coordination of efforts of numerous women's organizations interested in the welfare of women;

(5) Identification and recognition of contributions made by Nebraska women to the community, state, and nation;

(6) Implementation of this section when improved working conditions, financial security, and legal status of both sexes are involved; and

(7) Promotion of legislation to improve any situation when implementation of subdivisions (1) to (6) of this section indicates a need for change.

Source: Laws 1980, LB 780, § 4.

ARTICLE 3

ELECTIONS; OFFICERS AND EMPLOYEES

Section

15-301. Elections; when held.
15-302. Repealed. Laws 1994, LB 76, § 615.
15-303. Repealed. Laws 1961, c. 37, § 4.
15-304. Repealed. Laws 1961, c. 37, § 4.
15-305. Repealed. Laws 1961, c. 37, § 4.
15-306. Repealed. Laws 1961, c. 37, § 4.
15-307. Elective officers; bond or insurance.
15-308. Appointive officers; bond or insurance.
15-309. Officers, employees; compensation.
15-309.01. Officer; extra compensation prohibited; exception.
15-310. Mayor; head of city government; powers and duties.
15-311. Mayor; territorial jurisdiction.
15-312. Repealed. Laws 1961, c. 37, § 4.
15-313. Repealed. Laws 1994, LB 76, § 615.
15-314. Mayor and chief of police; citizen aid in law enforcement; powers.
15-315. Mayor; remission of fines; pardons.
15-316. City clerk; duties; deputy.
15-317. Treasurer; bond or insurance; deputy; duties; continuing education; requirements.
15-318. Repealed. Laws 1992, LB 1063, § 213; Laws 1992, Second Spec. Sess., LB 1, § 181.
15-319. Repealed. Laws 1992, LB 1063, § 213; Laws 1992, Second Spec. Sess., LB 1, § 181.
15-320. Repealed. Laws 1992, LB 1063, § 213; Laws 1992, Second Spec. Sess., LB 1, § 181.
15-321. Repealed. Laws 1992, LB 1063, § 213; Laws 1992, Second Spec. Sess., LB 1, § 181.
15-322. City attorney; duties; deputy; assistants; appointment.
15-323. Repealed. Laws 1961, c. 37, § 4.
15-324. Repealed. Laws 1961, c. 37, § 4.
15-325. Repealed. Laws 1961, c. 37, § 4.
15-326. Chief of police; powers and duties.
15-327. Repealed. Laws 1961, c. 37, § 4.

Section
15-328. Repealed. Laws 1961, c. 37, § 4.
15-329. Repealed. Laws 1961, c. 37, § 4.
15-330. Repealed. Laws 1961, c. 37, § 4.
15-331. Repealed. Laws 1961, c. 37, § 4.
15-332. City officers; removal; power of district court; procedure.

15-301 Elections; when held.

The general city elections in cities of the primary class shall be held on the first Tuesday in May of every odd-numbered year. All city elections shall be conducted in accordance with the Election Act.

Source: Laws 1901, c. 16, § 12, p. 74; Laws 1905, c. 16, § 1 1/2, p. 200; Laws 1905, c. 17, § 1, p. 213; R.S.1913, § 4478; C.S.1922, § 3864; C.S.1929, § 15-301; R.S.1943, § 15-301; Laws 1961, c. 36, § 4, p. 162; Laws 1982, LB 807, § 40; Laws 1994, LB 76, § 481.

Cross References

City council, election, see section 32-535.
Election Act, see section 32-101.
Home rule charter, election provisions, see sections 32-501, 32-537, 32-556, 32-568, 32-606, 32-608, and 32-1302.
Vacancies, see sections 32-568 and 32-569.

15-302 Repealed. Laws 1994, LB 76, § 615.

15-303 Repealed. Laws 1961, c. 37, § 4.

15-304 Repealed. Laws 1961, c. 37, § 4.

15-305 Repealed. Laws 1961, c. 37, § 4.

15-306 Repealed. Laws 1961, c. 37, § 4.

15-307 Elective officers; bond or insurance.

All elective officers of a city of the primary class, except city council members, shall give a good and sufficient bond or evidence of equivalent insurance in an amount to be fixed by ordinance, for the faithful performance of their duties. Each city council member before entering upon the duties of his or her office shall give a bond or evidence of equivalent insurance in favor of the city in the sum of two thousand dollars. If a bond is given, it shall be signed by a surety company or by two or more good and sufficient sureties who are residents of such city, who shall justify that he or she is worth at least two thousand dollars over and above his or her debts, liabilities, and exemptions, conditioned for the faithful discharge of the duties of the city council members and conditioned further that if the city council members vote for an expenditure of money or the creation of any liability in excess of the amount allowed by law, or vote for the transfer of any sum of money from one fund to another where such transfer is not allowed by law, such city council members and surety or sureties signing the bonds shall be liable thereon.

Source: Laws 1901, c. 16, § 16, p. 76; R.S.1913, § 4484; C.S.1922, § 3870; C.S.1929, § 15-307; R.S.1943, § 15-307; Laws 2007, LB347, § 5; Laws 2020, LB1003, § 85.

Cross References

Joint control of funds by principal and surety on bond, see section 11-130.

15-308 Appointive officers; bond or insurance.

All appointive officers of a city of the primary class before entering upon their respective duties shall give a good and sufficient bond or evidence of equivalent insurance in an amount to be fixed by ordinance in favor of the city, conditioned upon the faithful performance of their duties.

Source: Laws 1901, c. 16, § 17, p. 76; R.S.1913, § 4485; C.S.1922, § 3871; C.S.1929, § 15-308; R.S.1943, § 15-308; Laws 2007, LB347, § 6; Laws 2020, LB1003, § 86.

Cross References

Joint control of funds by principal and surety on bond, see section 11-130.

15-309 Officers, employees; compensation.

The city council of a city of the primary class shall have the power by ordinance to fix the salaries of the officers and employees of the city and provide by ordinance for the forfeiting of the salary of any officer or employee.

Source: Laws 1901, c. 16, § 21, p. 77; Laws 1905, c. 16, § 4, p. 202; Laws 1907, c. 9, § 3, p. 76; Laws 1913, c. 5, § 1, p. 58; R.S.1913, § 4486; C.S.1922, § 3872; C.S.1929, § 15-309; R.S.1943, § 15-309; Laws 2020, LB1003, § 87.

15-309.01 Officer; extra compensation prohibited; exception.

No officer of a city of the primary class shall receive any pay or perquisite from the city other than his or her salary, and the city council shall not pay or appropriate any money or other valuable thing to any person, not an officer, for the performance of any act, service, or duty, the performance of which shall come within the proper scope of the duties of any officer of the city, unless such money or other valuable thing is specifically appropriated and ordered by unanimous vote of all members elected to the city council.

Source: Laws 1901, c. 16, § 67, p. 94; R.S.1913, § 4520; C.S.1922, § 3906; C.S.1929, § 15-603; R.S.1943, § 15-603; Laws 1957, c. 38, § 1, p. 206; Laws 1961, c. 283, § 1, p. 829; Laws 1969, c. 68, § 1, p. 384; Laws 1983, LB 370, § 6; R.S.1943, (1983), § 15-603; Laws 2020, LB1003, § 88.

15-310 Mayor; head of city government; powers and duties.

The mayor shall be the chief executive officer of a city of the primary class. The executive and administrative power of a city of the primary class shall be vested in and exercised by the mayor, who shall also be the ceremonial head of the city government. The mayor shall enforce the city ordinances and all applicable laws. The mayor may administer oaths, may perform all the duties devolving upon a magistrate, and shall sign commissions and appointments of all officers appointed by him or her with city council approval.

Source: Laws 1901, c. 16, § 22, p. 78; R.S.1913, § 4487; C.S.1922, § 3873; C.S.1929, § 15-310; R.S.1943, § 15-310; Laws 1963, c. 56, § 1, p. 236; Laws 2020, LB1003, § 89.

15-311 Mayor; territorial jurisdiction.

The mayor of a city of the primary class shall have such jurisdiction as may be vested in him or her by ordinance, over all places within the city of the primary class or within its extraterritorial zoning jurisdiction, for the enforcement of the health ordinances and regulations thereof, and for the purpose of carrying out the provisions of all such ordinances, except that the ordinances respecting taxation shall not be enforced outside of the corporate limits of such city of the primary class.

Source: Laws 1901, c. 16, § 25, p. 78; R.S.1913, § 4488; C.S.1922, § 3874; C.S.1929, § 15-311; R.S.1943, § 15-311; Laws 1967, c. 57, § 3, p. 194; Laws 2020, LB1003, § 90.

15-312 Repealed. Laws 1961, c. 37, § 4.

15-313 Repealed. Laws 1994, LB 76, § 615.

15-314 Mayor and chief of police; citizen aid in law enforcement; powers.

The mayor and chief of police of a city of the primary class shall each have the power to call upon any citizen to aid in the enforcement of any ordinance or suppression of any riot, and any person who shall refuse or neglect to obey such call shall forfeit and pay a fine not exceeding one hundred dollars. Such power shall not be construed to include the appointment of special police or special deputies.

Source: Laws 1901, c. 16, § 28, p. 79; R.S.1913, § 4491; C.S.1922, § 3877; C.S.1929, § 15-314; R.S.1943, § 15-314; Laws 1976, LB 782, § 11; Laws 2020, LB1003, § 91.

15-315 Mayor; remission of fines; pardons.

The mayor of a city of the primary class shall have the power to remit fines and forfeitures and to grant reprieves and pardons for all offenses arising under the ordinances of the city.

Source: Laws 1901, c. 16, § 29, p. 79; R.S.1913, § 4492; C.S.1922, § 3878; C.S.1929, § 15-315; R.S.1943, § 15-315; Laws 2020, LB1003, § 92.

15-316 City clerk; duties; deputy.

The city clerk of a city of the primary class shall have the custody of all laws and ordinances and shall keep a correct journal of the proceedings of the city council. After the period of time specified by the State Records Administrator pursuant to the Records Management Act, the city clerk may transfer such journal of the proceedings of the city council to the State Archives of the Nebraska State Historical Society, for permanent preservation. The city clerk shall keep a correct record of all outstanding bonds against the city showing the number and amount of each, for what and to whom issued, and when purchased, paid, or canceled, and shall make an annual report showing particularly the bonds issued and sold during the year, and the terms of sale, with each item of expense thereof. The city clerk shall perform such other or further duties as may be required of him or her by ordinances of the city. The city clerk shall also make a monthly report to the city council showing the amount appropriated to each fund, and the whole amount of funds drawn thereon, which report shall be recorded in the minutes. The city clerk may, if

the city council deem assistance necessary, appoint a deputy who shall give a bond in favor of the city the same as is required of the city clerk.

Source: Laws 1901, c. 16, § 30, p. 79; R.S.1913, § 4493; C.S.1922, § 3879; C.S.1929, § 15-316; R.S.1943, § 15-316; Laws 1973, LB 224, § 3; Laws 2020, LB1003, § 93.

Cross References

Joint control of funds by principal and surety on bond, see section 11-130.
Records Management Act, see section 84-1220.

15-317 Treasurer; bond or insurance; deputy; duties; continuing education; requirements.

(1) The city treasurer of a city of the primary class shall be required to give a bond or evidence of equivalent insurance of not less than one hundred fifty thousand dollars or he or she may be required to give a bond or evidence of equivalent insurance double the sum of money estimated by the city council to be at any time in his or her hands belonging to the city. The city treasurer shall be the custodian of all money belonging to the city and all securities belonging or to be held by the city. The city treasurer shall keep a separate account of each fund or appropriation and debits and credits belonging thereto. The city treasurer shall give every person paying money into the treasury a receipt therefor, specifying the date of payment and on what account paid, and he or she shall also file copies of receipts with his or her monthly report. The city treasurer shall monthly and as often as required render to the city council an account under oath showing the state of the treasury at that date, the amount of money remaining in each fund, the amount paid therefrom, and the balance of money in the treasury. The city treasurer shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, together with any and all vouchers held by him or her, shall be filed in the city clerk's office, and if he or she neglects or fails for thirty days from the end of any month to enter such accounts, his or her office may by resolution of the mayor and city council be declared vacant, and the mayor with the concurrence of the city council shall fill the vacancy by appointment until the next election of the city officers. The city treasurer may employ and appoint a deputy and an assistant or assistants as determined by ordinance. The city treasurer shall be liable upon his or her official bond for the acts of such appointees.

(2) The city treasurer shall annually complete continuing education through a program approved by the Auditor of Public Accounts, and proof of completion of such program shall be submitted to the Auditor of Public Accounts.

Source: Laws 1901, c. 16, § 31, p. 80; R.S.1913, § 4494; C.S.1922, § 3880; R.S.1943, § 15-317; Laws 1996, LB 1007, § 1; Laws 2007, LB347, § 7; Laws 2020, LB781, § 2; Laws 2020, LB1003, § 94.

Cross References

Joint control of funds by principal and surety on bond, see section 11-130.

15-318 Repealed. Laws 1992, LB 1063, § 213; Laws 1992, Second Spec. Sess., LB 1, § 181.

15-319 Repealed. Laws 1992, LB 1063, § 213; Laws 1992, Second Spec. Sess., LB 1, § 181.

15-320 Repealed. Laws 1992, LB 1063, § 213; Laws 1992, Second Spec. Sess., LB 1, § 181.

15-321 Repealed. Laws 1992, LB 1063, § 213; Laws 1992, Second Spec. Sess., LB 1, § 181.

15-322 City attorney; duties; deputy; assistants; appointment.

The city attorney of a city of the primary class shall be the legal advisor of the mayor, the city council, and city officers of a city of the primary class. The city attorney shall commence, prosecute, and defend actions on behalf of the city, attend the meetings of the city council, and give opinions, orally or in writing, as required, upon any matter submitted to him or her by the mayor, the city council, or any officers of the city. The city attorney is authorized to prepare, file, and sign the proper complaint when there is sufficient evidence to warrant the belief that a person is guilty and can be convicted of a violation of a city ordinance. The city attorney shall draft or review for legal correctness ordinances, contracts, franchises, and other instruments as may be required, and the city attorney shall perform such other duties as may be imposed upon him or her by general law or by ordinance. The city attorney may appoint a deputy city attorney and one or more assistant city attorneys, whose duties may be prescribed by ordinance.

Source: Laws 1901, c. 16, § 32, p. 81; R.S.1913, § 4495; C.S.1922, § 3881; C.S.1929, § 15-318; R.S.1943, § 15-322; Laws 1959, c. 43, § 1, p. 224; Laws 2020, LB1003, § 95.

15-323 Repealed. Laws 1961, c. 37, § 4.

15-324 Repealed. Laws 1961, c. 37, § 4.

15-325 Repealed. Laws 1961, c. 37, § 4.

15-326 Chief of police; powers and duties.

The chief of police of a city of the primary class shall have the immediate charge of the police, and he or she and his or her officers shall have the power and duty to arrest all offenders against the laws of the state or the ordinances of the city in the same manner as the county sheriff and to keep such offenders in the city jail or other place to prevent their escape until a trial or examination may be had before a proper officer. The jurisdiction of the chief of police and his or her officers in the service of process, in all criminal cases, and in cases for the violation of city ordinances shall be coextensive with the county.

Source: Laws 1901, c. 16, § 40, p. 85; R.S.1913, § 4503; C.S.1922, § 3889; C.S.1929, § 15-326; R.S.1943, § 15-326; Laws 1972, LB 1032, § 100; Laws 1984, LB 13, § 4; Laws 1988, LB 1030, § 3; Laws 1993, LB 390, § 1; Laws 2020, LB1003, § 96.

Cross References

Ticket quota requirements, prohibited, see section 48-235.

15-327 Repealed. Laws 1961, c. 37, § 4.

15-328 Repealed. Laws 1961, c. 37, § 4.

15-329 Repealed. Laws 1961, c. 37, § 4.

15-330 Repealed. Laws 1961, c. 37, § 4.

15-331 Repealed. Laws 1961, c. 37, § 4.

15-332 City officers; removal; power of district court; procedure.

The power to remove from office the mayor or any city council member or other officer of a city of the primary class for good and sufficient cause is hereby conferred upon the district court for the county in which such city is situated, when not otherwise provided by law, and whenever any three city council members shall make and file with the clerk of such court the proper charges and specifications against the mayor, alleging and showing that he or she is guilty of malfeasance or misfeasance as such officer, or that he or she is incompetent or neglects any of his or her duties as mayor, or that for any other good and sufficient cause stated, he or she should be removed from office as mayor; or whenever the mayor or any three city council members shall make and file with the clerk of such court the proper charges and specifications against any city council member or other officer, alleging and showing that he or she is guilty of malfeasance or misfeasance in office or that he or she is incompetent or neglects any of his or her duties, or that from any other good and sufficient cause stated, he or she should be removed from office, the judge of such court may issue the proper order, requiring such officer to appear before him or her on a day named therein, not more than ten days after the service of such order, together with a copy of such charges and specifications, upon such officer to show cause why he or she should not be removed from his or her office. The proceedings in such case shall take precedence over all civil cases and be conducted according to the rules of such court in such cases made and provided, and such officer may be suspended from the duties of his or her office during the pendency of such proceedings by order of such court. During the time any officer is suspended, the mayor and city council, or in case the mayor is suspended, then the city council, may appoint any competent person to perform the duties of the officer so suspended, provide for his or her compensation, and require such appointee to execute a good and sufficient bond for the faithful performance of the duties of the office.

Source: Laws 1901, c. 16, § 65, p. 93; R.S.1913, § 4509; C.S.1922, § 3895; C.S.1929, § 15-332; R.S.1943, § 15-332; Laws 2020, LB1003, § 97.

ARTICLE 4

COUNCIL AND PROCEEDINGS

Section
15-401. City council; meetings; quorum; vote required to transact business.
15-402. Ordinances, passage; publication; proof.
15-403. Ordinances; form; publication; when operative.
15-404. Ordinances; enactment; amendment; procedure.
15-405. Repealed. Laws 1961, c. 37, § 4.
15-406. Mayor; recommendations to city council.

15-401 City council; meetings; quorum; vote required to transact business.

Regular meetings of the city council of a city of the primary class shall be held at least once each week on such days and at such times as the city council may prescribe in its rules, and special meetings shall be held whenever called by the mayor or any four members of the city council. The city council may

choose not to meet during any week in which a federal or state holiday occurs. Four members of the city council shall constitute a quorum for the transaction of any business, and four affirmative votes shall be required to pass any measure or to transact any business unless it is otherwise provided by any home rule charter of a city of the primary class.

Source: Laws 1901, c. 16, § 20, p. 77; R.S.1913, § 4510; C.S.1922, § 3896; C.S.1929, § 15-401; R.S.1943, § 15-401; Laws 1963, c. 56, § 2, p. 236; Laws 2002, LB 932, § 1; Laws 2020, LB1003, § 98.

15-402 Ordinances, passage; publication; proof.

Ordinances of a city of the primary class shall be passed pursuant to such rules and regulations as the city council may provide and may be proved by the certificate of the city clerk under seal of the city. The passage, approval, publication, or posting of ordinances shall be sufficiently proved by certificate of the city clerk under seal of the city showing when passed and approved, when and in what legal newspaper published, or when, by whom, and where the ordinance was posted. Ordinances printed or published in book, pamphlet, or electronic form, purporting to be published under authority of the city, shall be received in evidence in all courts without further proof. All such ordinances need not be otherwise published and shall be received in court as evidence of the passage, approval, and publication thereof, as required by law, and of the respective dates thereof.

Source: Laws 1901, c. 16, § 127, p. 125; R.S.1913, § 4511; C.S.1922, § 3897; C.S.1929, § 15-402; R.S.1943, § 15-402; Laws 2020, LB1003, § 99.

Courts will not enjoin passage of unauthorized ordinance. Chicago, R. I. & P. Ry. Co. v. City of Lincoln, 85 Neb. 733, 124 N.W. 142 (1910).

15-403 Ordinances; form; publication; when operative.

The style of ordinances of a city of the primary class shall be: Be it ordained by the city council of the city of . . . . All ordinances shall be published within fifteen days after passage thereof, such publication to be sufficient if published in one issue of a legal newspaper in or of general circulation in the city, or posted on the official bulletin board of the city at the city hall, or in book, pamphlet, or electronic form, as may be provided by ordinance, to be distributed or sold in the city. Ordinances fixing a penalty or forfeiture for the violation thereof shall not take effect until fifteen days after passage, and in no case before one week after the publication thereof in the manner prescribed in this section, except that in case of riots, infectious or contagious diseases, or other impending danger or other emergency requiring immediate operation of the ordinance, such ordinance shall take effect immediately upon the publication thereof as prescribed in this section. All ordinances, except as otherwise provided in this section, shall take effect fifteen days after passage.

Source: Laws 1901, c. 16, § 128, p. 126; R.S.1913, § 4512; C.S.1922, § 3898; C.S.1929, § 15-403; R.S.1943, § 15-403; Laws 1963, c. 56, § 3, p. 236; Laws 2020, LB1003, § 100.

15-404 Ordinances; enactment; amendment; procedure.

All ordinances, resolutions, or orders for the appropriation or payment of money in a city of the primary class shall require for passage or adoption the concurrence of a majority of the members elected to the city council. Ordinances of a general or permanent nature shall be read by title on three different days unless the city council votes to suspend this requirement by a two-thirds vote of the members, except that such requirement shall not be suspended (1) for any ordinance for the annexation of territory or the redrawing of boundaries for city council election districts or wards or (2) as otherwise provided by law. No ordinance shall contain a subject which is not clearly expressed in its title. No ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended shall be repealed.

Source: Laws 1901, c. 16, § 73, p. 96; R.S.1913, § 4513; C.S.1922, § 3899; C.S.1929, § 15-404; R.S.1943, § 15-404; Laws 2018, LB865, § 2; Laws 2020, LB1003, § 101; Laws 2021, LB131, § 10.

When no vote was taken to dispense with further reading of ordinance after being amended, fact that it passed by more than two-thirds vote of members was substantial compliance. Miller v. City of Lincoln, 94 Neb. 577, 143 N.W. 921 (1913).

15-405 Repealed. Laws 1961, c. 37, § 4.

15-406 Mayor; recommendations to city council.

The mayor of a city of the primary class shall from time to time communicate to the city council such recommendations or information as in his or her opinion tend to improve the finances, police, health, comfort, and general welfare of the city.

Source: Laws 1901, c. 16, § 24, p. 78; R.S.1913, § 4515; C.S.1922, § 3901; C.S.1929, § 15-406; R.S.1943, § 15-406; Laws 2020, LB1003, § 102.

ARTICLE 5

WATER DEPARTMENT

Section
15-501. Waterworks; construction; right of eminent domain; procedure.
15-502. Waterworks; contract for water; option to buy plant.

15-501 Waterworks; construction; right of eminent domain; procedure.

When a system of waterworks shall have been adopted in a city of the primary class and the people shall have voted to borrow money to aid their construction, the mayor and city council may (1) construct and maintain such system of waterworks, either within or without the corporate limits of the city, (2) make all needful rules and regulations concerning the use of such waterworks, and (3) do all acts necessary for the construction, completion, and management and control of such waterworks, including the exercise of the right of eminent domain. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1901, c. 16, § 112, p. 118; R.S.1913, § 4516; C.S.1922, § 3902; C.S.1929, § 15-501; R.S.1943, § 15-501; Laws 1951, c. 101, § 47, p. 467; Laws 2020, LB1003, § 103.

15-502 Waterworks; contract for water; option to buy plant.

In case such aid shall not be voted by the people as provided in section 15-501 or in case the system of waterworks shall prove inadequate for the needs of the city of the primary class, both public and private, then the mayor and city council may contract with and procure individuals or corporations to construct and maintain a system of waterworks in such city of the primary class for any time not exceeding twenty years from the date of the contract, and with a reservation to the city of the right to purchase such waterworks at any time after the lapse of ten years from the date of the contract, upon payment to such individuals or corporation of an amount to be determined by the contract not exceeding the cost of construction of such waterworks. In other respects such contracts may be upon such terms as may be agreed upon by a two-thirds vote of the mayor and city council, recorded in the minutes, except that no such contract shall be made unless authorized by a majority vote of the legal voters at a special election called for such purpose.

Source: Laws 1901, c. 16, § 113, p. 119; R.S.1913, § 4517; C.S.1922, § 3903; C.S.1929, § 15-502; R.S.1943, § 15-502; Laws 2020, LB1003, § 104.

ARTICLE 6

CONTRACTS AND FRANCHISES

Section
15-601. Repealed. Laws 1961, c. 37, § 4.
15-602. Repealed. Laws 1961, c. 37, § 4.
15-603. Transferred to section 15-309.01.
15-604. Repealed. Laws 1959, c. 265, § 1.

15-601 Repealed. Laws 1961, c. 37, § 4.

15-602 Repealed. Laws 1961, c. 37, § 4.

15-603 Transferred to section 15-309.01.

15-604 Repealed. Laws 1959, c. 265, § 1.

ARTICLE 7

PUBLIC IMPROVEMENTS

Section
15-701. Streets, sidewalks, public ways; improvements; condemnation; vacating; sale, exchange, or lease of property.
15-701.01. Streets, sidewalks, public ways; establish grade; special assessment.
15-701.02. Streets, sidewalks, public ways; hard surface; special assessments.
15-702. Repealed. Laws 1967, c. 54, § 1.
15-702.01. Controlled-access facilities; designation; limitations on use.
15-702.02. Controlled-access facilities; frontage roads.
15-702.03. Streets; egress and ingress; rights to.
15-702.04. Access ways; materials; standards; establish.
15-703. Repealed. Laws 1949, c. 28, § 20.
15-704. Repealed. Laws 1949, c. 28, § 20.
15-705. Repealed. Laws 1967, c. 54, § 1.
15-706. Repealed. Laws 1967, c. 54, § 1.
15-707. Repealed. Laws 1967, c. 54, § 1.
15-708. Streets; improvements; public property, how assessed.
15-709. Streets; improvements; utility service connections; duty of landowner; special assessment.

Section
15-710. Repealed. Laws 1969, c. 66, § 9.
15-711. Repealed. Laws 1969, c. 66, § 9.
15-712. Repealed. Laws 1969, c. 66, § 9.
15-713. Curbing gutter bonds; special assessment.
15-714. Repealed. Laws 1967, c. 54, § 1.
15-715. Repealed. Laws 1967, c. 54, § 1.
15-716. Repealed. Laws 1967, c. 54, § 1.
15-717. Sewers and drains; construction; cost; assessment against property owners.
15-718. Sewers and drains; construction; assessment of benefits; collection.
15-719. Repealed. Laws 1969, c. 66, § 9.
15-720. Sewer district bonds.
15-721. Repealed. Laws 1961, c. 37, § 4.
15-722. Repealed. Laws 1965, c. 44, § 3.
15-723. Repealed. Laws 1967, c. 54, § 1.
15-724. Public markets; establishment.
15-725. Public improvements; special tax assessments.
15-726. Special tax assessments; certificate; warrants.
15-727. Special tax assessments; multiple owners; treatment.
15-728. Public improvements; city engineer; inspection and acceptance.
15-729. Street railway systems; powers of city.
15-730. Repealed. Laws 2020, LB1003, § 190.
15-731. Repealed. Laws 2020, LB1003, § 190.
15-732. Repealed. Laws 2020, LB1003, § 190.
15-733. Repealed. Laws 2020, LB1003, § 190.
15-734. Sidewalks; construction; repair; duty of landowner; power of city in case of default; cost; special assessment.
15-735. Special sidewalk assessments; collection.
15-736. Repealed. Laws 1967, c. 54, § 1.
15-737. Repealed. Laws 1967, c. 54, § 1.
15-738. Repealed. Laws 1967, c. 54, § 1.
15-739. Repealed. Laws 1967, c. 54, § 1.
15-740. Repealed. Laws 1967, c. 54, § 1.
15-741. Repealed. Laws 1967, c. 54, § 1.
15-742. Repealed. Laws 1967, c. 54, § 1.
15-743. Repealed. Laws 1967, c. 54, § 1.
15-744. Repealed. Laws 1967, c. 54, § 1.
15-745. Repealed. Laws 1967, c. 54, § 1.
15-746. Repealed. Laws 1967, c. 54, § 1.
15-747. Repealed. Laws 1967, c. 54, § 1.
15-748. Repealed. Laws 1967, c. 54, § 1.
15-749. Repealed. Laws 1967, c. 54, § 1.
15-750. Repealed. Laws 1967, c. 54, § 1.
15-751. Joint city and county facilities; cooperation with other governmental agencies; authorization; dual officers and employees.
15-752. Joint city and county facilities; authorization; vote required.
15-753. Ornamental lighting districts; bids; letting; special assessment.
15-754. Public improvement districts; cost; special assessment.
15-755. Repealed. Laws 1983, LB 44, § 1.
15-756. Repealed. Laws 1983, LB 44, § 1.
15-757. Repealed. Laws 1983, LB 44, § 1.
15-758. Repealed. Laws 1983, LB 44, § 1.
15-759. Repealed. Laws 1983, LB 44, § 1.

15-701 Streets, sidewalks, public ways; improvements; condemnation; vacating; sale, exchange, or lease of property.

The city council of a city of the primary class shall have the power by ordinance to create, open, widen, or otherwise improve, vacate, control, name, and rename any street, alley, or public way or ways, including the sidewalk space within the corporate limits of the city, except that all damages sustained

by the owners of the property thereon by opening or widening shall be ascertained as provided in sections 76-704 to 76-724. Whenever any street, alley, or public way shall be vacated, such street, alley, or public way shall revert to the owners of the adjacent real estate, one-half on each side thereof, unless the city reserves title to such street, alley, or public way in the ordinance vacating such street, alley, or public way. In the event title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city, as authorized in its home rule charter. When the city vacates all or any portion of a street, alley, or public way or ways, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

Source: Laws 1901, c. 16, § 129, IV, p. 128; R.S.1913, § 4522; C.S.1922, § 3908; C.S.1929, § 15-701; R.S.1943, § 15-701; Laws 1951, c. 101, § 48, p. 468; Laws 1959, c. 44, § 1, p. 225; Laws 1969, c. 66, § 2, p. 379; Laws 2001, LB 483, § 3; Laws 2020, LB1003, § 105.

Primary class city council action to vacate street or alley, retain title, and later sell property will not be overturned on review unless fraud, illegality of proceedings, absence of jurisdiction, or abuse of discretion clearly shown. Cather & Sons Constr., Inc. v. City of Lincoln, 200 Neb. 510, 264 N.W.2d 413 (1978).

Special proviso in Viaduct Act was enacted in view of this and other articles. State ex rel. City of Grand Island v. Union Pacific R. R. Co., 152 Neb. 772, 42 N.W.2d 867 (1950).

15-701.01 Streets, sidewalks, public ways; establish grade; special assessment.

The city council of a city of the primary class shall have the power to grade partially or to an established grade, curb, recurb, gutter, construct sidewalks, or otherwise improve or repair any street or streets, alley or alleys, public grounds, public way or ways, or parts thereof, including sidewalk space, at public cost, or by levy of special assessments on the property specially benefited thereby, proportionate to the benefits. When the streets, public ways, or public grounds have been brought to an established grade, the city council shall have power to bring sidewalks and sidewalk space therein to a grade and to construct sidewalks and shall have power and authority to levy special assessments against the property specially benefited, not to exceed the cost of the improvement. Ordinary repairs, not including repaving or resurfacing or relaying existing pavement or making sidewalk repairs, shall be at public cost.

Source: Laws 1969, c. 66, § 3, p. 380; Laws 2020, LB1003, § 106.

15-701.02 Streets, sidewalks, public ways; hard surface; special assessments.

The city council of a city of the primary class shall have the power to grade, to change grade, and to pave, repave, macadamize, curb, recurb, gravel, regravel, open, and widen streets, roadways, or public ways, gutter, resurface, or relay existing pavement, or otherwise improve any street, streets, alley, alleys, public grounds, or public way or ways, or parts thereof, including the sidewalk space, and including improvement by mall or promenade, and by ordinance to create grading, paving, repaving, curbing, recurbing, resurfacing, graveling, regraveling, sidewalk, or improvement districts thereof, to be consecutively numbered, and such districts may include two or more connecting or intersecting streets, alleys, or public ways and may include two or more improvements, in this section mentioned, in one proceeding. Cost of so improv-

ing the street, streets, alley, alleys, public grounds, or public way or ways, including sidewalks, may be in whole or in part assessed, proportionate to benefits, on the property specially benefited. The city council may fix the depth to which property may be charged and assessed for benefits, and to a greater depth than the lots fronting on the street, streets, alley, alleys, public grounds, or public way or ways so improved, and the determination thereof by the city council shall be conclusive. The city council shall have the power and authority to fix the period of time for the payment of the special assessments, and to issue bonds, as authorized by the home rule charter.

Source: Laws 1969, c. 66, § 4, p. 380; Laws 2020, LB1003, § 107.

15-702 Repealed. Laws 1967, c. 54, § 1.

15-702.01 Controlled-access facilities; designation; limitations on use.

(1) A city of the primary class shall have the power to designate and establish controlled-access facilities, may design, construct, maintain, improve, alter, and vacate such facilities, and may regulate, restrict, or prohibit access to such facilities so as best to serve the traffic for which such facilities are intended. Such a city may provide for the elimination of intersections at grade with existing roads, streets, highways, or alleys, if the public interest shall be served thereby. An existing road, street, alley, or other traffic facility may be included within such facilities or such facilities may include new or additional roads, streets, highways, or alleys. In order to carry out the purposes of this section, the city, in addition to any other powers it may have, may acquire, in private or public property, such rights of access as are deemed necessary, including, but not necessarily limited to, air, light, view, egress, and ingress. Such acquisitions may be by gift, devise, purchase, agreement, adverse possession, prescription, condemnation, or otherwise as provided by law and may be in fee simple absolute or in any lesser estate or interest. The city may make provision to mitigate damages caused by such acquisitions, terms and conditions regarding the abandonment or reverter of such acquisitions, and any other provisions or conditions that are desirable for the needs of the city and the general welfare of the public.

(2) No automotive service stations or other commercial establishments for serving motor vehicle users shall be constructed or located on the publicly owned right-of-way of, or on any publicly owned or publicly leased land used for, or in connection with, a controlled-access facility.

Source: Laws 1959, c. 45, § 1, p. 226; Laws 2020, LB1003, § 108.

15-702.02 Controlled-access facilities; frontage roads.

A city of the primary class shall have the power to designate, establish, design, construct, maintain, vacate, alter, improve, and regulate frontage roads within the boundaries of any present or hereafter acquired right-of-way and to exercise the same jurisdiction over such frontage roads as is authorized over controlled-access facilities. Such frontage roads may be connected to or separated from the controlled-access facilities at such places as the city shall determine to be consistent with public safety. Upon the construction of any frontage road, any right of access between the controlled-access facility and property abutting or adjacent to such frontage road shall terminate and ingress

to and egress from the frontage road shall be provided at such places as will afford reasonable and safe connections.

Source: Laws 1959, c. 45, § 2, p. 227; Laws 2020, LB1003, § 109.

15-702.03 Streets; egress and ingress; rights to.

The right of reasonably convenient egress to and ingress from lands or lots, abutting on an existing highway, street, or road within a city of the primary class, may not be denied except with the consent of the owners of such lands or lots, or with the condemnation of such right of access to and from such abutting lands or lots. If the construction or reconstruction of any highway, street, or road, to be paid for in whole or in part with federal or state highway funds, results in the abutment of property on such highway, street, or road that did not theretofore have direct egress from and ingress to it, no rights of direct access shall accrue because of such abutment, but the city may prescribe and define the location of the privilege of access, if any, of properties that then, but not theretofore, abut on such highway, street, or road.

Source: Laws 1959, c. 45, § 3, p. 227; Laws 2020, LB1003, § 110.

In order for property to "abut" a street, according to the terms of this section, the lot line and street line must be in common; mere touching at a single point is not sufficient. City of Lincoln v. Cather & Sons Const., Inc., 206 Neb. 10, 290 N.W.2d 798 (1980).

15-702.04 Access ways; materials; standards; establish.

In all specifications for materials to be used in paving, curbing, and guttering of every kind, of access ways, a city of the primary class shall establish a standard or standards of strength and quality, to be demonstrated by physical, chemical, or other tests within the limits of reasonable variations. In every instance the materials shall be so described in the specifications, either by standard or quality, to permit genuine competition between contractors so that there may be two or more bids by individuals or companies in no manner connected with each other and no material shall be specified which shall not be subject to such competition.

Source: Laws 1959, c. 45, § 4, p. 228; Laws 2020, LB1003, § 111.

15-703 Repealed. Laws 1949, c. 28, § 20.

15-704 Repealed. Laws 1949, c. 28, § 20.

15-705 Repealed. Laws 1967, c. 54, § 1.

15-706 Repealed. Laws 1967, c. 54, § 1.

15-707 Repealed. Laws 1967, c. 54, § 1.

15-708 Streets; improvements; public property, how assessed.

If in any city of the primary class there shall be any real estate belonging to any county, school district, municipal or quasi-municipal corporation, joint public agency, cemetery association, library board, or other public board or association, abutting upon the street, streets, alley, alleys, public way, or public grounds proposed to be improved, the proper officer or officers having control and jurisdiction over such real estate, or authorized to purchase, lease, hold, or convey real estate, shall have power to sign a petition for paving, repaving, curbing, recurbing, grading, changing grade, guttering, resurfacing, relaying

existing pavement, or otherwise improving any street, streets, alley, alleys, public way, or public grounds or improvement districts. When such improvements have been ordered, it shall be the duty of the governing body controlling and having jurisdiction over such real estate benefited by such improvement, to pay such special taxes or assessments, or its proportionate share of the cost of such improvements, and in event of neglect or refusal so to do, the city may recover the amount of such special taxes or assessments, or proportionate share of the cost, in any proper action, and the judgment thus obtained may be enforced in the usual manner.

Source: Laws 1901, c. 16, § 97, p. 106; Laws 1905, c. 16, § 9, p. 209; Laws 1913, c. 5, § 4, p. 61; R.S.1913, § 4524; Laws 1915, c. 82, § 1, p. 209; Laws 1917, c. 94, § 1, p. 250; C.S.1922, § 3910; C.S.1929, § 15-703; R.S.1943, § 15-708; Laws 2020, LB1003, § 112.

15-709 Streets; improvements; utility service connections; duty of landowner; special assessment.

The city council of a city of the primary class may order the owner of lots abutting on a street that is to be paved to lay sewer, gas, and water service pipes to connect mains. If the owner fails to lay such pipes, after five days' notice by publication in a legal newspaper in or of general circulation in the city, or in place thereof by personal service of such notice, as the city council in its discretion may direct, the city council may cause the sewer, gas, and water service pipes to be laid as part of the work of the improvement district and assess the cost thereof on the property of such owner as a special assessment. Such assessment to pay the cost of the pavement or improvements in the improvement district shall be collected and enforced as a special assessment.

Source: Laws 1901, c. 16, § 97, p. 106; Laws 1905, c. 16, § 9, p. 209; Laws 1913, c. 5, p 4, p. 61; R.S.1913, § 4524; Laws 1915, c. 82, § 1, p. 209; Laws 1917, c. 94, § 1, p. 250; C.S.1922, § 3910; C.S.1929, § 15-703; R.S.1943, § 15-709; Laws 2015, LB361, § 14; Laws 2020, LB1003, § 113.

15-710 Repealed. Laws 1969, c. 66, § 9.

15-711 Repealed. Laws 1969, c. 66, § 9.

15-712 Repealed. Laws 1969, c. 66, § 9.

15-713 Curbing gutter bonds; special assessment.

To pay the cost of curbing and guttering public ways in a city of the primary class, the city council may issue bonds called curbing gutter bonds, district No. . . . . , payable in not more than twenty years or at the option of the city at any interest-paying date, and assess the cost, not exceeding the special benefits, on abutting property as special assessments. Such assessments shall become due, delinquent, draw interest, and be subject to like penalty and collected as special assessments and shall constitute a sinking fund for the payment of such bonds. No paving bonds and no curbing gutter bonds shall be sold or delivered until necessary to make payments for work done on such improvements.

Source: Laws 1901, c. 16, § 97, p. 107; Laws 1905, c. 16, § 9, p. 210; Laws 1913, c. 5, § 4, p. 60; R.S.1913, § 4524; Laws 1915, c. 82,

§ 1, p. 210; Laws 1917, c. 94, § 1, p. 251; C.S.1922, § 3910; C.S.1929, § 15-703; R.S.1943, § 15-713; Laws 1969, c. 51, § 24, p. 287; Laws 2015, LB361, § 15; Laws 2020, LB1003, § 114.

15-714 Repealed. Laws 1967, c. 54, § 1.

15-715 Repealed. Laws 1967, c. 54, § 1.

15-716 Repealed. Laws 1967, c. 54, § 1.

15-717 Sewers and drains; construction; cost; assessment against property owners.

The city council of a city of the primary class shall have the power to lay off the city into suitable districts for the purpose of establishing a system of sewerage and drainage, to provide such system and regulate the construction, repairs, and use of sewers and drains, and to provide penalties for any obstruction of, or injury to, any sewers or drains and for any violation of the rules and regulations with respect thereto that may be prescribed by the city council. The city council shall have the power to create sewer districts by ordinance and designate the property to be benefited by the construction of sewers in such districts. The city council shall have the power to construct or cause to be constructed such sewer or sewers in such district or districts and assess the cost thereof against the property in such districts, to the extent of the special benefits.

Source: Laws 1901, c. 16, § 100, p. 108; Laws 1907, c. 9, § 9, p. 81; R.S.1913, § 4527; C.S.1922, § 3913; C.S.1929, § 15-706; R.S. 1943, § 15-717; Laws 1969, c. 66, § 6, p. 381; Laws 2020, LB1003, § 115.

City tax assessments on property owners for approved sewer costs are valid to the extent of benefits to the property, even if the improvement produces no immediate and proportionate increase in market value of the property. Nebco, Inc. v. Speedlin, 198 Neb. 34, 251 N.W.2d 710 (1977).

15-718 Sewers and drains; construction; assessment of benefits; collection.

Special assessments may be levied by the city council of a city of the primary class for the purpose of paying the cost of constructing sewers and drains as provided in section 15-717. Such assessments shall be levied upon the real estate within the sewerage districts in which such sewer or drain may be, to the extent of benefits to such property by reason of such improvements. The benefits to such property shall be determined by the city council as in other cases of special assessments. All assessments made for sewerage or drainage purposes shall be levied and collected as special assessments.

Source: Laws 1901, c. 16, § 101, p. 108; Laws 1907, c. 9, § 10, p. 81; R.S.1913, § 4528; C.S.1922, § 3914; C.S.1929, § 15-707; R.S. 1943, § 15-718; Laws 1969, c. 66, § 7, p. 381; Laws 2015, LB361, § 16; Laws 2020, LB1003, § 116.

City tax assessments on property owners for approved sewer costs are valid to the extent of benefits to the property, even if the improvement produces no immediate and proportionate increase in market value of the property. Nebco, Inc. v. Speedlin, 198 Neb. 34, 251 N.W.2d 710 (1977).

15-719 Repealed. Laws 1969, c. 66, § 9.

15-720 Sewer district bonds.

The mayor and city council of a city of the primary class may issue sewer district bonds to cover the cost of the work of constructing sewers in sewer

districts, and the special assessment levied on account of such work shall constitute a sinking fund for the payment of such bonds.

Source: Laws 1907, c. 9, § 10, p. 81; R.S.1913, § 4530; C.S.1922, § 3916; C.S.1929, § 15-709; R.S.1943, § 15-720; Laws 2020, LB1003, § 117.

15-721 Repealed. Laws 1961, c. 37, § 4.

15-722 Repealed. Laws 1965, c. 44, § 3.

15-723 Repealed. Laws 1967, c. 54, § 1.

15-724 Public markets; establishment.

The mayor and city council of a city of the primary class may by ordinance purchase and own grounds for and erect and establish market houses and market places, regulate and govern such market houses and market places, and prescribe the fees to be charged persons for stalls therein. Any revenue from such fees shall be applied (1) to the payment of the salaries of the officers appointed to take charge of such market house or market place, (2) to the payment of repairs of the market house or market place, and (3) to the payment of the cost of erecting such market house or market place. After all salaries, repairs, and costs of construction have been paid, the surplus, if any remaining, shall be disposed of as the city council shall direct. The mayor and city council may contract with any person or persons, or association of persons, companies, or corporations, for the erection and regulation of such market house or market place on such terms and conditions and in such manner as the city council may prescribe, and raise all necessary revenue therefor as provided in this section. The mayor and city council may locate market houses or market places on any street, alley, or public ground, or any land purchased for such purpose, and provide for the erection of all other useful and necessary buildings for the use of the city and for the protection and safety of all property owned by the city, except that any such improvement, costing in the aggregate a sum greater than five hundred dollars, shall not be authorized until the ordinance providing for such improvement shall be first submitted to and ratified by a majority of the legal voters of such city.

Source: Laws 1901, c. 16, § 129, XV, p. 131; R.S.1913, § 4534; C.S.1922, § 3920; C.S.1929, § 15-713; R.S.1943, § 15-724; Laws 2020, LB1003, § 118.

15-725 Public improvements; special tax assessments.

Special tax assessments to pay the cost of public improvements in a city of the primary class, except special assessments for sidewalk purposes or as otherwise provided by law, shall be made in the following manner: (1) Assessment shall be made on the improvement district by resolution of the city council at any meeting, stating the cost of the improvement and benefit accruing to the property in the district to be taxed shall be recorded in the minutes. The city council shall submit a proposed distribution of the tax on each separate property to be taxed to the board of equalization as provided in the resolution, and (2) notice of the board of equalization meeting shall be published, in a legal newspaper in or of general circulation in the city, ten days before the meeting, and the notice shall include that the city council will sit as a

board of equalization at the time fixed in such notice, not less than five days after such assessment, and the proper distribution of such special tax shall be open to examination of all persons interested. Property shall not be specially taxed for more than the total cost of the improvement nor more than the special benefit accruing thereto by the improvement. If the aggregate tax be less than the cost of improvement, the excess shall be paid from the general fund. Special taxes may be assessed as the improvement progresses and as soon as completed in front of or along property taxed, or when the whole is complete, as the city council shall determine. Special assessments for local benefits shall be a lien on all property so specially benefited superior and prior to all other liens save general taxes or other special assessments and equal therewith. If any special assessment be declared void, or doubt of its validity exist, the mayor and city council, to pay the cost of improvement, may make a reassessment thereof on the property within the district, and any sums paid on the original special assessment shall be credited to the property on which it was paid and any excess refunded to the owner paying it, with lawful interest. Taxes reassessed and not paid shall be enforced and collected as other special taxes. No special tax or assessment which the mayor and city council acquire jurisdiction to make shall be void for any irregularity, defect, error, or informality in procedure, in levy or equalization thereof.

Source: Laws 1901, c. 16, § 102, p. 109; R.S.1913, § 4535; C.S.1922, § 3921; C.S.1929, § 15-714; R.S.1943, § 15-725; Laws 2020, LB1003, § 119.

Reassessment of benefits is provided for when original assessment is invalid. Shanahan v. Johnson, 170 Neb. 399, 102 N.W.2d 858 (1960).

Blanket notice of sitting of council as board of equalization is sufficient. Price v. City of Lincoln, 103 Neb. 366, 171 N.W. 921 (1919).

When lots are subdivided, assessment for paving is made on equitable basis. Lansing v. City of Lincoln, 32 Neb. 457, 49 N.W. 650 (1891).

15-726 Special tax assessments; certificate; warrants.

When any special tax, except sidewalk tax, is levied in a city of the primary class, it shall be the duty of the city clerk to issue a certificate describing such lot or piece of ground by number and block, stating the amount of special tax levied thereon and the purpose for which such tax was levied, and stating when such tax shall become due and delinquent. The city clerk shall forthwith deliver a duplicate of such certificate to the city treasurer, who shall, without delay, give at least five days' notice through publication in a legal newspaper in or of general circulation in the city, of the time when such tax will become delinquent. To every such certificate the city clerk shall append a warrant in the usual form, requiring such city treasurer to collect such special tax or taxes by distress and sale of goods and chattels of the person, persons, or bodies corporate owing any such special tax or taxes, if such special tax or taxes are not paid before the time fixed for such special tax or taxes to become delinquent. The city treasurer shall make his or her return of such warrants with a report of his or her doings thereunder on or before the fifteenth day of July next thereafter.

Source: Laws 1901, c. 16, § 103, p. 110; R.S.1913, § 4536; C.S.1922, § 3922; C.S.1929, § 15-715; R.S.1943, § 15-726; Laws 2020, LB1003, § 120.

15-727 Special tax assessments; multiple owners; treatment.

It shall be sufficient in any case involving a special tax assessment in a city of the primary class to describe the lot or piece of ground as such lot or piece of ground is platted or recorded, although such lot or piece of ground belongs to several persons, but in case any lot or piece of ground belongs to different persons, the owner of any part thereof may pay his or her portion of the tax on such lot or piece of ground, and his or her proper share may be determined by the city treasurer.

Source: Laws 1901, c. 16, § 104, p. 111; R.S.1913, § 4537; C.S.1922, § 3923; C.S.1929, § 15-716; R.S.1943, § 15-727; Laws 2020, LB1003, § 121.

15-728 Public improvements; city engineer; inspection and acceptance.

When any public improvement in a city of the primary class is completed according to contract, it shall be the duty of the city engineer to carefully inspect such improvement, and if the improvement is found to be properly done, such city engineer shall accept the improvement and forthwith report his or her acceptance thereof to the city council with recommendation that the improvement be approved or disapproved, and the city council may confirm or reject such acceptance. When the ordinance levying the tax makes such tax due as the improvement is completed in front of or along any block or piece of ground, the city engineer may accept the improvement in sections from time to time, if found to be done according to the contract, reporting his or her acceptance as in other cases.

Source: Laws 1901, c. 16, § 105, p. 111; R.S.1913, § 4538; C.S.1922, § 3924; C.S.1929, § 15-717; R.S.1943, § 15-728; Laws 2020, LB1003, § 122.

15-729 Street railway systems; powers of city.

A city of the primary class may authorize or permit the use of its roads, streets, highways, alleys, or other public rights-of-way for street railway systems.

Source: Laws 1901, c. 16, § 106, p. 111; R.S.1913, § 4539; C.S.1922, § 3925; C.S.1929, § 15-718; R.S.1943, § 15-729; Laws 2020, LB1003, § 123.

The right to levy a special tax against a street railway company to pay the cost of paving along its track is valid and is not class legislation. City of Lincoln v. Lincoln St. Ry. Co., 67 Neb. 469, 93 N.W. 766 (1903); Lincoln Street Ry. Co. v. City of Lincoln, 61 Neb. 109, 84 N.W. 802 (1901).

15-730 Repealed. Laws 2020, LB1003, § 190.

15-731 Repealed. Laws 2020, LB1003, § 190.

15-732 Repealed. Laws 2020, LB1003, § 190.

15-733 Repealed. Laws 2020, LB1003, § 190.

15-734 Sidewalks; construction; repair; duty of landowner; power of city in case of default; cost; special assessment.

The owner of property abutting on public streets in a city of the primary class is primarily charged with the duty of keeping and maintaining the sidewalks on such property in a safe and sound condition and free from snow, ice, and other obstructions. Upon a failure to so keep and maintain such sidewalks, and upon

notice to such abutting property owner as provided in this section, such abutting property owner shall be liable for injuries or damages sustained by reason of such failure. Such city is given general charge, control, and supervision of the streets and sidewalks thereof and is required to cause to be maintained or maintain the same in a reasonably safe condition. The city is given full power to require owners of abutting property to keep and maintain the sidewalks of such property in a safe and sound condition and free from snow, ice, and other obstructions and to require such abutting property owners to construct and maintain the sidewalks of such material and of such dimensions and upon such grade as may be determined by the city council. In case such abutting property owner refuses or neglects, after five days' notice by publication in a legal newspaper in or of general circulation in such city, or in place thereof, by personal service of such notice, to so construct or maintain such sidewalk, the city through the proper officers may construct or repair such sidewalk or cause such sidewalk to be constructed or repaired, and report the cost of such construction or repairs to the city council, whereupon the city council shall assess such costs against such abutting property. The city council may receive bids for constructing or repairing any or all such sidewalks and may let contracts to the lowest responsible bidders for constructing or repairing such sidewalks. The contractor or contractors shall be paid for such contracts from special assessments against the abutting property. The cost of constructing, replacing, repairing, or grading thereof shall be assessed at a regular city council meeting by resolution, fixing the cost along abutting property as a special assessment against such property; and the amount charged or the cost thereof shall be recorded in the minutes. Notice of the time of such meeting of the city council and its purpose shall be published once in a legal newspaper in or of general circulation in the city at least five days before the meeting of the city council is to be held, or, in place thereof, personal notice may be given to such abutting property owners. Such special assessment shall be known as special sidewalk assessments, and together with the cost of notice, shall be levied and collected as special assessments in addition to the general revenue taxes, and shall be subject to the same penalties and shall draw interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date of the levy thereof until satisfied.

Source: Laws 1901, c. 16, § 107, p. 113; R.S.1913, § 4540; C.S.1922, § 3926; C.S.1929, § 15-719; R.S.1943, § 15-734; Laws 1980, LB 933, § 7; Laws 1981, LB 167, § 8; Laws 2020, LB1003, § 124.

Giving of statutory notice is condition precedent to action based on injury from failure to remove snow and ice. Stump v. Stransky, 168 Neb. 414, 95 N.W.2d 691 (1959).

City is not an insurer of safety of pedestrians using sidewalks, but is required only to keep them in a reasonably safe condition for travel. Anthony v. City of Lincoln, 152 Neb. 320, 41 N.W.2d 147 (1950).

When city contracted for construction of sidewalk but neglected to collect assessment and agreed to release owner, it was liable to contractor. Ward v. City of Lincoln, 87 Neb. 661, 128 N.W. 24 (1910).

In action by city against owner for damages paid for injuries from defective walk, statute of limitations began to run when final judgment was rendered against city. City of Lincoln v. First Nat. Bank of Lincoln, 67 Neb. 401, 93 N.W. 698 (1903).

Not liable unless city, through proper officers, knew of defect or same had existed so long as to constitute notice. Nothdurft v. City of Lincoln, 66 Neb. 430, 92 N.W. 628 (1902), rehearing denied 66 Neb. 434, 96 N.W. 163 (1903).

Owner need not repair until notified by city. City of Lincoln v. Janesch, 63 Neb. 707, 89 N.W. 280 (1902).

The fact that the duty of maintaining sidewalks in repair is imposed upon owner does not relieve city from such duty and consequent liability. City of Lincoln v. Pirner, 59 Neb. 634, 81 N.W. 846 (1900); City of Lincoln v. O'Brien, 56 Neb. 761, 77 N.W. 76 (1898).

Traveler has right to presume walk is safe; city liable for unguarded excavations in street and sidewalks. City of Lincoln v. Walker, 18 Neb. 250, 25 N.W. 66 (1885).

Liability under the special use doctrine, regarding portions of public sidewalk altered or constructed to benefit a landowner's property, could not be imputed to a tenant in a customer's negligence action where there was no evidence the tenant was responsible under the lease terms for the maintenance of the

sidewalk. Henderson v. Smallcomb, 22 Neb. App. 90, 847 N.W.2d 738 (2014).

15-735 Special sidewalk assessments; collection.

Special sidewalk assessments assessed as provided in section 15-734 may be collected:

(1) In the manner usual for the collection or foreclosure of county taxes against real estate;

(2) By foreclosure as in case of county taxes against real estate. In the foreclosure of such special sidewalk assessments, any number of parties, owners of abutting property against which property a special sidewalk assessment has been made, may be made parties defendant, and any number of special sidewalk assessments may be foreclosed in one action, the decree, however, to be separate as to each particular piece of abutting property against which such special sidewalk assessments have been levied. A certified copy by the city clerk of the action of the city council in making such special sidewalk assessments shall be received in evidence as prima facie evidence of the regularity of all proceedings in the matter of making and levying such special sidewalk assessments, and such special sidewalk assessments shall constitute a lien prior and superior to all other liens except liens for taxes or other special assessments upon such abutting property. In the foreclosure of such special assessments, the action may be brought in the name of the city against any and all parties subject to the payment of such special sidewalk assessments in one or more actions, and the city may become a purchaser thereof for an amount not exceeding the amount of the special sidewalk assessment and interest and penalties thereon; or

(3) The city clerk, upon the request of the city council, shall, under seal of the city, make out a statement containing a description of the property against which special sidewalk assessments are delinquent, the amount of such special sidewalk assessments together with interest and penalties thereon, the name of the owner of such abutting property at the time of the levy, and the date of the levy, and shall transmit the same to the clerk of the district court. Upon request of the city the clerk of the district court shall issue an order of sale of such abutting property and deliver the same to the county sheriff, who shall thereupon cause such property to be advertised and sold as in case of sale of real estate under judgment and execution, except that it shall not be necessary for the county sheriff to cause such property to be appraised. Upon sale the county sheriff shall report the sale thereof to the district court for confirmation.

Source: Laws 1901, c. 16, § 109, p. 116; R.S.1913, § 4542; C.S.1922, § 3928; C.S.1929, § 15-721; R.S.1943, § 15-735; Laws 2020, LB1003, § 125.

15-736 Repealed. Laws 1967, c. 54, § 1.

15-737 Repealed. Laws 1967, c. 54, § 1.

15-738 Repealed. Laws 1967, c. 54, § 1.

15-739 Repealed. Laws 1967, c. 54, § 1.

15-740 Repealed. Laws 1967, c. 54, § 1.

15-741 Repealed. Laws 1967, c. 54, § 1.

15-742 Repealed. Laws 1967, c. 54, § 1.

15-743 Repealed. Laws 1967, c. 54, § 1.

15-744 Repealed. Laws 1967, c. 54, § 1.

15-745 Repealed. Laws 1967, c. 54, § 1.

15-746 Repealed. Laws 1967, c. 54, § 1.

15-747 Repealed. Laws 1967, c. 54, § 1.

15-748 Repealed. Laws 1967, c. 54, § 1.

15-749 Repealed. Laws 1967, c. 54, § 1.

15-750 Repealed. Laws 1967, c. 54, § 1.

15-751 Joint city and county facilities; cooperation with other governmental agencies; authorization; dual officers and employees.

(1) Any county and any city of the primary class, which is the county seat of such county, shall have the power to join with each other and with other political or governmental subdivisions, agencies, or public corporations whether federal, state, or local, or with any number of combinations thereof, by contract or otherwise in the joint ownership, operation, or performance of any property, facility, power, or function, or in agreements containing the provisions that one or more thereof operate or perform for the other or others. Any such county and any such city shall also have the power to authorize and undertake research, formulate plans, draft and seek the enactment of legislation, take other actions concerning improvement of the relationships between themselves or between each of them and other political or governmental subdivisions, agencies, or public corporations, whether federal, state, or local, for the attainment of voluntary cooperation agreements, annexations, transfers of functions to or from such city, or to or from such county, or city-county consolidation or separation, or any other means of accomplishing changes in governmental organization in which such city or such county has an interest. Such city and such county may undertake such efforts alone or in concert with other political or governmental subdivisions, agencies, or public corporations, whether federal, state, or local, or with public or private research or professional organizations. Such city and such county may appropriate and spend money for such purposes.

(2) Any officer or employee, whether elected or appointed, of any county, may also simultaneously be and serve as an officer or employee of any such city of the primary class, referred to in subsection (1) of this section, which is the county seat of the county where such duties are not incompatible. Any officer or employee, whether elected or appointed, of a city of the primary class which is the county seat of a county may also simultaneously be and serve as an officer or employee of the county of which such city is the county seat where such duties are not incompatible, except that this provision shall not apply to or cover the county board of such county or the mayor or members of the city council of such city.

Source: Laws 1957, c. 25, § 1, p. 178; Laws 2020, LB1003, § 126.

15-752 Joint city and county facilities; authorization; vote required.

Any action authorized under section 15-751 shall be taken only upon the affirmative vote of a majority of the county board of the county in which a city of the primary class is the county seat or a majority of the members of the city council and mayor of such city, and when such action is taken by such governing body, it shall be binding upon all officers and employees of such county or such city.

Source: Laws 1957, c. 25, § 2, p. 179; Laws 2020, LB1003, § 127.

15-753 Ornamental lighting districts; bids; letting; special assessment.

The city council of a city of the primary class shall have the power to create ornamental lighting districts for the purpose of acquiring and installing ornamental lights, including poles, fixtures, wiring, underground conduits, and all necessary equipment and accessories, in or along any street, streets, public grounds, or public way or ways, within the city. All such districts shall be known as ornamental lighting districts and shall be created by ordinance which shall designate the property within the district to be benefited. The city shall have the power to advertise for bids for the installation, construction, and equipment for such ornamental lights and to contract with the lowest responsible bidder therefor as authorized in its home rule charter. The cost of such ornamental lights may be, in whole or in part, assessed proportionately to the benefits on the property specially benefited, and the city council shall have the power and authority to fix the period of time for the payment of the special assessments and to issue bonds, as authorized by its home rule charter.

Source: Laws 1969, c. 66, § 5, p. 381; Laws 2020, LB1003, § 128.

15-754 Public improvement districts; cost; special assessment.

The city council of a city of the primary class shall have the power by ordinance to create public improvement districts for opening, widening, or enlarging of any street, alley, boulevard, or public way or the establishing or enlarging of any park or parkway within the city. Such special improvement district having been created, the city may acquire, by agreement, purchase, condemnation, or otherwise, the necessary lands, lots, or grounds to carry out the purposes of the district. The cost thereof may be, in whole or in part, assessed proportionate to benefits, on the property specially benefited. The city council shall have power and authority to fix the period of time for the payment of the special assessments and to issue bonds, as authorized by its home rule charter.

Source: Laws 1969, c. 66, § 8, p. 382; Laws 2020, LB1003, § 129.

15-755 Repealed. Laws 1983, LB 44, § 1.

15-756 Repealed. Laws 1983, LB 44, § 1.

15-757 Repealed. Laws 1983, LB 44, § 1.

15-758 Repealed. Laws 1983, LB 44, § 1.

15-759 Repealed. Laws 1983, LB 44, § 1.

ARTICLE 8

FISCAL MANAGEMENT, REVENUE, AND FINANCES

Section

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15-803. Repealed. Laws 1961, c. 37, § 4.
15-804. Repealed. Laws 1961, c. 37, § 4.
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15-807. Board of equalization; procedure; quorum.
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15-828. Repealed. Laws 1961, c. 37, § 4.
15-829. Repealed. Laws 1961, c. 37, § 4.
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15-831. Repealed. Laws 1961, c. 37, § 4.
15-832. Repealed. Laws 1961, c. 37, § 4.
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15-848. Deposit of city funds; limitations; city treasurer liability.
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15-850. Municipal bidding procedure; waiver; when.

15-801 Biennial budget authorized.

A city of the primary class may adopt biennial budgets for biennial periods if such budgets are provided for by a city charter provision. For purposes of this section:

(1) Biennial budget means a budget that provides for a biennial period to determine and carry on the city's financial and taxing affairs; and

(2) Biennial period means the two fiscal years comprising a biennium commencing in odd-numbered or even-numbered years.

Source: Laws 2000, LB 1116, § 1; Laws 2010, LB779, § 17.

15-802 Repealed. Laws 1961, c. 37, § 4.

15-803 Repealed. Laws 1961, c. 37, § 4.

15-804 Repealed. Laws 1961, c. 37, § 4.

15-805 Repealed. Laws 1961, c. 37, § 4.

15-806 Repealed. Laws 1972, LB 1150, § 3.

15-807 Board of equalization; procedure; quorum.

The city council of a city of the primary class shall constitute the board of equalization for the city and shall have power as such board to equalize all taxes and assessments, to correct any errors in the listing or valuation of property, and to supply any omissions in the same. A majority of all the members elected to the city council shall constitute a quorum for the transaction of business properly before the board, but a less number may adjourn from time to time and compel the attendance of absent members. When sitting as a board of equalization on general or special taxes, the city council may adopt rules and regulations as to the manner of presenting complaints and applying for relief. The city council shall not invalidate or prejudice the proceedings of the board that a majority of the members thereof after organization as a board do not in fact continue present during the advertised hours for the sitting of such board, as long as the city clerk and some member of the board shall be present to receive complaints or applications for relief. No final action shall be taken with respect to any taxes or assessments by the board until a majority of the members of the city council sitting as a board of equalization shall be present and in open session.

Source: Laws 1901, c. 16, § 77, p. 99; R.S.1913, § 4547; C.S.1922, § 3934; C.S.1929, § 15-805; R.S.1943, § 15-807; Laws 2020, LB1003, § 130.

A tax levied by city of Lincoln on property that is exempt is one levied for an unauthorized purpose and its collection may be enjoined. East Lincoln Lodge No. 210, A.F. & A.M. v. City of Lincoln, 131 Neb. 379, 268 N.W. 91 (1936).

15-807.01 Board of equalization for cities of primary class; delinquency.

Notwithstanding any existing provisions to the contrary, whenever any city of the primary class has the county within which it is situated collect the taxes for the city, the officials of the county as designated by state law shall constitute a board of equalization for the city except as to special assessments of the city, and the dates when taxes of such city except special taxes shall be a lien or shall be due and payable or shall be delinquent shall be as provided by state law for taxes otherwise collected by the county.

Source: Laws 1972, LB 1150, § 2.

15-808 Board of equalization; hearings; duties.

The city council of a city of the primary class sitting as a board of equalization shall hold a session of not less than three or more than thirty days annually commencing on the first Tuesday after the third Monday in June and shall have power:

(1) To assess any taxable property, real and personal, not assessed;

(2) To review assessments made and correct such assessments as appears to be just. The board shall not increase the assessment of any person, partnership, limited liability company, or corporation until such person, partnership, limited liability company, or corporation has been notified by the board to appear and show cause, if any, why the assessment should not be increased. If personal service of such notice cannot be made in the city, notice may be given by publication and it shall be sufficient if such notice is published in one issue of a legal newspaper in or of general circulation within the city; and

(3) To equalize the assessments of all taxable property in the city and to correct any errors in the listing or value thereof. The city council sitting as a board of equalization shall be authorized and empowered to meet at any time for the purpose of equalizing assessment of any omitted or undervalued property and to add to the assessment rolls any taxable property not included.

Source: Laws 1901, c. 16, § 78, p. 99; Laws 1907, c. 9, § 7, p. 79; R.S.1913, § 4548; C.S.1922, § 3935; C.S.1929, § 15-806; R.S.1943, § 15-808; Laws 1961, c. 39, § 1, p. 167; Laws 1992, LB 1063, § 7; Laws 1992, Second Spec. Sess., LB 1, § 7; Laws 1993, LB 121, § 132; Laws 2020, LB1003, § 131.

Owner of tax exempt real estate is entitled to enjoin collection of taxes thereon even though statute provides a remedy, inasmuch as tax is absolutely void. East Lincoln Lodge No. 210, A.F. & A.M. v. City of Lincoln, 131 Neb. 379, 268 N.W. 91 (1936).

Upon notice, board may assess property omitted from list. White v. City of Lincoln, 79 Neb. 153, 112 N.W. 369 (1907).

15-809 Board of equalization; special assessments; equalization.

The city council of a city of the primary class shall act as a board to equalize all special assessments, except for sidewalks affecting single properties, before special taxes for local improvements be finally levied, distributed, and apportioned, and to correct any errors therein, upon notice as provided in this section. The board shall be in session not less than two hours on two successive days, and until it hears all complaints owners may make to the proposed distribution and levy of the tax, and shall equalize the tax and correct errors therein. If by reduction of the amount charged on any property it is necessary to increase the proposed amount upon other property, the owner shall be notified in person or at his or her residence, or by five days' publication in a legal newspaper in or of general circulation in the city if not a resident, or if changes are many, another distribution may be submitted by any member or any owner interested, and notice by five days' publication in a legal newspaper in or of general circulation in the city be given of a second session for equalization, at which time the equalization shall be completed.

Source: Laws 1901, c. 16, § 80, p. 100; R.S.1913, § 4549; C.S.1922, § 3936; C.S.1929, § 15-807; R.S.1943, § 15-809; Laws 2020, LB1003, § 132.

Review of decision of board of equalization is by error proceeding. Webster v. City of Lincoln, 50 Neb. 1, 69 N.W. 394 (1896).

15-810 Board of equalization; power to compel testimony.

The city council of a city of the primary class or any committee of the members thereof or the city council, when sitting as a board of equalization, shall have the power to compel the attendance of witnesses for the investigation of matters that may come before such city council or committee, and the presiding officer of the city council or chairperson of such committee, for the time being, may administer the requisite oaths. Such city council or committee of the members thereof or the city council, when sitting as a board of equalization, shall have the same authority to compel the giving of testimony as is conferred on courts of justice.

Source: Laws 1901, c. 16, § 123, p. 123; R.S.1913, § 4550; C.S.1922, § 3937; C.S.1929, § 15-808; R.S.1943, § 15-810; Laws 2020, LB1003, § 133.

In assessment of omitted property, board may place property on tax list from evidence given in nature of judicial proceedings. White v. City of Lincoln, 79 Neb. 153, 112 N.W. 369 (1907).

15-811 Taxes; omitted property; assessment.

If for any reason any taxable property in a city of the primary class escapes taxation in any year, it shall be the duty of the city council when sitting as a board of equalization in any subsequent year to assess such property at a fair valuation for the year or years for which such property should have been assessed and to levy thereon under such assessment a tax at the same rate and upon the same basis that other taxable property was assessed for the year in which such property escaped taxation, which tax and levy shall be in addition to all current or other taxes on the same property.

Source: Laws 1901, c. 16, § 79, p. 100; R.S.1913, § 4552; C.S.1922, § 3939; C.S.1929, § 15-810; R.S.1943, § 15-811; Laws 2020, LB1003, § 134.

15-812 Tax list; delivered to city treasurer; errors.

As soon as the assessment roll has been equalized and the annual levy made on such assessment roll in a city of the primary class, the city clerk shall immediately make out a tax list, which shall be as nearly as practicable in the form prescribed by law for the tax list to be furnished county treasurers, and the city clerk shall deliver such tax list to the city treasurer on or before the first day of October next after the date of the levy in each year. Errors in the name of persons assessed may be corrected by the city treasurer and the tax collected from the person intended, and in case the city treasurer finds that any land has been omitted in the assessment, the city treasurer shall report that fact to the city council, who may assess the same and direct the correction of the tax list as provided in this section and in section 15-811.

Source: Laws 1901, c. 16, § 123, p. 123; R.S.1913, § 4550; C.S.1922, § 3940; C.S.1929, § 15-811; R.S.1943, § 15-812; Laws 2020, LB1003, § 135.

15-813 Taxes; warrant of city clerk; form.

To each tax list delivered as provided in section 15-812, a warrant under the hand of the city clerk of the city of the primary class shall be annexed, to be substantially in the following form:

In the name and by the authority of the State of Nebraska: To ..... city treasurer of the city of ..... in Nebraska;

You are hereby commanded to collect from each of the persons and corporations named in the annexed tax list and owners of real estate described therein the taxes set down in such list opposite their respective names, and the several parcels of land described therein; and in case any person or corporation upon whom any such tax or sum is imposed, or who by law is required to pay the same, shall refuse or neglect to pay the full amount thereof before the first day of March (or September), 20.... (insert year after levy), you are to levy and collect the same by distress and sale of the goods and chattels of the person or corporation so taxed as are by law required to pay such tax.

Given under my hand and official seal this ..... day of ..... A.D. 20..... .

.....

City Clerk of the City of ..... .

Source: Laws 1901, c. 16, § 83, p. 101; R.S.1913, § 4557; C.S.1922, § 3944; C.S.1929, § 15-815; Laws 1933, c. 136, § 16, p. 526; C.S.Supp.,1941, § 15-815; R.S.1943, § 15-813; Laws 2004, LB 813, § 3; Laws 2020, LB1003, § 136.

15-814 Taxes; warrant of city clerk; authority of city treasurer.

Any warrant issued pursuant to section 15-813 shall fully authorize and empower the city treasurer of the city of the primary class to levy on any personal property belonging to such delinquent, and such warrant shall be a full and complete justification of the city treasurer in any action brought to recover damages or costs for any act or proceeding by the city treasurer done or taken in conformity with the commands thereof.

Source: Laws 1901, c. 16, § 84, p. 102; R.S.1913, § 4558; C.S.1922, § 3945; C.S.1929, § 15-816; R.S.1943, § 15-814; Laws 2020, LB1003, § 137.

15-815 Repealed. Laws 1965, c. 460, § 4.

15-816 Delinquent taxes; collection.

All municipal personal taxes in a city of the primary class shall be collected from the personal property of the person, partnership, limited liability company, or corporation owning such personal property. All delinquent municipal taxes levied on any real estate within such city shall be collected by sale of such real estate in the same manner as in case of sale for delinquent county taxes.

Source: Laws 1901, c. 16, § 86, p. 102; R.S.1913, § 4560; C.S.1922, § 3947; C.S.1929, § 15-818; R.S.1943, § 15-816; Laws 1993, LB 121, § 133; Laws 2020, LB1003, § 138.

15-817 Ordinances to enforce collection of taxes; power.

The mayor and city council of a city of the primary class shall have full power and authority to pass ordinances not inconsistent with the laws of this state

which they may deem necessary to secure a speedy and thorough collection of all municipal taxes and special assessments.

Source: Laws 1901, c. 16, § 87, p. 102; R.S.1913, § 4561; C.S.1922, § 3948; C.S.1929, § 15-819; R.S.1943, § 15-817; Laws 2020, LB1003, § 139.

15-818 Taxes; payable in money, warrants, and coupons.

All municipal taxes and special assessments in a city of the primary class shall be paid in money, or in warrants of the city drawn on the fund for which the same is offered, except that coupons on any bonds of the city shall be received in payment of taxes or special assessments.

Source: Laws 1901, c. 16, § 88, p. 102; R.S.1913, § 4562; C.S.1922, § 3949; C.S.1929, § 15-820; R.S.1943, § 15-818; Laws 2020, LB1003, § 140.

15-819 Personal property tax; lien upon personal property.

Taxes assessed upon personal property in a city of the primary class shall be a lien upon the personal property of the person, partnership, limited liability company, or corporation assessed from and after the time the tax books are received by the city treasurer. Such lien shall be prior and superior to all other liens thereon except liens for taxes.

Source: Laws 1901, c. 16, § 89, p. 103; R.S.1913, § 4563; C.S.1922, § 3950; R.S.1943, § 15-819; Laws 1993, LB 121, § 134; Laws 2020, LB1003, § 141.

15-820 Repealed. Laws 1965, c. 460, § 4.

15-821 Special assessments; lien, when; collection; interest.

Special assessments on real estate in a city of the primary class shall be a lien from the date of the levy, and interest on all unpaid installments shall be payable annually. Such lien shall be perpetual and superior to all other liens upon the property except liens for taxes. In case of sale of any property for such tax or special assessment, the sale shall be governed by the general revenue law, except as otherwise provided by law, and the rights and limitations shall be the same as in other tax sales. Each installment shall draw interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, payable annually, from levy until due; and installments delinquent shall draw interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, until paid.

Source: Laws 1901, c. 16, § 91, p. 104; R.S.1913, § 4565; C.S.1922, § 3952; C.S.1929, § 15-824; Laws 1933, c. 136, § 17, p. 527; C.S.Supp.,1941, § 15-824; R.S.1943, § 15-821; Laws 1980, LB 933, § 8; Laws 1981, LB 167, § 9; Laws 2020, LB1003, § 142.

15-822 Special assessments; reassessment; procedure.

The city council of a city of the primary class shall have the power, in all cases where special assessments for any purpose have or may be declared void or invalid for want of jurisdiction in making or levying such special assessments, or on account of any defect or irregularity in the manner of levying such

special assessments, or for any cause whatever, to reassess and relevy a new assessment equal to the special benefits or not to exceed the cost of the improvement for which the assessment was made upon the property originally assessed, and such assessment so made shall constitute a lien upon the property prior and superior to all other liens except liens for taxes or other special assessments. In all cases under the provisions of this section, the city council before making any such reassessment or relevy of special taxes or assessments shall give five days' notice in a legal newspaper in or of general circulation in the city of the time when the city council will meet to determine the matter of reassessing or relevying all such special assessments.

Source: Laws 1901, c. 16, § 93, p. 104; R.S.1913, § 4566; C.S.1922, § 3953; C.S.1929, § 15-825; R.S.1943, § 15-822; Laws 2020, LB1003, § 143.

Reassessment of benefits is provided for when original assessment is invalid. Shanahan v. Johnson, 170 Neb. 399, 102 N.W.2d 858 (1960).

15-823 Taxes; revenue to pay bonds; investment.

All taxes levied for the purpose of raising money to pay interest or to create a sinking fund for the payment of the principal of any funded or bonded debt of a city of the primary class shall be payable in money only, and except as otherwise expressly provided, no money so obtained shall be used for any other purpose than the payment of the interest or debt for the payment of which they shall have been raised. Such sinking fund may, under the direction of the mayor and city council, be invested in any of the underdue bonds issued by the city, if the bonds can be secured by the city treasurer at such rate or premiums as shall be prescribed by ordinance. Any due or overdue coupon or bond shall be a sufficient warrant or order for the payment of the coupon or bond out of any fund specially created for that purpose, without any further order or allowance by the mayor or city council.

Source: Laws 1901, c. 16, § 117, p. 121; R.S.1913, § 4567; C.S.1922, § 3954; C.S.1929, § 15-826; R.S.1943, § 15-823; Laws 2020, LB1003, § 144.

15-824 Taxes; irregularities; effect.

Irregularities in making assessments and returns thereof, in the equalization of assessments, and in the mode and manner of advertising the sale of any property shall not invalidate or affect the sale thereof when advertised and sold for delinquent city taxes and special assessments in a city of the primary class as provided by law, nor shall the sale of any real estate or any such tax or assessment be invalid on account of such real estate having been listed in the name of any other person than that of the rightful owner.

Source: Laws 1901, c. 16, § 92, p. 104; R.S.1913, § 4568; C.S.1922, § 3955; C.S.1929, § 15-827; R.S.1943, § 15-824; Laws 2020, LB1003, § 145.

15-825 Repealed. Laws 1978, LB 847, § 4.

15-826 Repealed. Laws 1961, c. 37, § 4.

15-827 Repealed. Laws 1961, c. 37, § 4.

15-828 Repealed. Laws 1961, c. 37, § 4.

15-829 Repealed. Laws 1961, c. 37, § 4.

15-830 Repealed. Laws 1961, c. 37, § 4.

15-831 Repealed. Laws 1961, c. 37, § 4.

15-832 Repealed. Laws 1961, c. 37, § 4.

15-833 Repealed. Laws 1961, c. 37, § 4.

15-834 Bonds; sale; terms.

No bonds issued by a city of the primary class which are general obligation bonds shall be sold for less than par or face value. All such bonds may contain such provisions with respect to their redemption as the city shall provide. There shall be no tax levy to pay more than the interest upon such bonds until the year before they become due, and then only so much as is needed to meet the bonds maturing the year after.

Source: Laws 1901, c. 16, § 121, p. 123; R.S.1913, § 4577; C.S.1922, § 3964; C.S.1929, § 15-836; R.S.1943, § 15-834; Laws 1947, c. 15, § 11, p. 89; Laws 1963, c. 36, § 3, p. 202; Laws 1969, c. 69, § 1, p. 386; Laws 1969, c. 51, § 25, p. 288; Laws 2020, LB1003, § 146.

15-835 Special funds; diversion of surplus.

All money received from any special assessments in a city of the primary class shall be held by the city treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and such money shall be used for no other purpose. Any surplus remaining in any such fund after all obligations against the same shall have been satisfied, may be transferred to any other fund by order of the city council.

Source: Laws 1901, c. 16, § 70, p. 95; R.S.1913, § 4556; C.S.1922, § 3943; C.S.1929, § 15-814; R.S.1943, § 15-835; Laws 2020, LB1003, § 147.

15-836 Repealed. Laws 1967, c. 54, § 1.

15-837 Repealed. Laws 1965, c. 45, § 2.

15-838 Repealed. Laws 1965, c. 45, § 2.

15-839 Repealed. Laws 1961, c. 37, § 4.

15-840 Claims; how submitted and allowed.

All liquidated and unliquidated claims and accounts payable against a city of the primary class shall: (1) Be presented in writing; (2) state the name of the claimant and the amount of the claim; and (3) fully and accurately identify the items or services for which payment is claimed or the time, place, nature, and circumstances giving rise to the claim. The city finance director shall be responsible for the preauditing and approval of all claims and accounts payable, and no warrant in payment of any claim or account payable shall be drawn or paid without such approval. In order to maintain an action for a

claim, other than a tort claim as defined in section 13-903, it shall be necessary, as a condition precedent, that the claimant file such claim within one year of the accrual of such claim, in the office of the city clerk, or other official whose duty it is to maintain the official records of a city of the primary class.

Source: Laws 1901, c. 16, § 126, p. 124; R.S.1913, § 4580; C.S.1922, § 3967; C.S.1929, § 15-839; R.S.1943, § 15-840; Laws 1967, c. 59, § 1, p. 196; Laws 1979, LB 145, § 1; Laws 1983, LB 52, § 1; Laws 2020, LB1003, § 148.

With regard to those actions subject to the requirements of this section, a cause of action shall be deemed to have accrued when all factors have arisen which would allow the claimant to commence and maintain an action in court with the exception of the filing of the claim pursuant to this section. The conditions precedent to maintaining an action against a city do not apply to actions allegedly arising under 42 U.S.C. section 1983. Bauers v. City of Lincoln, 245 Neb. 632, 514 N.W.2d 625 (1994).

Concerning a contract claim against a city of the primary class, this section requires that such claim be filed with the city clerk and disallowed before a claimant, pursuant to section 15-841, may timely appeal from the city's disallowance and thereby become entitled to invoke a district court's power to adjudicate the merit of the disallowed claim. Andrews v. City of Lincoln, 224 Neb. 748, 401 N.W.2d 467 (1987).

This statute is not an exclusive remedy for a fireman entitled to benefits under Firemen's Pension Act. Hooper v. City of Lincoln, 183 Neb. 591, 163 N.W.2d 117 (1968).

A timely filing of a tort claim under the Political Subdivisions Tort Claims Act is not sufficient to satisfy the filing requirements of this section for purposes of the application of the Nebraska Wage Payment and Collection Act, because the two underlying claims are separate and distinct. Craw v. City of Lincoln, 24 Neb. App. 788, 899 N.W.2d 915 (2017).

15-841 Claims; allowance; disallowance; appeal.

Any taxpayer of a city of the primary class, after the allowance in whole or in part of any liquidated or unliquidated claim, or the claimant, after the disallowance in whole or in part of any such claim, may appeal therefrom to the district court of the county in which the city is situated in accordance with the procedures set forth in sections 15-1201 to 15-1205. In an appeal by a taxpayer in case the claimant finally recovers judgment for as great a sum exclusive of interest as was allowed by the city council, such appellant shall pay all costs of such appeal. In an appeal by a claimant in case claimant fails to recover as great a sum exclusive of interest as was allowed by the city council, such claimant shall pay all costs. No warrant shall issue for the payment of any such claim until the appeal is finally determined. No appeal bond shall be required of the city by any court in case of appeal by the city, and judgment shall be stayed pending such appeal.

Source: Laws 1901, c. 16, § 126, p. 124; R.S.1913, § 4581; C.S.1922, § 3968; C.S.1929, § 15-840; R.S.1943, § 15-841; Laws 1967, c. 59, § 2, p. 196; Laws 1983, LB 52, § 2; Laws 2020, LB1003, § 149.

In a wage claim brought under this section against a city of the primary class, there is nothing in the plain language of section 48-1231 that requires an employee to plead a specific cause of action for attorney fees or to file a separate proceeding for attorney fees in order to receive an award of attorney fees under the Nebraska Wage Payment and Collection Act. Rauscher v. City of Lincoln, 269 Neb. 267, 691 N.W.2d 844 (2005).

Concerning a contract claim against a city of the primary class, section 15-840 requires that such claim be filed with the city clerk and disallowed before a claimant, pursuant to this section, may timely appeal from the city's disallowance and thereby become entitled to invoke a district court's power to adjudicate the merit of the disallowed claim. Andrews v. City of Lincoln, 224 Neb. 748, 401 N.W.2d 467 (1987).

An appeal from the disallowance of a claim against a city of the primary class is perfected by filing a notice of appeal and bond. The filing of a transcript is not a jurisdictional requirement. Cole Investment Co. v. City of Lincoln, 213 Neb. 422, 329 N.W.2d 356 (1983).

15-842 Repealed. Laws 1983, LB 52, § 6.

15-842.01 Claims; appeal and actions by city; bond not required.

No bond for costs, appeal, supersedeas, injunction, or attachment shall be required of any city of the primary class or of any officer, board, commission, head of any department, agent, or employee of any such city in any proceeding

or court action in which such city or officer, board, commission, head of department, agent, or employee is a party litigant in its, his, or her official capacity.

Source: Laws 1963, c. 52, § 1, p. 231; Laws 2020, LB1003, § 150.

15-843 Repealed. Laws 1969, c. 138, § 28.

15-844 Property belonging to city; exempt from taxation; when.

Land, buildings, money, debts due the city, real and personal property, and assets of every kind and description belonging to any city of the primary class shall be exempt from execution liens and sales and shall be exempt from taxation to the extent used for a public purpose. Judgments against a city of the primary class shall be paid out of the judgment fund or out of a special fund created for that purpose.

Source: Laws 1963, c. 53, § 1, p. 232; Laws 1988, LB 798, § 1; Laws 2001, LB 173, § 14.

15-845 Deposit of city funds; conditions.

The city treasurer of a city of the primary class shall deposit and at all times keep on deposit for safekeeping in banks, capital stock financial institutions, qualifying mutual financial institutions, or any of such banks or institutions doing business in such city of approved and responsible standing all money collected, received, or held by him or her as city treasurer. Any such bank, capital stock financial institution, or qualifying mutual financial institution located in the city may apply for the privilege of keeping such money or any part thereof upon the following conditions: (1) All such deposits shall be subject to payment when demanded by the city treasurer; and (2) such deposits shall be subject to all regulations imposed by law or adopted by the city for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution shall also be serving as mayor, as a member of the city council, or as any other officer of such city shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1963, c. 54, § 1, p. 232; Laws 1987, LB 440, § 2; Laws 1989, LB 33, § 13; Laws 1996, LB 1274, § 14; Laws 2001, LB 362, § 14; Laws 2020, LB1003, § 151.

15-846 Deposit of funds; bond required; conditions.

For the security of the funds deposited as provided in section 15-845 the city treasurer shall require each depository to give bond for the safekeeping and payment of such deposits and the accretions to the deposit, which bond shall run to the city and be approved by the city attorney for form and legality. Such bond shall be conditioned that such a depository shall, at the end of every quarter, render to the treasurer a statement in duplicate showing the several daily balances, the amount of money of the city held by it during the quarter, the amount of the accretion to the deposit, and how credited. The bond shall also be conditioned that the depository shall pay such deposit and the accretion

when demanded by the city treasurer at any time, perform as required by sections 15-845 to 15-847, and faithfully discharge the trust reposed in such depository. Such bond shall be as nearly as practicable in the form provided in section 77-2304. No person in any way connected with any depository as officer or stockholder shall be accepted as a surety on any bond given by the depository of which he or she is an officer or stockholder. Such bond shall be deposited with the city clerk. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1963, c. 54, § 2, p. 233; Laws 1987, LB 440, § 3; Laws 1989, LB 33, § 14; Laws 1995, LB 384, § 13; Laws 2001, LB 362, § 15.

15-847 Deposit of city funds; security in lieu of bond.

In lieu of the bond required by section 15-846, any bank, capital stock financial institution, or qualifying mutual financial institution making application to become a depository may give security as provided in the Public Funds Deposit Security Act to the city treasurer. The penal sum of such bond or the sum of such security may be reduced in the amount of such deposit insured or guaranteed by the Federal Deposit Insurance Corporation. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1963, c. 54, § 3, p. 233; Laws 1987, LB 440, § 4; Laws 1989, LB 33, § 15; Laws 1989, LB 377, § 9; Laws 1992, LB 757, § 15; Laws 1995, LB 384, § 14; Laws 1996, LB 1274, § 15; Laws 2001, LB 362, § 16; Laws 2009, LB259, § 5.

Cross References

Public Funds Deposit Security Act, see section 77-2386.

15-848 Deposit of city funds; limitations; city treasurer liability.

The city treasurer of a city of the primary class shall not have on deposit in any bank, capital stock financial institution, or qualifying mutual financial institution at any time more than the maximum amount of the bond given by such bank, capital stock financial institution, or qualifying mutual financial institution if the bank, capital stock financial institution, or qualifying mutual financial institution gives a surety bond, nor in any bank, capital stock financial institution, or qualifying mutual financial institution giving a personal bond, more than one-half of the amount of the bond of such bank, capital stock financial institution, or qualifying mutual financial institution. The amount on deposit plus accretions at any time with any such bank, capital stock financial institution, or qualifying mutual financial institution shall not in either case exceed the paid-up capital stock and surplus of such bank, capital stock financial institution, or qualifying mutual financial institution. The city treasurer shall not be liable for any loss sustained by reason of the failure of any such bonded depository whose bond shall have been duly approved by the city attorney as provided by section 15-846 or which has, in lieu of a surety bond, given security as provided by section 15-847. Section 77-2366 shall apply to

deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1963, c. 54, § 4, p. 234; Laws 1987, LB 440, § 5; Laws 1989, LB 33, § 16; Laws 1995, LB 384, § 15; Laws 1996, LB 1274, § 16; Laws 2001, LB 362, § 17; Laws 2020, LB1003, § 152.

15-849 City funds; additional investments authorized.

The city treasurer may purchase certificates of deposit from and make time deposits in banks, capital stock financial institutions, or qualifying mutual financial institutions selected as depositories of city funds pursuant to sections 15-846 to 15-848. The certificates of deposit purchased and time deposits made shall bear interest and shall be secured as prescribed in such sections. The penal sum of such bond or the sum of such security shall be reduced in the amount of the time deposit or certificate of deposit insured or guaranteed by the Federal Deposit Insurance Corporation. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1987, LB 440, § 6; Laws 1989, LB 33, § 17; Laws 1992, LB 757, § 16; Laws 1996, LB 1274, § 17; Laws 2001, LB 362, § 18; Laws 2009, LB259, § 6.

15-850 Municipal bidding procedure; waiver; when.

Notwithstanding any charter or statutory provisions or restrictions, any municipal bidding procedure may be waived by the city council of a city of the primary class when required to comply with any federal grant, loan, or program.

Source: Laws 2011, LB335, § 2.

ARTICLE 9

CITY PLANNING, ZONING

Section

15-901. Extraterritorial zoning jurisdiction; corporate limits; real estate; subdivisions; platting; standards; approval of city planning commission required; bond; appeal.
15-902. Building regulations; zoning; powers; requirements; comprehensive plan; manufactured homes.
15-903. Repealed. Laws 1959, c. 40, § 5.
15-904. Transferred to section 19-3101.
15-905. Building regulations; zoning; powers granted.

15-901 Extraterritorial zoning jurisdiction; corporate limits; real estate; subdivisions; platting; standards; approval of city planning commission required; bond; appeal.

(1) Except as provided in section 13-327, the extraterritorial zoning jurisdiction of a city of the primary class shall consist of the unincorporated area three miles beyond and adjacent to its corporate boundaries.

(2) No owner of real estate located within the corporate limits of any city of the primary class or within the extraterritorial zoning jurisdiction of any city of the primary class, when such real estate is located in the same county as the

city and outside of any incorporated city or village, shall be permitted to subdivide, plat, or lay out the real estate in building lots and streets, or other portions of the real estate intended to be dedicated for public use or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto, without first having obtained approval by the city planning commission and, when applicable, having complied with sections 39-1311 to 39-1311.05. No plat or subdivision of such real estate shall be recorded in the office of the register of deeds or have any force or effect unless such plat or subdivision is approved by the city planning commission. A city of the primary class shall have the authority within its corporate limits and extraterritorial zoning jurisdiction to regulate the subdivision of land for the purpose, whether immediate or future, of transferring ownership or building development, except that the city shall have no power to regulate subdivision in those instances where the smallest parcel created is more than ten acres in area. A city of the primary class shall have the authority within its corporate limits and extraterritorial zoning jurisdiction to prescribe standards for laying out subdivisions in harmony with the comprehensive plan; to require the installation of improvements by the owner, by the creation of public improvement districts, or by requiring a good and sufficient bond guaranteeing installation of such improvements; and to require the dedication of land for public purposes.

(3) For purposes of this section, subdivision shall mean the division of a lot, tract, or parcel of land into two or more lots, sites, or other divisions of land for the purpose, whether immediate or future, of ownership or building development, except that the division of land shall not be considered to be subdivision when the smallest parcel created is more than ten acres in area.

(4) Subdivision plats in a city of the primary class shall be approved by the city planning commission on recommendation by the city planning director and public works and utilities department. The city planning commission may withhold approval of a plat until the public works and utilities department has certified that the improvements required by the regulations have been satisfactorily installed, until a sufficient bond guaranteeing installation of the improvements has been posted, or until public improvement districts are created. The city council may provide procedures in land subdivision regulations for appeal by any person aggrieved by any action of the city planning commission or city planning director on any plat.

Source: Laws 1929, c. 49, § 1, p. 204; C.S.1929, § 15-1001; R.S.1943, § 15-901; Laws 1959, c. 40, § 2, p. 219; Laws 1963, c. 57, § 1, p. 238; Laws 1980, LB 61, § 2; Laws 1993, LB 39, § 3; Laws 2003, LB 187, § 3; Laws 2020, LB1003, § 153.

This section does not authorize a city to require a developer to pay the cost of widening a street, while, at the same time, prohibit the developer's subdivision from having direct access to that street. Briar West, Inc. v. City of Lincoln, 206 Neb. 172, 291 N.W.2d 730 (1980).

This section does not authorize cities to use subdivision control as a device to evade constitutional prohibitions of taking of property without compensation. Briar West, Inc., v. City of Lincoln, 206 Neb. 172, 291 N.W.2d 730 (1980).

Approval of plat by municipal authorities is not required where there is no subdivision of land, no dedication of roadways, and no sale of lots to others. Reller v. City of Lincoln, 174 Neb. 638, 119 N.W.2d 59 (1963).

15-902 Building regulations; zoning; powers; requirements; comprehensive plan; manufactured homes.

(1) Every city of the primary class shall have power within the corporate limits of the city or within the extraterritorial zoning jurisdiction of the city to regulate and restrict: (a) The location, height, bulk, and size of buildings and

other structures; (b) the percentage of a lot that may be occupied; (c) the size of yards, courts, and other open spaces; (d) the density of population; and (e) the locations and uses of buildings, structures, and land for trade, industry, business, residences, and other purposes. Such city shall have power to divide the area zoned into districts of such number, shape, and area as may be best suited to carry out the purposes of this section and to regulate, restrict, or prohibit the erection, construction, reconstruction, alteration, or use of buildings, structures, or land within the total area zoned or within districts. All such regulations shall be uniform for each class or kind of buildings throughout each district, but regulations applicable to one district may differ from those applicable to other districts. Such zoning regulations shall be designed to secure safety from fire, flood, and other dangers and to promote the public health, safety, and general welfare and shall comply with the Municipal Density and Missing Middle Housing Act and be made with consideration having been given to the character of the various parts of the area zoned and their peculiar suitability for particular uses and types of development and with a view to conserving property values and encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan. Such zoning regulations may include reasonable provisions regarding nonconforming uses and their gradual elimination.

(2)(a) A city of the primary class shall not adopt or enforce any zoning ordinance or regulation which prohibits the use of land for a proposed residential structure for the sole reason that the proposed structure is a manufactured home if such manufactured home bears an appropriate seal which indicates that it was constructed in accordance with the standards of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the Nebraska Uniform Standards for Modular Housing Units Act, or the United States Department of Housing and Urban Development. The city may require that a manufactured home be located and installed according to the same standards for foundation system, permanent utility connections, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot. The city may also require that manufactured homes meet the following standards:

(i) The home shall have no less than nine hundred square feet of floor area;

(ii) The home shall have no less than an eighteen-foot exterior width;

(iii) The roof shall be pitched with a minimum vertical rise of two and one-half inches for each twelve inches of horizontal run;

(iv) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;

(v) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and

(vi) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.

(b) The city may not require additional standards unless such standards are uniformly applied to all single-family dwellings in the zoning district.

(c) Nothing in this subsection shall be deemed to supersede any valid restrictive covenants of record.

(3) For purposes of this section, manufactured home shall mean (a) a factory-built structure which is to be used as a place for human habitation, which is not

constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with national Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or (b) a modular housing unit as defined in section 71-1557 bearing a seal in accordance with the Nebraska Uniform Standards for Modular Housing Units Act.

Source: Laws 1929, c. 49, § 2, p. 204; C.S.1929, § 15-1002; R.S.1943, § 15-902; Laws 1959, c. 40, § 3, p. 220; Laws 1963, c. 57, § 2, p. 239; Laws 1981, LB 298, § 2; Laws 1985, LB 313, § 2; Laws 1994, LB 511, § 2; Laws 1996, LB 1044, § 55; Laws 1998, LB 1073, § 2; Laws 2020, LB866, § 8; Laws 2020, LB1003, § 154.

Cross References

Municipal Density and Missing Middle Housing Act, see section 19-5501.
Nebraska Uniform Standards for Modular Housing Units Act, see section 71-1555.
Uniform Standard Code for Manufactured Homes and Recreational Vehicles, see section 71-4601.

A zoning ordinance, defining the term ''family'' as one or more persons related by blood, marriage, or adoption living in a single housekeeping unit but prohibiting more than two unrelated persons from living together, is a constitutional attempt to promote the public health, safety, and general welfare. State v. Champoux, 252 Neb. 769, 566 N.W.2d 763 (1997).

Property lying within three miles of corporate limits may be zoned. Reller v. City of Lincoln, 174 Neb. 638, 119 N.W.2d 59 (1963).

15-903 Repealed. Laws 1959, c. 40, § 5.

15-904 Transferred to section 19-3101.

15-905 Building regulations; zoning; powers granted.

Every city of the primary class may regulate in the area which is within the corporate limits of the city or within its extraterritorial zoning jurisdiction, except as to construction on farms for farm purposes, (1) the minimum standards of construction of buildings, dwellings, and other structures in order to provide safe and sound condition thereof for the preservation of health, safety, security, and general welfare, which standards may include regulations as to electric wiring, heating, plumbing, pipefitting, sewer connections, ventilation, size of habitable rooms, and the method of constructing buildings, dwellings, and other structures, and to provide for inspection thereof and building permits and fees for such permits, (2) the removal and tearing down of buildings, dwellings, and other structures in such areas which constitute nuisances because of the dilapidated, unsafe, or rundown condition or conditions, and (3) except as to the United States of America, the State of Nebraska, a county, or a village, in the extraterritorial zoning jurisdiction of the city of the primary class, the nature, kind, and manner of constructing streets, alleys, sidewalks, curbing or abridging curbs, driveway approaches constructed on or to public right-of-way, and sewage disposal facilities. Any building or construction code implemented under this section shall be adopted and enforced as provided in section 71-6406.

Source: Laws 1963, c. 57, § 3, p. 240; Laws 1965, c. 40, § 2, p. 233; Laws 2013, LB88, § 1; Laws 2016, LB704, § 2; Laws 2020, LB1003, § 155.

ARTICLE 10
PENSIONS

Section
15-1001. Repealed. Laws 1987, LB 408, § 13.
15-1001.01. Repealed. Laws 1987, LB 408, § 13.
15-1002. Repealed. Laws 1987, LB 408, § 13.
15-1003. Repealed. Laws 1987, LB 408, § 13.
15-1004. Repealed. Laws 1987, LB 408, § 13.
15-1005. Repealed. Laws 1987, LB 408, § 13.
15-1006. Repealed. Laws 1987, LB 408, § 13.
15-1007. Repealed. Laws 1987, LB 408, § 13.
15-1007.01. Repealed. Laws 1987, LB 408, § 13.
15-1007.02. Repealed. Laws 1987, LB 408, § 13.
15-1007.03. Repealed. Laws 1987, LB 408, § 13.
15-1007.04. Repealed. Laws 1987, LB 408, § 13.
15-1007.05. Repealed. Laws 1987, LB 408, § 13.
15-1008. Repealed. Laws 1987, LB 408, § 13.
15-1009. Repealed. Laws 1987, LB 408, § 13.
15-1010. Repealed. Laws 1984, LB 1019, § 14.
15-1011. Repealed. Laws 1987, LB 408, § 13.
15-1012. Firemen; existing system; rights retained.
15-1013. Repealed. Laws 1987, LB 408, § 13.
15-1013.01. Repealed. Laws 1987, LB 408, § 13.
15-1013.02. Repealed. Laws 1987, LB 408, § 13.
15-1013.03. Repealed. Laws 1987, LB 408, § 13.
15-1014. Repealed. Laws 1987, LB 408, § 13.
15-1015. Repealed. Laws 1987, LB 408, § 13.
15-1016. Repealed. Laws 1987, LB 408, § 13.
15-1017. Pension funds; investment; report.
15-1018. Repealed. Laws 1987, LB 408, § 13.
15-1019. Repealed. Laws 1987, LB 408, § 13.
15-1020. Repealed. Laws 1987, LB 408, § 13.
15-1021. Repealed. Laws 1987, LB 408, § 13.
15-1022. Repealed. Laws 1987, LB 408, § 13.
15-1023. Repealed. Laws 1987, LB 408, § 13.
15-1024. Repealed. Laws 1987, LB 408, § 13.
15-1025. Repealed. Laws 1987, LB 408, § 13.
15-1026. Fire and police pension fund; authorized; tax levy; authorized.
15-1027. Pension or benefits; existing system; rights retained.

15-1001 Repealed. Laws 1987, LB 408, § 13.

15-1001.01 Repealed. Laws 1987, LB 408, § 13.

15-1002 Repealed. Laws 1987, LB 408, § 13.

15-1003 Repealed. Laws 1987, LB 408, § 13.

15-1004 Repealed. Laws 1987, LB 408, § 13.

15-1005 Repealed. Laws 1987, LB 408, § 13.

15-1006 Repealed. Laws 1987, LB 408, § 13.

15-1007 Repealed. Laws 1987, LB 408, § 13.

15-1007.01 Repealed. Laws 1987, LB 408, § 13.

15-1007.02 Repealed. Laws 1987, LB 408, § 13.

15-1007.03 Repealed. Laws 1987, LB 408, § 13.

15-1007.04 Repealed. Laws 1987, LB 408, § 13.

15-1007.05 Repealed. Laws 1987, LB 408, § 13.

15-1008 Repealed. Laws 1987, LB 408, § 13.

15-1009 Repealed. Laws 1987, LB 408, § 13.

15-1010 Repealed. Laws 1984, LB 1019, § 14.

15-1011 Repealed. Laws 1987, LB 408, § 13.

15-1012 Firemen; existing system; rights retained.

Notwithstanding any other language in Laws 1947, c. 23, sections 1 to 22, it is specifically provided that the provisions of article 2, Chapter 35, in effect for firemen of cities of the primary class on September 7, 1947, at variance with the provisions of Laws 1947, c. 23, sections 1 to 22, shall be controlling and supersede the provisions of Laws 1947, c. 23, sections 1 to 22, as to all persons who were members of such fire department on such date and the widows and children of all such members.

Source: Laws 1947, c. 23, § 18, p. 122.

15-1013 Repealed. Laws 1987, LB 408, § 13.

15-1013.01 Repealed. Laws 1987, LB 408, § 13.

15-1013.02 Repealed. Laws 1987, LB 408, § 13.

15-1013.03 Repealed. Laws 1987, LB 408, § 13.

15-1014 Repealed. Laws 1987, LB 408, § 13.

15-1015 Repealed. Laws 1987, LB 408, § 13.

15-1016 Repealed. Laws 1987, LB 408, § 13.

15-1017 Pension funds; investment; report.

(1) A city of the primary class which has a city pension and retirement plan or fund, or a city fire and police pension plan or fund, or both, may provide by ordinance as authorized by its home rule charter, and not prohibited by the Constitution of Nebraska, for the investment of any plan or fund, and such city may provide that (a) the city shall place in trust any part of such plan or fund, (b) the city shall place in trust any part of any such plan or fund with a corporate trustee in Nebraska, or (c) the city shall purchase any part of any such plan from a life insurance company licensed to do business in the State of Nebraska. The powers conferred by this section shall be independent of and in addition and supplemental to any other provisions of the laws of the State of Nebraska with reference to the matters covered hereby, and this section shall be considered as a complete and independent act and not as amendatory of or limited by any other provision of the laws of the State of Nebraska.

(2)(a) Beginning December 31, 2018, and each December 31 thereafter, for a defined benefit plan, the city clerk of a city of the primary class or his or her designee shall prepare and electronically file an annual report with the Auditor

of Public Accounts and the Nebraska Retirement Systems Committee of the Legislature. If such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, the report shall be in addition to the reports required by section 13-2402. The report shall be on a form prescribed by the Auditor of Public Accounts and shall include, but not be limited to, the following information:

(i) The levels of benefits of participants in the plan, the number of members who are eligible for a benefit, the total present value of such members' benefits, and the funding sources which will pay for such benefits; and

(ii) A copy of a full actuarial analysis of each such defined benefit plan. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization which offers investment advice or provides investment management services to the retirement plan.

(b) The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the city council does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the city. All costs of the audit shall be paid by the city.

Source: Laws 1967, c. 52, § 1, p. 188; Laws 1998, LB 1191, § 17; Laws 1999, LB 795, § 6; Laws 2011, LB474, § 6; Laws 2014, LB759, § 7; Laws 2017, LB415, § 6; Laws 2020, LB1003, § 156.

15-1018 Repealed. Laws 1987, LB 408, § 13.

15-1019 Repealed. Laws 1987, LB 408, § 13.

15-1020 Repealed. Laws 1987, LB 408, § 13.

15-1021 Repealed. Laws 1987, LB 408, § 13.

15-1022 Repealed. Laws 1987, LB 408, § 13.

15-1023 Repealed. Laws 1987, LB 408, § 13.

15-1024 Repealed. Laws 1987, LB 408, § 13.

15-1025 Repealed. Laws 1987, LB 408, § 13.

15-1026 Fire and police pension fund; authorized; tax levy; authorized.

Any city of the primary class may establish a fire and police pension fund. Such city may anticipate its liability for future pension payments on an actuarial basis and, in order to equalize the tax burden over a period of years, may levy and collect taxes in each fiscal year sufficient to meet current needs and equalize the future payments. The tax so levied and collected, together with contributions made by firefighters and police officers, shall be credited to the fund. Any unexpended balance remaining in the fund at the close of the fiscal year shall be reappropriated for the ensuing year. Pension payments required

by law shall be a general obligation of the city and may be made out of, but not limited to, the fund.

Source: Laws 1987, LB 408, § 9; Laws 1996, LB 1114, § 27; Laws 2000, LB 1116, § 15.

15-1027 Pension or benefits; existing system; rights retained.

Nothing in sections 15-1001.01, 15-1007.02, 15-1007.05, 15-1013.02, and 15-1022 to 15-1026, the repeal of any sections in Chapter 15, article 10, or the unilateral action of any city of the primary class shall in any manner diminish the right of any person receiving or entitled to receive, now or in the future, pension or other benefits provided for in Chapter 15, article 10, as the sections of such article existed immediately prior to the repeal of any such sections, to receive such pension or other benefits in all respects the same as if such repealed sections remained in full force and effect.

Source: Laws 1987, LB 408, § 10.

ARTICLE 11

PLANNING DEPARTMENT

Section
15-1101. Planning department; commission; planning director; employees.
15-1102. Comprehensive plan; requirements; contents.
15-1103. Planning director; prepare comprehensive plan; review by commission; city council; adopt or amend plan; notice to military installation.
15-1104. Ordinance or resolution; submit to planning department; report.
15-1105. Planning director; duties; commission; hearings.
15-1106. Board of zoning appeals; powers; appeals; variances.

15-1101 Planning department; commission; planning director; employees.

In any city of the primary class there shall be created a planning department, which shall consist of a city planning commission, a planning director, and such subordinate employees as are required to administer the planning program as provided in sections 15-1101 to 15-1106. The planning director shall serve as the secretary of the city planning commission and as the administrative head of the planning department.

Source: Laws 1959, c. 46, § 1, p. 228; Laws 2020, LB1003, § 157.

15-1102 Comprehensive plan; requirements; contents.

(1) The general plan for the improvement and development of a city of the primary class shall be known as the comprehensive plan. This plan for governmental policies and action shall include the pattern and intensity of land use, the provision of public facilities including transportation and other governmental services, the effective development and utilization of human and natural resources, the identification and evaluation of area needs including housing, employment, education, and health and the formulation of programs to meet such needs, surveys of structures and sites determined to be of historic, cultural, archaeological, or architectural significance or value, long-range physical and fiscal plans for governmental policies and action, and coordination of all related plans and activities of the state and local governments and agencies concerned. The comprehensive plan, with the accompanying maps, plats, charts, and descriptive and explanatory materials, shall show the recommenda-

tions concerning the physical development pattern of such city and of any land outside its boundaries related thereto, taking into account the availability of and need for conserving land and other irreplaceable natural resources, the preservation of sites of historic, cultural, archaeological, and architectural significance or value, the projected changes in size, movement, and composition of population, the necessity for expanding housing and employment opportunities, and the need for methods of achieving modernization, simplification, and improvements in governmental structures, systems, and procedures related to growth objectives. The comprehensive plan shall, among other things, show:

(a) The general location, character, and extent of existing and proposed streets and highways and railroad, air, and other transportation routes and terminals;

(b) Existing and proposed public ways, parks, grounds, and open spaces;

(c) The general location, character, and extent of schools, school grounds, and other educational facilities and properties;

(d) The general location and extent of existing and proposed public utility installations;

(e) The general location and extent of community development and housing activities;

(f) The general location of existing and proposed public buildings, structures, and facilities; and

(g) An energy element which: Assesses energy infrastructure and energy use by sector, including residential, commercial, and industrial sectors; evaluates utilization of renewable energy sources; and promotes energy conservation measures that benefit the community.

(2) The comprehensive plan shall include a land-use plan showing the proposed general distribution and general location of business and industry, residential areas, utilities, and recreational, educational, and other categories of public and private land uses. The land-use plan shall also show the recommended standards of population density based upon population estimates and providing for activities for which space should be supplied within the area covered by the plan. The comprehensive plan shall include and show proposals for acquisition, extension, widening, narrowing, removal, vacation, abandonment, sale, and other actions affecting public improvements.

Source: Laws 1959, c. 46, § 2, p. 229; Laws 1975, LB 111, § 1; Laws 2010, LB997, § 2; Laws 2020, LB731, § 2; Laws 2020, LB1003, § 158.

A comprehensive plan is a general guide to community development. Holmgren v. City of Lincoln, 199 Neb. 178, 256 N.W.2d 686 (1977).

15-1103 Planning director; prepare comprehensive plan; review by commission; city council; adopt or amend plan; notice to military installation.

The planning director of a city of the primary class shall be responsible for preparing the comprehensive plan and amendments and extensions thereto and for submitting such plans and modifications to the city planning commission for its consideration and action. The planning commission shall review such plans and modifications and those which the city council may suggest and, after holding at least one public hearing on each proposed action, shall provide its

recommendations to the city council within a reasonable period of time. The city council shall review the recommendations of the planning commission and, after at least one public hearing on each proposed action, shall adopt or reject such plans as submitted, except that the city council may, by an affirmative vote of at least five members of the city council, adopt a plan or amendments to the proposed plan different from that recommended by the planning commission.

When such city is considering the adoption or amendment of a zoning ordinance or the approval of the platting or replatting of any development of real estate, the planning director shall notify any military installation which is located within the corporate boundary limits or the extraterritorial zoning jurisdiction of the city if the city has received a written request for such notification from the military installation. The planning director shall deliver the notification to the military installation at least ten days prior to the meeting of the planning commission at which the proposal is to be considered.

Source: Laws 1959, c. 46, § 3, p. 230; Laws 1975, LB 111, § 2; Laws 2010, LB279, § 2; Laws 2020, LB1003, § 159.

15-1104 Ordinance or resolution; submit to planning department; report.

No ordinance or resolution which deals with the acquisition, extension, widening, narrowing, removal, vacation, abandonment, sale, or other change relating to any public way, transportation route, ground, open space, building or structure, or other public improvement of a character included in the comprehensive plan of a city of the primary class, the subject matter of which has not been reported on by the planning department under section 15-1103, shall be adopted by the city council until such ordinance or resolution shall first have been referred to the planning department and that department has reported regarding conformity of the proposed action with the comprehensive plan. The planning department's report shall specify the character and degree of conformity or nonconformity of each proposed action to the comprehensive plan, and a report in writing thereon shall be rendered to the city council within thirty days after the date of receipt of the referral unless a longer period is granted by the city council. If the planning department fails to render any such report within the allotted time, the approval of the department may be presumed by the city council.

Source: Laws 1959, c. 46, § 4, p. 230; Laws 2020, LB1003, § 160.

15-1105 Planning director; duties; commission; hearings.

The planning director of a city of the primary class shall be responsible for preparing any proposed zoning ordinance and for submitting such ordinance to the city planning commission for its consideration and action. The planning commission shall review the proposed zoning ordinance and, after holding at least one public hearing on each proposed action, shall approve or reject it in whole or in part and with or without modifications. When approved by the planning commission, the proposed zoning ordinance shall be submitted to the city council for its consideration, and such zoning ordinance shall become effective when adopted by the city council. The city council may amend, supplement, or otherwise modify the zoning ordinance. Any such proposed amendment, supplement, or modification shall first be submitted to the planning commission for its recommendations and report. The planning commission shall hold at least one public hearing on such proposed amendment,

supplement, or modification, before submitting its recommendations and report. After the recommendations and report of the planning commission have been filed, the city council shall, before enacting any proposed amendment, supplement, or modification, hold a public hearing on such proposed amendment, supplement, or modification. Notice of the time and place of such hearings shall be given by publication thereof in a legal newspaper in or of general circulation in the city at least one time at least five days before the date of hearing. Notice with reference to proposed amendments, supplements, or modifications of the zoning ordinance shall also be posted in a conspicuous place on or near the property upon which the action is pending. Such notice shall be easily visible from the street and shall be posted at least five days before the hearing.

Source: Laws 1959, c. 46, § 5, p. 231; Laws 2020, LB1003, § 161.

15-1106 Board of zoning appeals; powers; appeals; variances.

There may be created a board of zoning appeals of a city of the primary class comprised of five members appointed by the mayor and confirmed by the city council, which board shall have power to hear and decide appeals from any decision or order of the building inspector or other officers charged with the enforcement of zoning ordinances in those cases when it is alleged that such decision or order is in error. The board shall also have power to decide upon petitions for variances and, subject to such standards and procedures as the city council may provide in zoning ordinances, to vary the strict application of sign regulations or height, area, parking, or density requirements to the extent necessary to permit the owner a reasonable use of his or her land in those specific instances when there are peculiar, exceptional, and unusual circumstances in connection with a specific parcel of land, which circumstances are not generally found within the locality or neighborhood concerned. The board may also have such related duties as the mayor or city council may assign. The city council may provide for appeals from a decision of the board.

Source: Laws 1959, c. 46, § 6, p. 231; Laws 1961, c. 35, § 5, p. 159; Laws 1987, LB 317, § 1; Laws 2020, LB1003, § 162.

ARTICLE 12

APPEALS

Section
15-1201. Appeals; exception.
15-1202. Appeal; procedure; fees; bond; indigent appellant.
15-1203. City clerk; duties.
15-1204. Petition on appeal; time for filing; indigency.
15-1205. District court; hearing; order; appeal.

15-1201 Appeals; exception.

Any person or persons, jointly or severally aggrieved by any final administrative or judicial order or decision of the board of zoning appeals, the board of equalization, the city council, or any officer, department, or board of a city of the primary class, shall, except as provided for claims in sections 15-840 to 15-842.01, appeal from such order or decision to the district court in the manner provided in sections 15-1201 to 15-1205.

Source: Laws 1969, c. 65, § 1, p. 377; Laws 2020, LB1003, § 163.

This section applies only where the various bodies controlled thereby act judicially or quasi-judicially. Quasi-judicial decisions by various organs of a city are reviewable in both the trial and appellate courts. Whitehead Oil Co. v. City of Lincoln, 245 Neb. 660, 515 N.W.2d 390 (1994).

That municipal code decision shall be final and binding upon appointing authority in collective-bargaining agreement means definitive act of official or agency is binding until and unless set aside by judicial review. City of Lincoln v. Soukup, 215 Neb. 732, 340 N.W.2d 420 (1983).

The enactment of a zoning ordinance by a municipal governing body is an exercise of legislative authority from which no direct appeal lies. This statute applies only where the bodies mentioned therein act judicially or quasi-judicially. An increase in business competition is not sufficient to confer standing to challenge a change of zone. Copple v. City of Lincoln, 210 Neb. 504, 315 N.W.2d 628 (1982).

On appeal of a final decision of a city council, only the subject matter in question may be appealed, not collateral issues beyond the scope of the particular decision. Cather & Sons Constr., Inc. v. City of Lincoln, 200 Neb. 510, 264 N.W.2d 413 (1978).

15-1202 Appeal; procedure; fees; bond; indigent appellant.

(1) The party appealing any final order or decision as provided in section 15-1201 shall within thirty days after the date of the order or decision complained of (a) file a notice of appeal with the city clerk of the city of the primary class specifying the parties taking the appeal and the order or decision appealed from and serve a copy of the notice upon the city attorney and (b) deposit the fees and bond or undertaking required pursuant to subsection (2) of this section or file an affidavit pursuant to subsection (3) of this section. The notice of appeal shall serve as a praecipe for a transcript.

(2) Except as provided in subsection (3) of this section, the appellant shall:

(a) Deposit with the city clerk a docket fee of the district court for cases originally commenced in district court;

(b) Deposit with the city clerk a cash bond or undertaking with at least one good and sufficient surety approved by the city clerk, in the amount of two hundred dollars, on condition that the appellant will satisfy any judgment and costs that may be adjudged against him or her; and

(c) Deposit with the city clerk the fees for the preparation of a certified and complete transcript of the proceedings of the city relating to the order or decision appealed.

(3)(a) An appellant may file with the city clerk an affidavit alleging that the appellant is indigent. The filing of such an affidavit shall relieve the appellant of the duty to deposit any fee, bond, or undertaking required by subsection (2) of this section as a condition for the preparation of the transcript or the perfecting of the appeal by the appellant subject to the determination of the court as provided in section 15-1204. In conjunction with the filing of the petition for appeal as provided for in section 15-1204, the appellant shall file a copy of the affidavit alleging his or her indigency and the district court shall rule upon the issue of indigency prior to the consideration of any other matter relating to the appeal as provided in section 15-1204.

(b) An appellant determined to be indigent under this subsection shall not be required to deposit any fee, bond, or undertaking required by subsection (2) of this section. For purposes of this section, indigent means the inability to financially pursue the appeal without prejudicing the appellant's ability to provide economic necessities for the appellant or the appellant's family.

(c) An appellant determined not to be indigent shall, within thirty days after the determination, deposit with the city clerk the fees and bond or undertaking required by subsection (2) of this section. The appeal shall not proceed further until the city clerk notifies the court that the appropriate deposit has been made.

Source: Laws 1969, c. 65, § 2, p. 377; Laws 1983, LB 52, § 3; Laws 1988, LB 352, § 17; Laws 2009, LB441, § 2; Laws 2018, LB193, § 1; Laws 2020, LB1003, § 164.

The time for appeal under this section begins to run as of the date the administrative body votes on the action to be taken, rather than the date on which the body finalizes its order. McCorison v. City of Lincoln, 218 Neb. 827, 359 N.W.2d 775 (1984).

15-1203 City clerk; duties.

(1) Except as provided in subsection (2) of this section, the city clerk, on payment to him or her of the costs of the transcript, shall transmit within fifteen days to the clerk of the district court the docket fee and a certified and complete transcript of the proceedings of the city relating to the order or decision appealed as provided in section 15-1201. After receipt of such fee and transcript, the clerk of the district court shall file the appeal.

(2) If the appellant files an affidavit alleging that he or she is indigent pursuant to section 15-1202, the city clerk shall transmit within fifteen days to the clerk of the district court a certified and complete transcript of the proceedings of the city relating to the order or decision appealed. After receipt of the transcript, the clerk of the district court shall file the appeal.

Source: Laws 1969, c. 65, § 3, p. 378; Laws 1983, LB 52, § 4; Laws 1988, LB 352, § 18; Laws 2009, LB441, § 3; Laws 2018, LB193, § 2; Laws 2020, LB1003, § 165.

15-1204 Petition on appeal; time for filing; indigency.

(1) The party appealing an order or decision as provided in section 15-1201 shall file a petition within thirty days after the date the transcript is filed in the district court.

(2) Except as provided in subsection (3) of this section, satisfaction of the requirements of subsections (1) and (2) of section 15-1202 and subsection (1) of this section shall perfect the appeal and give the district court jurisdiction of the matter appealed.

(3) Indigency shall be determined by the district court having jurisdiction of the appeal upon motion of the appellant before the court considers any other matter relating to the appeal. The court shall make a reasonable inquiry to determine the appellant's financial condition and shall consider such factors as the appellant's income, the availability to the appellant of other resources, including real and personal property, bank accounts, social security benefits, and unemployment or other benefits, the appellant's normal living expenses, the appellant's outstanding debts, the number and age of the appellant's dependents, and other relevant circumstances. If the appellant is deemed to be indigent, the satisfaction of the requirements of subsections (1) and (3) of section 15-1202 and subsection (1) of this section shall perfect the appeal and give the district court jurisdiction of the matter appealed.

Source: Laws 1969, c. 65, § 4, p. 378; Laws 1983, LB 52, § 5; Laws 1988, LB 352, § 19; Laws 2009, LB441, § 4; Laws 2020, LB1003, § 166.

15-1205 District court; hearing; order; appeal.

The district court shall hear the appeal under sections 15-1201 to 15-1205 as in equity and without a jury and determine anew all questions raised before the city. The court may reverse or affirm, wholly or partly, or may modify the order

or decision brought up for review. Either party may appeal from the decision of the district court to the Court of Appeals.

Source: Laws 1969, c. 65, § 5, p. 378; Laws 1991, LB 732, § 19; Laws 2020, LB1003, § 167.

This section does not limit review to illegality, but provides that appeals from various organs of a city of the primary class shall be considered as in equity. Thus, such decisions are quasi-judicial in nature and reviewable under section 15-1201 as in equity in both the trial and appellate courts. Moulton v. Board of Zoning Appeals, 251 Neb. 95, 555 N.W.2d 39 (1996).

On appeal from an order of the municipal human rights commission, the district court found the evidence insufficient to establish any unlawful employment discrimination by the employer. American Stores v. Jordan, 213 Neb. 213, 328 N.W.2d 756 (1982).

ARTICLE 13

COMMUNITY DEVELOPMENT

Section
15-1301. Terms, defined.
15-1302. Community development agency; powers.
15-1303. Citizen participation.
15-1304. Power to levy taxes and issue bonds and notes.
15-1305. City jurisdiction and authority; concurrent with and independent of housing authority; report; contents.
15-1306. Acquisition of property; procedure.
15-1307. Sections; supplementary.

15-1301 Terms, defined.

As used in sections 15-1301 to 15-1307, unless the context otherwise requires:

(1) City shall mean any city of the primary class;

(2) Federal government shall mean the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America; and

(3) Community development activity shall mean any activity authorized in the Community Development Law, construction of community facilities, conservation and rehabilitation of property, neighborhood development, code enforcement, and all of the jurisdiction and authority granted a housing authority under Chapter 71, article 15.

Source: Laws 1974, LB 825, § 1; Laws 2018, LB874, § 2.

Cross References

Community Development Law, see section 18-2101.

15-1302 Community development agency; powers.

A city which has a community development agency as authorized by law is hereby granted power and authority to:

(1) Do all community development activities;

(2) Do all things necessary to cooperate with the federal government in all matters relating to community development activities as a grantee, or as agent or otherwise; and

(3) Exercise the jurisdiction and authority granted under Chapter 71, article 15, acting independently, concurrently or by assisting or cooperating with any existing housing authority within the territorial jurisdiction of the city.

Source: Laws 1974, LB 825, § 2.

15-1303 Citizen participation.

Whenever a city proposes to exercise the power conferred in sections 15-1301 to 15-1307, the city shall certify that it has afforded adequate opportunity for citizen participation in the development of the annual application and has provided for the meaningful involvement of the residents of areas in which community development activities are to be concentrated in the planning and execution of these activities, including the provision of adequate information and resources.

Source: Laws 1974, LB 825, § 3.

15-1304 Power to levy taxes and issue bonds and notes.

Whenever the city exercises the power conferred in sections 15-1301 to 15-1307, it shall have the power to levy taxes for the exercise of such jurisdiction and authority, and it shall also have the power to issue general obligation bonds, general obligation notes, revenue bonds and revenue notes including general obligation and revenue refunding bonds and notes for a community development activity under the power granted to any authority described or as otherwise authorized by home rule charter or state law.

Source: Laws 1974, LB 825, § 4.

15-1305 City jurisdiction and authority; concurrent with and independent of housing authority; report; contents.

Whenever a city of the primary class exercises the jurisdiction and authority granted in sections 15-1301 to 15-1307 with respect to Chapter 71, article 15, the city shall have the jurisdiction and authority concurrent with and independent of any existing housing authority for such purposes within the city and its area of jurisdiction. In order to coordinate the actions of the local housing authority and the community development agency, the local housing authority shall submit to the city council of such city, prior to the date it submits its annual budget request to the federal government, a complete report of its activities during the past calendar year and a complete description of its proposed actions for the coming calendar year. Such report shall include the number of units added to or removed from the authority's programs, the number of families housed by the authority, the number applying who were not housed and the reasons for their not being housed, the sources and amounts of all funds spent or to be spent and the amounts available for use in its housing programs that have not been used, and the policies of the authority on eligibility, admissions, occupancy, termination of tenancies, and grievance procedures. Such report shall be made available to the public upon the delivery of the report to the city council and shall be subject to public hearing prior to its formal acceptance by the city council.

Source: Laws 1974, LB 825, § 5; Laws 2020, LB1003, § 168.

15-1306 Acquisition of property; procedure.

Whenever any city shall exercise the jurisdiction and authority granted in sections 15-1301 to 15-1307 it shall comply with Chapter 76, article 12, regarding the acquisition of property for publicly financed projects.

Source: Laws 1974, LB 825, § 6.

15-1307 Sections; supplementary.

The provisions of sections 15-1301 to 15-1307 are supplementary to existing laws relating to cities of the primary class and confer upon such cities powers not heretofore granted.

Source: Laws 1974, LB 825, § 7.

CHAPTER 16
CITIES OF THE FIRST CLASS

Article.
1. Incorporation, Extensions, Additions, Wards. 16-101 to 16-130.
2. General Powers. 16-201 to 16-255.
3. Officers, Elections, Employees. 16-301 to 16-337.
4. Council and Proceedings. 16-401 to 16-406.
5. Contracts and Franchises. 16-501 to 16-503.
6. Public Improvements.
   (a) Condemnation Proceedings. 16-601 to 16-608.
   (b) Streets. 16-609 to 16-655.
   (c) Viaducts. 16-656 to 16-660. Repealed.
   (d) Sidewalks. 16-661 to 16-666.
   (e) Water, Sewer, and Drainage Districts. 16-667 to 16-672.
   (f) Storm Sewer Districts. 16-672.01 to 16-672.11.
   (g) Public Utilities. 16-673 to 16-694.
   (h) Parks. 16-695 to 16-697.02.
   (i) Markets. 16-698, 16-699.
   (j) Public Buildings. 16-6,100 to 16-6,100.07.
   (k) Waterworks; Gas Plant. 16-6,101.
   (l) Sanitary Sewer and Water Main Connection District. 16-6,102 to 16-6,105.
   (m) Flood Control. 16-6,106 to 16-6,109.
   (n) Public Passenger Transportation System. 16-6,110.
   (o) Water Supply or Distribution Facility Projects. 16-6,111 to 16-6,116. Repealed.
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ARTICLE 1

INCORPORATION, EXTENSIONS, ADDITIONS, WARDS

Section
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16-101 Cities of the first class, defined; population required.

All cities having more than five thousand and not more than one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census shall be known as cities of the first class. The population of a city of the first class shall consist of the people residing within the territorial boundaries of such city and the residents of any territory duly and properly annexed to such city.

Source: Laws 1901, c. 18, § 1, p. 226; R.S.1913, § 4804; C.S.1922, § 3972; C.S.1929, § 16-101; R.S.1943, § 16-101; Laws 1965, c. 85, § 3, p. 328; Laws 1993, LB 726, § 5; Laws 2017, LB113, § 9.

Where the population of city of first class as shown by the last ten-year United States census drops below population of a city of such classification, it becomes automatically a city of second class. State ex rel. Cashman v. Carmean, 138 Neb. 819, 295 N.W. 801 (1941).

A city of the first class that adopts a "home rule" charter is a creature of law, and its corporate acts are governed by this chapter. Falldorf v. City of Grand Island, 138 Neb. 212, 292 N.W. 598 (1940).

Provisions of the charter for a city of the first class appear in this chapter. City of Fremont v. Lea, 115 Neb. 565, 213 N.W. 820 (1927).

Classification of cities is constitutional. State ex rel. Jones v. Graham, 16 Neb. 74, 19 N.W. 470 (1884).

City is estopped to defend against waterworks bonds in hands of innocent purchasers where such bonds reflect city certified in bond that they were legally issued, it having plenary power so to do, though the bonds cited the wrong statutory section as authority therefor. City of Beatrice v. Edminson, 117 F. 427 (8th Cir. 1902).

16-102 City of the second class; attainment of required population; incorporation as city of the first class.

Whenever any city of the second class attains a population of more than five thousand inhabitants as provided by section 16-101, the mayor of such city shall certify such fact to the Secretary of State who upon the filing of such certificate shall by proclamation declare such city to be a city of the first class. Upon such proclamation being made by the Secretary of State, every officer of

such city shall, within thirty days thereafter, qualify and give bond as provided by sections 16-219, 16-304, and 16-318.

Source: Laws 1901, c. 18, § 2, p. 227; R.S.1913, § 4805; C.S.1922, § 3973; C.S.1929, § 16-102; R.S.1943, § 16-102; Laws 1984, LB 1119, § 1; Laws 2016, LB704, § 3.

16-103 Reorganization as city of the first class; transitional provisions.

(1) After the proclamation under section 16-102, the city shall be governed by the laws of this state applicable to cities of the first class, except that the government of such city shall continue as organized at the date of such proclamation until the reorganization as a city of the first class.

(2) The mayor and city council members of the city of the second class shall be deemed to be the mayor and city council members of the city of the first class on the date the proclamation is issued. All ordinances, bylaws, acts, rules, regulations, obligations, and proclamations existing and in force in or with respect to the city of the second class at the time of its incorporation as a city of the first class shall remain in full force and effect after such incorporation until repealed or modified by the city within one year after the date of the filing of the certificate pursuant to section 16-102.

(3) For the purpose of electing city officials under the provisions of law relating to cities of the first class, the terms of office for such officials shall be established by the city council so as to conform with the intent and purpose of section 32-534.

Source: Laws 1901, c. 18, § 3, p. 227; R.S.1913, § 4806; C.S.1922, § 3974; C.S.1929, § 16-103; R.S.1943, § 16-103; Laws 1984, LB 1119, § 2; Laws 1990, LB 957, § 1; Laws 1994, LB 76, § 482; Laws 2016, LB704, § 4.

16-104 Wards; election districts; staggering of terms; procedure.

If a city of the second class becomes a city of the first class, the mayor and city council shall divide the city into not less than three wards, as compact in form and equal in population as may be, the boundaries of which shall be defined by ordinance, to take effect at the next annual city election after reorganization except as provided in section 32-553. Each ward shall constitute an election district, except that when any ward has over five hundred legal voters, the mayor and city council may divide such ward into two or more election districts. If it is necessary to establish the staggering of terms by nominating and electing council members for terms of different durations at the same elections, the candidates receiving the greatest number of votes shall be nominated and have their names placed on the general election ballot.

Source: Laws 1901, c. 18, § 9, p. 231; R.S.1913, § 4807; C.S.1922, § 3975; C.S.1929, § 16-104; R.S.1943, § 16-104; Laws 1980, LB 629, § 1; Laws 1983, LB 308, § 1; Laws 1990, LB 957, § 2; Laws 1994, LB 76, § 483; Laws 2002, LB 970, § 1; Laws 2016, LB704, § 5.

16-105 Wards; election precincts.

Precinct lines in any part of any county not under township organization, embraced within the corporate limits of a city of the first class, shall corre-

spond with the ward lines of the city, and such precinct shall correspond in number with the ward of the city and be coextensive with the ward. When a ward is divided into election districts, the precinct corresponding with such ward shall be divided so as to correspond with the election districts.

Source: Laws 1901, c. 18, § 10, p. 231; R.S.1913, § 4808; C.S.1922, § 3976; C.S.1929, § 16-105; R.S.1943, § 16-105; Laws 1972, LB 1032, § 101; Laws 2016, LB704, § 6.

Provision to substitute municipal courts, in justice of peace districts, is unconstitutional. State ex rel. Woolsey v. Morgan, 138 Neb. 635, 294 N.W. 436 (1940).

Under prior act, county boards could exercise only such powers as were expressly conferred and could not include several wards of a city, with the land adjoining, in one precinct. Morton v. Carlin, 51 Neb. 202, 70 N.W. 966 (1897).

A decision in a former suit, prosecuted years after the bonds were sold, in which suit, neither the purchaser nor his privy were parties, deciding that the precinct issuing them was illegally organized, and that the bonds were void, is not controlling authority, in a suit to collect on such bonds, where the proper authorities at the time of the issuance, certified such bonds were legally issued. Clapp v. Otoe County, 104 F. 473 (8th Cir. 1900).

16-106 Repealed. Laws 1967, c. 64, § 5.

16-107 Repealed. Laws 1967, c. 64, § 5.

16-108 Repealed. Laws 1967, c. 64, § 5.

16-109 Repealed. Laws 1967, c. 64, § 5.

16-110 Repealed. Laws 1967, c. 64, § 5; Laws 1967, c. 65, § 1.

16-110.01 Repealed. Laws 1967, c. 64, § 5.

16-111 Repealed. Laws 1967, c. 64, § 5.

16-112 Transferred to section 19-916.

16-113 Transferred to section 19-917.

16-114 Transferred to section 19-918.

16-114.01 Transferred to section 19-919.

16-114.02 Transferred to section 19-920.

16-114.03 Transferred to section 19-921.

16-115 Corporate name and seal; service of process.

The corporate name of each city of the first class shall be the City of ....., and all process whatever affecting any such city shall be served in the manner provided for service of a summons in a civil action. The city shall procure and keep a seal with such emblem and device as it may think proper. Such seal may be either an engraved or ink stamp seal. It shall have included thereon the City of ....., together with date of incorporation, which shall be the seal of the city, and no other seal shall be used by the city. The impression or representation of the seal by stamp shall be sufficient sealing in all cases where sealing is required. An impression or representation of such seal shall be filed in the office of the Secretary of State, together with a resolution of the city council that the same has been duly adopted and is the seal of such city.

Source: Laws 1901, c. 18, § 122, p. 305; R.S.1913, § 4815; C.S.1922, § 3983; C.S.1929, § 16-112; R.S.1943, § 16-115; Laws 1983, LB 447, § 5; Laws 2019, LB194, § 1.

Provisions for service of process on city officers as herein provided must yield to section 48-813 where jurisdiction of Court of Industrial Relations is invoked. Communication Workers of America, AFL-CIO v. City of Hastings, 198 Neb. 668, 254 N.W.2d 695 (1977).

16-116 Incorporation as city of the first class; applicability of existing law.

All ordinances, bylaws, acts, regulations, rules and proclamations, existing and in force in any city at the time of its incorporation as a city of the first class, shall remain in full force and effect after such incorporation until the same are repealed or modified by such city.

Source: Laws 1901, c. 18, § 122, p. 305; R.S.1913, § 4815; C.S.1922, § 3983; C.S.1929, § 16-112; R.S.1943, § 16-116.

Natural gas ordinance of second-class city remained in force at time it became a first-class city. Nebraska Natural Gas Co. v. City of Lexington, 167 Neb. 413, 93 N.W.2d 179 (1958).

16-117 Annexation; powers; procedure; hearing.

(1) Except as provided in sections 13-1111 to 13-1120 and 16-130 and subject to this section, the mayor and city council of a city of the first class may by ordinance at any time include within the corporate limits of such city any contiguous or adjacent lands, lots, tracts, streets, or highways as are urban or suburban in character and in such direction as may be deemed proper. Such grant of power shall not be construed as conferring power upon the mayor and city council to extend the limits of a city of the first class over any agricultural lands which are rural in character.

(2) The invalidity of the annexation of any tract of land in one ordinance shall not affect the validity of the remaining tracts of land which are annexed by the ordinance and which otherwise conform to state law.

(3) The city council proposing to annex land under the authority of this section shall first adopt both a resolution stating that the city is proposing the annexation of the land and a plan for extending city services to the land. The resolution shall state:

(a) The time, date, and location of the public hearing required by subsection (5) of this section;

(b) A description of the boundaries of the land proposed for annexation; and

(c) That the plan of the city for the extension of city services to the land proposed for annexation is available for inspection during regular business hours in the office of the city clerk.

(4) The plan adopted by the city council shall contain sufficient detail to provide a reasonable person with a full and complete understanding of the proposal for extending city services to the land proposed for annexation. The plan shall (a) state the estimated cost impact of providing the services to such land, (b) state the method by which the city plans to finance the extension of services to the land and how any services already provided to the land will be maintained, (c) include a timetable for extending services to the land proposed for annexation, and (d) include a map drawn to scale clearly delineating the land proposed for annexation, the current boundaries of the city, the proposed boundaries of the city after the annexation, and the general land-use pattern in the land proposed for annexation.

(5) A public hearing on the proposed annexation shall be held within sixty days following the adoption of the resolution proposing to annex land to allow

the city council to receive testimony from interested persons. The city council may recess the hearing, for good cause, to a time and date specified at the hearing.

(6) A copy of the resolution providing for the public hearing shall be published in a legal newspaper in or of general circulation in the city at least once not less than ten days preceding the date of the public hearing. A map drawn to scale delineating the land proposed for annexation shall be published with the resolution. A copy of the resolution providing for the public hearing shall be sent by first-class mail following its passage to the school board of any school district in the land proposed for annexation.

(7) Any owner of property contiguous or adjacent to a city of the first class may by petition request that such property be included within the corporate limits of such city. The mayor and city council may include such property within the corporate limits of the city without complying with subsections (3) through (6) of this section.

(8) Notwithstanding the requirements of this section, the mayor and city council are not required to approve any petition requesting annexation or any resolution or ordinance proposing to annex land pursuant to this section.

Source: Laws 1967, c. 64, § 1, p. 213; Laws 1989, LB 421, § 1; Laws 2007, LB11, § 1; Laws 2009, LB495, § 3; Laws 2016, LB704, § 7.

1. Character of land
2. Statute of limitations
3. Miscellaneous

1. Character of land

The use of land for agricultural purposes is not dispositive of the character of the land, nor does it mean it is rural in character. It is the nature of its location as well as its use which determines whether it is rural or urban in character. Swedlund v. City of Hastings, 243 Neb. 607, 501 N.W.2d 302 (1993).

A city of the first class may annex land contiguous to its corporate limits which is urban or suburban, including segments of highway, as determined by the characteristic of the land adjacent to that being annexed. Piester v. City of North Platte, 198 Neb. 220, 252 N.W.2d 159 (1977).

Under this section, a city of the first class may annex contiguous urban or suburban lands which are not agricultural lands rural in character. Webber v. City of Scottsbluff, 187 Neb. 282, 188 N.W.2d 814 (1971).

Agricultural lands which are urban not rural in character may be annexed. Voss v. City of Grand Island, 186 Neb. 232, 182 N.W.2d 427 (1970).

Section does not require legislative body to conduct trial-type evidentiary hearing or make express finding on character of land. Meyer v. City of Grand Island, 184 Neb. 657, 171 N.W.2d 242 (1969).

Words ''as are urban or suburban in character'' used in this section are not so vague and indefinite as to violate due process clause of the Constitution. Plumfield Nurseries, Inc. v. Dodge County, 184 Neb. 346, 167 N.W.2d 560 (1969).

The character of a segment of an interstate highway sought to be annexed by a city of the first class is determined by the characteristic of the land immediately adjacent to the segment sought to be annexed. Adam v. City of Hastings, 12 Neb. App. 98, 668 N.W.2d 272 (2003).

2. Statute of limitations

An action to enjoin a school district or part thereof, consequent upon annexation of territory by a city of the first class, is barred by the statute of limitations unless brought within one year from effective date of annexation ordinance. School Dist. No. 127 of Lincoln County v. Simpson, 191 Neb. 164, 214 N.W.2d 251 (1974).

3. Miscellaneous

So long as a substantial part of the connecting boundary touches the corporate limits, an annexation will not be void simply because parts of the connecting side do not touch the city or because portions of the annexed territory are narrower than the rest. County of Sarpy v. City of Papillion, 277 Neb. 829, 765 N.W.2d 456 (2009).

The valid part of an annexation ordinance may be carried into effect if what remains after the invalid part is eliminated contains the essential elements of a complete ordinance. County of Sarpy v. City of Papillion, 277 Neb. 829, 765 N.W.2d 456 (2009).

A city of the first class must adopt a specified annexation resolution and plan for extending services before annexing land. City of Elkhorn v. City of Omaha, 272 Neb. 867, 725 N.W.2d 792 (2007).

A city of the first class has no power to annex territory which is not contiguous or adjacent. Doolittle v. County of Lincoln, 191 Neb. 159, 214 N.W.2d 248 (1974).

City could not annex strategic air command base where its sole purpose was to increase city's revenue. United States v. City of Bellevue, 474 F.2d 473 (8th Cir. 1973).

United States had no standing to contest validity of city's annexation of alleged agricultural lands not owned and in which it had no interest, though but for such annexation lands of United States would not be lands contiguous to city, subject to annexation as such. United States v. City of Bellevue, 334 F.Supp. 881 (D. Neb. 1971).

16-118 Annexation of land; deemed contiguous; when; effect.

For purposes of sections 16-117 and 16-130:

(1) Lands, lots, tracts, streets, or highways shall be deemed contiguous although a stream, embankment, strip, or parcel of land not more than two hundred feet wide lies between the same and the corporate limits; and

(2) In counties in which at least three cities of the first class are located, lands, lots, tracts, streets, or highways shall be deemed contiguous although property owned by the federal government lies between the same and the corporate limits, so long as the lands, lots, tracts, streets, or highways sought to be annexed are adjacent to or contiguous with the property owned by the federal government. The annexation of any lands, lots, tracts, streets, or highways described in this subdivision shall not result in any change in the service area of any electric utility without the express agreement of the electric utility serving the area comprising such annexed lands, lots, tracts, streets, or highways at the time of annexation, except that at such time following the annexation of the lands, lots, tracts, streets, or highways as the city lawfully annexes sufficient intervening area so as to directly connect the lands, lots, tracts, streets, or highways to the primary area of the city, such lands, lots, tracts, streets, or highways shall, solely for the purposes of section 70-1008, be treated as if they had been annexed by the city on the date upon which the intervening area had been formally annexed.

Source: Laws 1967, c. 64, § 2, p. 214; Laws 2019, LB194, § 2; Laws 2021, LB9, § 1.

Although this section states that lands, lots, tracts, streets, or highways shall be deemed contiguous although a stream, embankment, strip, or parcel of land not more than 200 feet wide lies between the same and corporate limits, this section implies a situation where a strip of land is located parallel to the city limits. Johnson v. City of Hastings, 241 Neb. 291, 488 N.W.2d 20 (1992).

A city of the first class may annex land contiguous to its corporate limits which is urban or suburban, including segments of highway, as determined by the characteristic of the land adjacent to that being annexed. Piester v. City of North Platte, 198 Neb. 220, 252 N.W.2d 159 (1977).

An action to enjoin a school district or part thereof, consequent upon annexation of territory by a city of the first class, is barred by the statute of limitations unless brought within one year from effective date of annexation ordinance. School Dist. No. 127 of Lincoln County v. Simpson, 191 Neb. 164, 214 N.W.2d 251 (1974).

Territory purportedly annexed was not contiguous or adjacent as it was separated from city boundary by river over two hundred feet wide. Doolittle v. County of Lincoln, 191 Neb. 159, 214 N.W.2d 248 (1974).

The character of a segment of an interstate highway sought to be annexed by a city of the first class is determined by the characteristic of the land immediately adjacent to the segment sought to be annexed. Adam v. City of Hastings, 12 Neb. App. 98, 668 N.W.2d 272 (2003).

16-119 Annexation; extraterritorial property use; continuation.

Any extraterritorial zoning regulations, property use regulations, or other laws, codes, rules, or regulations imposed upon any annexed lands by a city of the first class before such annexation shall continue in full force and effect until otherwise changed.

Source: Laws 1967, c. 64, § 3, p. 214; Laws 2016, LB704, § 8; Laws 2019, LB194, § 3.

16-120 Annexation; inhabitants; services; when.

The inhabitants of territories annexed by a city of the first class shall receive substantially the services of other inhabitants of such city as soon as practicable. Adequate plans and necessary city council action to furnish such services shall be adopted not later than one year after the date of annexation, and such inhabitants shall be subject to the ordinances and regulations of such city, except that the one-year period shall be tolled pending final court decision in any court action to contest such annexation.

Source: Laws 1967, c. 64, § 4, p. 214; Laws 1989, LB 421, § 2; Laws 2016, LB704, § 9.

This section requires a city to furnish city services to newly annexed areas within 1 year after annexation. In re Application of City of Grand Island, 247 Neb. 446, 527 N.W.2d 864 (1995).

Requirement of this section that benefits of annexation be furnished as soon as practicable after annexation meets requirements of due process. Plumfield Nurseries, Inc. v. Dodge County, 184 Neb. 346, 167 N.W.2d 560 (1969).

Where not impossible for city to provide services within one year, action contesting annexation on ground of such alleged inability was premature. United States v. City of Bellevue, 334 F.Supp. 881 (D. Neb. 1971).

16-121 Annexation; validation.

Whenever a city of the first class lawfully reannexes territory which it had formerly annexed but which annexation was illegal because the statutes under which such original annexation was made were unconstitutional and void, (1) all contracts for public improvements, warrants and bonds issued by the city of the first class with respect to such territory and all payments made thereon shall thereby be validated, binding and legal upon such city of the first class in the same manner and with the same effect as if the original annexation had been lawful, (2) all obligations of any sanitary and improvement district assumed by a city of the first class with respect to such territory shall thereby be validated, binding and legal upon such city of the first class in the same manner and with the same effect as if the original annexation had been lawful, and (3) such city of the first class may issue bonds under the appropriate statutes relating to public improvements to refund the warrants, warrant interest and any unpaid cost with respect to public improvements referred to in subdivision (1) of this section in the same manner and with the same effect as if the original annexation had been lawful.

Source: Laws 1967, c. 61, § 1, p 209.

United States had no standing to contest validity of former annexation of land not owned. United States v. City of Bellevue, 334 F.Supp. 881 (D. Neb. 1971).

16-122 Annexation of city of the second class or village; conditions.

In addition to existing annexation powers, the mayor and city council of any city of the first class may by ordinance annex any village or city of the second class which is entirely surrounded by such city of the first class, if the following conditions exist:

(1) The city has water mains adjacent to the village or city of the second class which are available for extension into and have capacity to serve the village or city of the second class;

(2) The city has sanitary sewer lines adjacent to the village or city of the second class which are available for extension into and have capacity to serve the village or city of the second class;

(3) The city has water and sewer treatment facilities which have the capacity to serve the village or city of the second class; and

(4) The city has police, fire, and snow removal facilities which have the capacity to serve the village or city of the second class.

In determining whether a village or city of the second class is entirely surrounded by a city for annexation purposes, any land adjacent to the village or city of the second class which is legally immune from annexation by either the city or the village, or city of the second class, shall not be considered if the village or city of the second class is otherwise surrounded by the city.

Source: Laws 1969, c. 72, § 1, p. 394; Laws 2016, LB704, § 10.

The requirement that the annexing city have sewer treatment facilities with capacity to serve the city annexed was to insure the residents of the annexed city sewer treatment service. City of Parkview v. City of Grand Island, 188 Neb. 267, 196 N.W.2d 197 (1972).

16-123 Annexation; powers; when restricted.

Notwithstanding the powers granted by section 16-122, no village or city of the second class may be annexed by a city of the first class when such village or city of the second class has its own sewage disposal plant, sewage disposal system, water well, water tower, water distribution system, and electrical distribution system or contracts for such services and facilities with an entity or entities other than such city of the first class.

Source: Laws 1969, c. 72, § 2, p. 395.

16-124 Annexation; succession to property, contracts, obligations, and choses in action.

Whenever any city of the first class extends its boundaries so as to annex any village or city of the second class, the charter, laws, ordinances, powers, and government of such city of the first class shall at once extend over the territory within any village or city of the second class so annexed. Such city of the first class shall succeed to all the property and property rights of every kind, contracts, obligations, and choses in action of every kind held by or belonging to the village or city of the second class so annexed, and it shall be liable for and assume and carry out all valid contracts, obligations, franchises, and licenses of any such village or city of the second class so annexed. Any obligations incurred by such village or city of the second class for water, paving, sewer, or sewer treatment purposes shall remain the obligation of the real property in such village or city of the second class as its boundaries existed immediately prior to such annexation. Such village or city of the second class so annexed shall be deemed fully compensated by virtue of such annexation and the assumption of its obligations and contracts for all its property and property rights of every kind so acquired.

Source: Laws 1969, c. 72, § 3, p. 395; Laws 2016, LB704, § 11.

16-125 Annexation; taxes, assessments, fines, licenses, fees, claims, demands; paid to and collection by city of the first class.

All taxes, assessments, fines, licenses, fees, claims, and demands of every kind assessed or levied against persons or property within any village or city of the second class annexed under section 16-122 shall be paid to and collected by the city of the first class.

Source: Laws 1969, c. 72, § 4, p. 395; Laws 2016, LB704, § 12.

16-126 Taxes and special assessments; annexation; effect.

All taxes and special assessments which a village or city of the second class annexed under section 16-122 was authorized to levy or assess and which are not levied or assessed at the time of such annexation for any kind of public improvements made or in process of construction or contracted for, may be levied or assessed by the city of the first class. Such city of the first class shall have power to reassess or relevy all special assessments or taxes levied or assessed by any such village or city of the second class so annexed where such

village or city of the second class is authorized to make reassessments or relevies of such taxes and assessments.

Source: Laws 1969, c. 72, § 5, p. 395; Laws 2016, LB704, § 13.

16-127 Annexation; pending actions at law or in equity; prosecution and defense by city of the first class.

All actions at law or in equity pending in any court in favor of or against any village or city of the second class annexed under section 16-122 at the time such annexation takes effect shall be prosecuted by or defended by the city of the first class. All rights of action existing against any village or city of the second class annexed under section 16-122 at the time of such annexation or accruing thereafter on account of any transaction had with or under any law or ordinance of such village or city of the second class may be prosecuted against the city of the first class.

Source: Laws 1969, c. 72, § 6, p. 396; Laws 2016, LB704, § 14.

16-128 Annexation; records, books, bonds, funds, and property; property of city of the first class; officers; termination.

All officers of any village or city of the second class annexed under section 16-122 having books, papers, records, bonds, funds, effects, or property of any kind under their control belonging to any such village or city of the second class, shall upon taking effect of such annexation deliver the books, papers, records, bonds, funds, effects, or property to the respective officers of the city of the first class as may be by law or ordinance or limitation of such city entitled or authorized to receive such items. Upon such annexation taking effect, the terms and tenure of all offices and officers of any such village or city of the second class shall terminate and entirely cease.

Source: Laws 1969, c. 72, § 7, p. 396; Laws 2016, LB704, § 15.

16-129 Repealed. Laws 2021, LB131, § 27.

16-130 Annexation by city within county between 100,000 and 250,000 inhabitants; mayor and city council; powers; notice; contents; liability; limitation on action.

(1) The provisions of this section shall govern annexation by a city of the first class located in whole or in part within the boundaries of a county having a population in excess of one hundred thousand inhabitants but less than two hundred fifty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census.

(2) Except as provided in sections 13-1111 to 13-1120 and subject to this section, the mayor and city council of a city of the first class described in subsection (1) of this section may by ordinance at any time include within the corporate limits of such city any contiguous or adjacent lands, lots, tracts, streets, or highways as are urban or suburban in character and in such direction as may be deemed proper. Such grant of power shall not be construed as conferring power upon the mayor and city council to extend the limits of such a city over any agricultural lands which are rural in character.

(3) The invalidity of the annexation of any tract of land in one ordinance shall not affect the validity of the remaining tracts of land which are annexed by the ordinance and which otherwise conform to state law.

(4) Any owner of property contiguous or adjacent to such a city may by petition request that such property be included within the corporate limits of such city.

(5) Notwithstanding the requirements of this section, the mayor and city council are not required to approve any petition requesting annexation or any resolution or ordinance proposing to annex land pursuant to this section.

(6) Not later than fourteen days prior to the public hearing before the planning commission on a proposed annexation by the city, the city clerk shall send notice of the proposed annexation by certified mail, return receipt requested, to any of the following entities serving customers in such city or in the area proposed for annexation: Any natural gas public utility as defined in section 66-1802; any natural gas utility owned or operated by the city; any metropolitan utilities district; any public power district; any public power and irrigation district; any municipality; any electric cooperative; and any other governmental entity providing electric service. Such notice shall include a copy of the proposed annexation ordinance, the date, time, and place of the public hearing before the planning commission on the proposed annexation ordinance, and a map showing the boundaries of the area proposed for annexation.

(7) Prior to the final adoption of the annexation ordinance, the minutes of the city council meeting at which such final adoption was considered shall reflect formal compliance with the provisions of subsection (6) of this section.

(8) No additional or further notice beyond that required by subsection (6) of this section shall be necessary in the event (a) that the scheduled city council public hearing on the proposed annexation is adjourned, continued, or postponed until a later date or (b) that subsequent to providing such notice the ordinance regarding such proposed annexation was amended, changed, or rejected by action of the city council prior to formal passage of the annexation ordinance.

(9) Except for a willful or deliberate failure to cause notice to be given, no annexation decision made by a city either to accept or reject a proposed annexation, either in whole or in part, shall be void, invalidated, or affected in any way because of any irregularity, defect, error, or failure on the part of the city or its employees to cause notice to be given as required by this section if a reasonable attempt to comply with this section was made.

(10) Except for a willful or deliberate failure to cause notice to be given, the city and its employees shall not be liable for any damage to any person resulting from any failure to cause notice to be given as required by this section when a reasonable attempt was made to provide such notice. No action for damages resulting from the failure to cause notice to be provided as required by this section shall be filed more than one year following the date of the formal acceptance or rejection of the proposed annexation, either in whole or in part, by the city council.

(11) No action to challenge the validity of the acceptance or rejection of a proposed annexation on the basis of this section shall be filed more than one

year following the date of the formal acceptance or rejection of the annexation by the city council.

Source: Laws 2009, LB495, § 4; Laws 2017, LB74, § 1.

ARTICLE 2
GENERAL POWERS

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16-201 General powers.

Each city of the first class shall be a body corporate and politic and shall have power (1) to sue and be sued, (2) to purchase, lease, lease with option to buy, or acquire by gift or devise and to hold real and personal property within or without the limits of the city and real estate sold for taxes for the use of the city in such manner and upon such terms and conditions as may be deemed in the best interests of the city, (3) to sell and convey, exchange, or lease any real or personal property owned by the city, including park land, in such manner and upon such terms and conditions as may be deemed in the best interests of the city, except that real estate owned by the city may be conveyed without consideration to the State of Nebraska for state veterans' cemetery sites or state armory sites or, if acquired for state armory sites, shall be conveyed in the manner strictly as provided in sections 18-1001 to 18-1006, (4) to make all contracts and do all other acts in relation to the property and concerns of the city necessary to the exercise of its corporate powers, and (5) to exercise such other and further powers as may be conferred by law.

Source: Laws 1901, c. 18, § 8, p. 230; R.S.1913, § 4816; C.S.1922, § 3984; C.S.1929, § 16-201; Laws 1935, Spec. Sess., c. 10, § 6, p. 74; Laws 1941, c. 130, § 12, p. 497; C.S.Supp.,1941, § 16-201; R.S.1943, § 16-201; Laws 1963, c. 60, § 1, p. 252; Laws 1965, c. 48, § 1, p. 248; Laws 1971, LB 5, § 1; Laws 1975, LB 150, § 1; Laws 1988, LB 793, § 3; Laws 2020, LB911, § 2.

Where the population of city of first class, as shown by the last United States census, drops below the numerical requirement for such class, it becomes a city of second class. State ex rel. Cashman v. Carmean, 138 Neb. 819, 295 N.W. 801 (1941).

Cities of the first class, which adopt a "home rule" charter, possess no power to remit or cancel interest or penalties on special taxes, though such cities have power to sue and be sued, to make contracts and do all acts in relation to property and concerns of the city, necessary to exercise its corporate functions. Falldorf v. City of Grand Island, 138 Neb. 212, 292 N.W. 598 (1940).

City has authority, by ordinance, to make all rules and regulations, not inconsistent with state laws, as are expedient, but council's discretion in such matters must be exercised, in a reasonable and not an arbitrary and discriminating manner. State ex rel. Andruss v. Mayor & Council of City of North Platte, 120 Neb. 413, 233 N.W. 4 (1930).

The city's allowance of a claim will not be set aside by suit of a taxpayer, where the city retains the property, though the manner of entering into said contract was irregular and defective, and where there was no fraud, or lack of consideration. Stickel Lumber Co. v. City of Kearney, 103 Neb. 636, 173 N.W. 595 (1919).

Municipality possesses only such powers as are expressly conferred by statute, or as are necessary to carry into effect the powers enumerated. State ex rel. Ransom v. Irey, 42 Neb. 186, 60 N.W. 601 (1894).

16-202 Real estate; conveyance; how effected; remonstrance; procedure; hearing; exceptions.

(1) Except as otherwise provided in subsection (4) of this section, the power to sell and convey any real estate owned by a city of the first class, including park land, shall be exercised by ordinance directing the conveyance of such real estate and the manner and terms thereof. Notice of such sale and the terms

thereof shall be published for three consecutive weeks in a legal newspaper in or of general circulation in such city immediately after the passage and publication of such ordinance.

(2) If within thirty days after the passage and publication of such ordinance a remonstrance petition against such sale is signed by registered voters of the city equal in number to thirty percent of the registered voters of the city voting at the last regular city election held therein and is filed with the city council, the property shall not then, nor within one year thereafter, be sold. If the date for filing the petition falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the thirty-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. Upon the receipt of the petition, the city council, with the aid and assistance of the election commissioner or county clerk, shall determine the validity and sufficiency of signatures on the petition. The city council shall deliver the petition to the election commissioner or county clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the petition, the election commissioner or county clerk shall issue to the city council a written receipt that the petition is in the custody of the election commissioner or county clerk. The election commissioner or county clerk shall compare the signature of each person signing the petition with the voter registration records to determine if each signer was a registered voter on or before the date on which the petition was filed with the city council. The election commissioner or county clerk shall also compare the signer's printed name, street and number or voting precinct, and city, village, or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the election commissioner or county clerk determines that the printed name, street and number or voting precinct, and city, village, or post office address matches the registration records and that the registration was received on or before the date on which the petition was filed with the city council. The determinations of the election commissioner or county clerk may be rebutted by any credible evidence which the city council finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the petition, the sufficiency of the petition, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the petition process. Upon completion of the comparison of names and addresses with the voter registration records, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the election commissioner or county clerk shall set forth the reason for the invalidity of the signature. If the election commissioner or county clerk determines that a signer has affixed his or her signature more than once to the petition and that only one person is registered by that name, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature. The election commissioner or county clerk shall certify to the city council the number of valid signatures necessary to constitute a valid petition. The election commissioner or county clerk shall deliver the petition and the certifications to

the city council within forty days after the receipt of the petition from the city council. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than twenty signatures on one signature page shall be counted.

(3) The city council shall, within thirty days after the receipt of the petition and certifications from the election commissioner or county clerk, hold a public hearing to review the petition and certifications and receive testimony regarding them. The city council shall, following the hearing, vote on whether or not the petition is valid and shall uphold the petition if sufficient valid signatures have been received.

(4) This section does not apply to (a) real estate used in the operation of public utilities, (b) real estate for state armory sites for the use of the State of Nebraska as expressly provided in section 16-201, or (c) real estate for state veterans' cemetery sites for the use of the State of Nebraska as expressly provided in section 12-1301.

Source: Laws 1901, c. 18, § 8, p. 230; R.S.1913, § 4817; C.S.1922, § 3985; C.S.1929, § 16-202; Laws 1935, Spec. Sess., c. 10, § 7, p. 75; Laws 1937, c. 27, § 1, p. 148; Laws 1941, c. 130, § 13, p. 497; C.S.Supp.,1941, § 16-202; R.S.1943, § 16-202; Laws 1963, c. 60, § 2, p. 252; Laws 1988, LB 793, § 4; Laws 1993, LB 59, § 1; Laws 1997, LB 230, § 1; Laws 2016, LB704, § 17; Laws 2020, LB911, § 3.

16-203 Property tax; levy; amount.

A city of the first class may levy taxes for general revenue purposes in any one year, not exceeding forty-two cents on each one hundred dollars upon the taxable value of all the taxable property in the limits of such city. This section shall not be construed so as to affect the limitation on maximum annual levies for all municipal purposes in the city in any one year as set forth in section 16-702.

Source: Laws 1901, c. 18, § 48, I, p. 245; Laws 1901, c. 19, § 3, p. 307; R.S.1913, § 4819; C.S.1922, § 3987; C.S.1929, § 16-204; Laws 1937, c. 28, § 1, p. 150; C.S.Supp.,1941, § 16-204; R.S.1943, § 16-203; Laws 1945, c. 20, § 1, p. 127; Laws 1947, c. 29, § 1, p. 136; Laws 1953, c. 287, § 7, p. 933; Laws 1979, LB 187, § 38; Laws 1992, LB 719A, § 41.

In absence of a limitation in the act granting it authority to issue bonds, the city has power to levy sufficient taxes to pay the same, and a judgment against the city for the amount of the bonds, puts the question of authority to levy the tax to pay such bonds to rest, and mandamus will enforce such levy. United States ex rel. Masslich v. Saunders, 124 F. 124 (8th Cir. 1903).

16-204 Other taxes; power to levy.

A city of the first class may levy any other tax or special assessment authorized by law, and appropriate money and provide for the payment of the debts and expenses of the city.

Source: Laws 1901, c. 18, § 48, II, p. 245; R.S.1913, § 4820; C.S.1922, § 3988; C.S.1929, § 16-205; R.S.1943, § 16-204.

While the burden is upon he who denies a lien for general taxes, to prove them void, yet he who seeks to enforce a lien for special taxes, has the burden of proving their validity. Farmer L. & T. Co. v. Hastings, 2 Neb. Unof. 337, 96 N.W. 104 (1902).

In absence of limitation in the act granting it authority to issue bonds, the city has power to levy sufficient taxes to pay the same, and a judgment against the city for the amount of the bonds, puts the question of authority to levy the tax to pay such

bonds to rest, and mandamus will enforce such levy. United States ex rel. Masslich v. Saunders, 124 F. 124 (8th Cir. 1903).

16-205 License or occupation tax; power to levy; exceptions.

A city of the first class may raise revenue by levying and collecting a license or occupation tax on any person, partnership, limited liability company, corporation, or business within the limits of the city and may regulate the same by ordinance. After March 27, 2014, any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under section 77-2704.24. The occupation tax shall be imposed in the manner provided in section 18-1208, except that section 18-1208 does not apply to an occupation tax subject to section 86-704. All such taxes shall be uniform in respect to the class upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation as well as concerts and all other musical entertainments given exclusively by the citizens of the city.

Source: Laws 1901, c. 18, § 48, IX, p. 247; Laws 1907, c. 13, § 1, p. 110; R.S.1913, § 4821; C.S.1922, § 3989; C.S.1929, § 16-206; R.S.1943, § 16-205; Laws 1993, LB 121, § 135; Laws 2012, LB745, § 5; Laws 2014, LB474, § 4.

City of the first class may impose an excise, license, or occupation tax upon a given class of business, when such tax is definite, reasonable, and uniform. Gooch Food Products Co. v. Rothman, 131 Neb. 523, 268 N.W. 468 (1936).

City by ordinance may levy and collect an occupation tax from a telegraph company though part of its business is interstate, and such tax is not measured by the profits thereof. City of Grand Island v. Postal Telegraph Cable Co., 92 Neb. 253, 138 N.W. 169 (1912).

A property tax, based upon the value of a corporate franchise, and an occupation tax based upon gross earning of such company, are in nowise identical and do not constitute double taxation. Lincoln Traction Co. v. City of Lincoln, 84 Neb. 327, 121 N.W. 435 (1909).

Where a city ordinance imposes an occupation tax, and provides a special means of enforcing it, such method is generally exclusive, and if the only method is illegal, the ordinance as a whole is inoperative as the courts will not substitute a different and legal method of enforcement. City of Omaha v. Harmon, 58 Neb. 339, 78 N.W. 623 (1899).

Under prior act an ordinance for an occupation tax on a telegraph company doing both inter and intrastate business from within the city is valid and will be presumed to be a tax on that part of such business, as is intrastate, unless the act imposes such tax on the gross income. Western Union Telegraph Co. v. City of Fremont, 39 Neb. 692, 58 N.W. 415, 26 L.R.A. 698 (1894).

Statutory provision authorizing cities to levy and collect occupation taxes is not repugnant to the Constitution, and while a provision making it a misdemeanor to conduct business, without first obtaining a license, and declaring a penalty or imprisonment, for such failure, is void, yet so much of the theory as fixes a civil liability is unaffected and valid. Templeton v. City of Tekamah, 32 Neb. 542, 49 N.W. 373 (1891).

The levy and collection of an occupation tax are not repugnant to the terms of the Constitution. Magneau v. City of Fremont, 30 Neb. 843, 47 N.W. 280 (1890), 9 L.R.A. 786 (1890), 27 A.S.R. 436 (1890).

Cities and villages may impose an occupation tax on liquor dealers, but a municipality may not make payment of such tax a condition precedent to the issuance of a license. State ex rel. Sage v. Bennett, 19 Neb. 191, 26 N.W. 714 (1886).

16-206 Dogs and other animals; regulation; license tax; enforcement.

A city of the first class may collect a license tax from the owners and harborers of dogs and other animals in an amount which shall be determined by the city council and enforce the license tax by appropriate penalties. Any licensing provision shall comply with subsection (2) of section 54-603 for service animals. The city may cause the destruction of any dog or other animal for which the owner or harborer shall refuse or neglect to pay such license tax. The city may regulate, license, or prohibit the running at large of dogs and other animals and guard against injuries or annoyances therefrom and authorize the destruction of such dogs and other animals when running at large contrary to any ordinance.

Source: Laws 1901, c. 18, § 48, X, p. 247; R.S.1913, § 4822; C.S.1922, § 3990; C.S.1929, § 16-207; R.S.1943, § 16-206; Laws 1959, c.

59, § 1, p. 253; Laws 1971, LB 478, § 1; Laws 1981, LB 501, § 3; Laws 1997, LB 814, § 4; Laws 2008, LB806, § 3; Laws 2016, LB704, § 18.

16-207 Streets and sidewalks; removal of obstructions; trees; declaration of nuisance; procedure; special assessment.

(1) A city of the first class may by ordinance provide for the removal of all obstructions from the sidewalks, curbstones, gutters, and crosswalks at the expense of the owners or occupants of the grounds fronting thereon or at the expense of the person placing the obstruction and may require and regulate the planting and protection of shade trees in and along the streets and the trimming and removing of the trees.

(2) A city of the first class may by ordinance declare it to be a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits of the city or within its extraterritorial zoning jurisdiction. Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any. 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 the 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 the work done to abate and remove the dead or diseased trees. If the owner or occupant of the lot or piece of ground does not request a hearing with the city within five days after receipt of such notice or fails to comply with the order to abate and remove the nuisance, the city may have such work done. The city may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited as a special assessment.

(3) The city may also regulate the building of bulkheads, cellars, basements, ways, stairways, railways, windows, doorways, awnings, lampposts, awning posts, and all other structures projecting upon or over any adjoining excavation through and under the sidewalks in the city.

Source: Laws 1901, c. 18, § 48, XI, p. 247; R.S.1913, § 4823; C.S.1922, § 3991; C.S.1929, § 16-208; R.S.1943, § 16-207; Laws 1994, LB 695, § 5; Laws 2015, LB266, § 5; Laws 2015, LB361, § 17; Laws 2016, LB703, § 1; Laws 2016, LB704, § 19.

16-208 Repealed. Laws 1980, LB 741, § 1.

16-209 Transportation of freight; regulation.

A city of the first class by ordinance may regulate the transportation of articles through the streets, and prevent injuries to the streets from overloaded vehicles.

Source: Laws 1901, c. 18, § 48, XIII, p. 248; R.S.1913, § 4825; C.S.1922, § 3993; C.S.1929, § 16-210; R.S.1943, § 16-209.

16-210 Streets and sidewalks; use; safety regulations.

A city of the first class may prevent and remove all encroachments into and upon all sidewalks, streets, avenues, alleys, and other city property, and prevent and punish all horseracing, fast driving or riding in the streets, highways, alleys, bridges or places in the city, and all games, practices or amusements therein likely to result in damage to any person or property. It may regulate, prevent, and punish the operation of vehicles or the riding, driving or passing of animals over or upon any streets or sidewalks of the city; regulate and prevent the use of streets, sidewalks, and public grounds for signs, sign posts, awnings, telegraph, telephone or other poles, racks, bulletin boards, and the posting of handbills and advertisements; regulate traffic and sale upon the streets, sidewalks and public places; punish and prohibit cruelty to animals; and regulate and prevent the moving of buildings through or upon the streets.

Source: Laws 1901, c. 18, § 48, XIV, p. 248; R.S.1913, § 4826; C.S.1922, § 3994; C.S.1929, § 16-211; R.S.1943, § 16-210; Laws 1967, c. 67, § 1, p. 219.

Where the Legislature has provided a limitation upon the speed of vehicles, the city, by ordinance, may make further restrictions, if the same are reasonable and made necessary by the circumstances, and such ordinances do not prohibit or restrict the free use of the streets. Christensen v. Tate, 87 Neb. 848, 128 N.W. 622 (1910).

Prior to the enactment of this section in 1901, the fee of the streets was in the city in trust for public use, and such city could not sell or permanently obstruct them, without compensation being paid owners of property specially injured thereby. Omaha & R. V. R. R. Co. v. Rogers, 16 Neb. 117, 19 N.W. 603 (1884); Burlington & M. R. R. Co. v. Reinhackle, 15 Neb. 279, 18 N.W. 69 (1883), 48 Am. R. 342 (1883).

A purchaser of a tract by metes and bounds is not entitled to an injunction to restrain claimant from enclosing an alley, where the addition from which purchaser obtained his tract, was not platted, dedicated nor conveyed to public. Bushman v. Gibson, 15 Neb. 676, 20 N.W. 106 (1884).

Court will not by mandamus compel city to remove building temporarily placed in the street, which placement was reasonable and necessary for the erection of a building upon an adjoining lot, provided, the obstruction was not unreasonably prolonged. State ex rel. Beatty v. City of Omaha, 14 Neb. 265, 15 N.W. 210 (1883), 45 Am. R. 108 (1883).

City is primarily liable for injury, though it has recourse from owner, where owner let a contract for excavation of a sidewalk space, and where by reason of the acts of negligence of the contractor in making such excavation, the plaintiff was injured. Palmer v. City of Lincoln, 5 Neb. 136, 25 Am. R. 470 (1876).

16-211 Railroads; depots; power to regulate.

A city of the first class by ordinance may regulate levees, depots, depot grounds, and places for storing freight and goods, and provide for and regulate the passage of railways through the streets and public grounds of the city, reserving the rights of all persons injured thereby.

Source: Laws 1901, c. 18, § 48, XV, p. 248; R.S.1913, § 4827; C.S.1922, § 3995; C.S.1929, § 16-212; R.S.1943, § 16-211.

16-212 Railroads; safety regulations; power to prescribe.

A city of the first class by ordinance may regulate the crossing of railway tracks and provide precautions and prescribe rules regulating the same, regulate the running of railway engines, cars, and trucks within the limits of such city, and prescribe rules relating thereto, and govern the speed thereof, and make other and further provisions, rules, and restrictions to prevent accidents at the crossings and on the tracks of railways, and to prevent fires from engines. A city of the first class may regulate and prescribe the manner of running street cars, require the heating and cleaning of such cars, and fix and determine the fare charged, require the lighting of any railways within the city in such manner as the city shall prescribe, and fix and determine the number, style, and size of the lampposts, burners, lamps, and all other fixtures and apparatus necessary for such lighting, and the points of location for such lampposts. If the company owning or operating such railways shall fail to

comply with such requirements, the city council may cause such requirements to be complied with by giving notice of such action and may assess the expense of complying with such requirements against such company, and the expense shall constitute a lien on any real estate belonging to such company, and lying within such city, and may be collected in the same manner as taxes for general purposes. The city may (1) require railroad companies to keep flagmen at all railroad crossings of streets, and provide protection against injury to persons and property in the use of such railroads, (2) compel any railroad to raise or lower their railroad tracks to conform to the general grade, which may at any time be established by such city, and where such tracks run lengthwise through or over any street, alley, or highway, to keep the tracks level with the street surface, and (3) compel and require railroad companies to keep open the streets, and to construct and keep in repair ditches, drains, sewers, and culverts, along and under their railroad tracks, and to pave their whole right-of-way on all paved streets, and keep the right-of-way and tracks in repair.

Source: Laws 1901, c. 18, § 48, XVI, p. 249; R.S.1913, § 4828; C.S.1922, § 3996; C.S.1929, § 16-213; R.S.1943, § 16-212; Laws 2016, LB704, § 20.

16-213 Money; power to borrow.

A city of the first class may borrow money on the credit of the city and pledge the credit, revenue, and public property of the city for the payment thereof when authorized in the manner provided by law.

Source: Laws 1901, c. 18, § 48, XVII, p. 249; R.S.1913, § 4829; C.S.1922, § 3997; C.S.1929, § 16-214; R.S.1943, § 16-213; Laws 2016, LB704, § 21.

16-214 Bonds; refunding indebtedness.

A city of the first class by ordinance may provide for issuing bonds, for the purpose of funding any and all indebtedness of the city, due or to become due. Floating indebtedness shall be funded only by authority of a vote of the people, but the mayor and city council may by a two-thirds vote issue bonds to pay off any bonded debt without a vote of the people.

Source: Laws 1901, c. 18, § 48, XVIII, p. 250; R.S.1913, § 4830; Laws 1919, c. 34, § 1, p. 112; C.S.1922, § 3998; C.S.1929, § 16-215; R.S.1943, § 16-214; Laws 1969, c. 51, § 26, p. 288; Laws 2016, LB704, § 22.

Strict compliance with all the prerequisites of the statute must be shown before mandamus will compel Auditor of Public Accounts to register a bond issue, and where notice of bond election was given for twenty days and statute requires four weeks, such notice is not sufficient. State ex rel. City of Fremont v. Babcock, 25 Neb. 500, 41 N.W. 450 (1889).

16-215 Bonds; sinking fund; authorized; tax to retire bonds.

A city of the first class may make provision for a sinking fund to pay accruing interest and to pay at maturity the principal of the bonded indebtedness of the city, levy and collect taxes on all the taxable property in the city, in addition to other taxes, for the purpose of paying the same, and provide that the tax shall be paid in cash.

Source: Laws 1901, c. 18, § 48, XIX, p. 250; R.S.1913, § 4831; C.S.1922, § 3999; C.S.1929, § 16-216; R.S.1943, § 16-215.

16-216 Special elections; authorized; regulation.

A city of the first class may provide for the holding and regulation of special elections, the return and canvass of votes cast thereat, and pay the expenses of the same.

Source: Laws 1901, c. 18, § 48, XXI, p. 250; R.S.1913, § 4832; C.S.1922, § 4000; C.S.1929, § 16-217; R.S.1943, § 16-216.

In absence of a limitation in the act granting it authority to issue bonds, the city has power to levy sufficient taxes to pay the same, and a judgment against the city for the amount of the bonds puts the question of authority to levy the tax to pay such bonds to rest, and mandamus will enforce such levy. United States ex rel. Masslich v. Saunders, 124 F. 124 (8th Cir. 1903).

16-217 Officers; removal; vacancies; how filled.

A city of the first class by ordinance may provide for the removal of elective officers of the city for misconduct. The city may create any office that it deems necessary for the good government and interest of the city. The city may provide for filling vacancies which occur in any elective office, except the mayor or member of the city council, by appointment by the mayor with the consent of the city council to hold his or her office for the unexpired term. Whenever the city council fails to consent to any appointment made under this section by the mayor by the close of the second regular city council meeting following the announcement of the appointment, the vacancy shall be filled by a special election to be held as prescribed by ordinance in the ward in which such vacancy exists. A vacancy in the office of the mayor or on the city council shall be filled as provided in section 32-568.

Source: Laws 1901, c. 18, § 48, XXII, p. 250; R.S.1913, § 4833; C.S.1922, § 4001; C.S.1929, § 16-218; R.S.1943, § 16-217; Laws 1957, c. 55, § 1, p. 266; Laws 1972, LB 1145, § 1; Laws 1980, LB 601, § 1; Laws 1990, LB 853, § 1; Laws 1994, LB 76, § 484; Laws 2016, LB704, § 23.

Where a board has authority to remove an officer for cause, a court will not interfere by injunction, where the board has not acted. Cox v. Moores, 55 Neb. 34, 75 N.W. 35 (1898).

Where statute provides "for removing officers of the city for misconduct", the council acting without the mayor, is without power to remove the mayor and such attempted removal is null and void. Stahlhut v. Bauer, 51 Neb. 64, 70 N.W. 496 (1897).

16-218 Officers; regulation.

Except as otherwise provided by law, a city of the first class by ordinance may regulate and prescribe the powers, duties, and compensation of the officers of the city and classify such offices, on the basis of merit as the city council shall provide for that purpose.

Source: Laws 1901, c. 18, § 48, XXIII, p. 250; R.S.1913, § 4834; C.S. 1922, § 4002; C.S.1929, § 16-219; Laws 1939, c. 11, § 1, p. 78; C.S.Supp.,1941, § 16-219; R.S.1943, § 16-218; Laws 2016, LB704, § 24.

16-219 Officers; bonds or insurance; restrictions upon officers as sureties.

A city of the first class by ordinance may require all officers, elected or appointed, to give bond and security or evidence of equivalent insurance for the faithful performance of their duties. No officer shall become surety upon the official bond of another, or upon any contractor's bond, license, or appeal bond

given to the city, or under any ordinance thereof, or from conviction in the county court for violation of any ordinance of such city.

Source: Laws 1901, c. 18, § 48, XXIV, p. 250; R.S.1913, § 4835; C.S.1922, § 4003; C.S.1929, § 16-220; R.S.1943, § 16-219; Laws 1972, LB 1032, § 102; Laws 2007, LB347, § 8; Laws 2016, LB704, § 25.

16-220 Officers; reports; required; when.

A city of the first class may require from any officer of the city at any time a report in detail of the transactions in his or her office or of any matters connected therewith.

Source: Laws 1901, c. 18, § 48, XXV, p. 251; R.S.1913, § 4836; C.S.1922, § 4004; C.S.1929, § 16-221; R.S.1943, § 16-220; Laws 2016, LB704, § 26.

16-221 Watercourses; surface waters; regulation.

A city of the first class may establish, alter, and change the channel of watercourses, and wall and cover them over. No city shall be liable in damages on account of the accumulations of surface waters which fall upon its site, or any portion thereof, unless such accumulations be caused by the act of a city officer while employed in his or her official capacity and by authorization of the mayor and city council first entered of record.

Source: Laws 1901, c. 18, § 48, XXVIII, p. 253; Laws 1907, c. 13, § 1, p. 110; R.S.1913, § 4837; C.S.1922, § 4005; C.S.1929, § 16-222; R.S.1943, § 16-221; Laws 2016, LB704, § 27.

Courts by injunction will prevent a village from accumulating surface waters upon its site or any portion thereof and discharging it by ditches upon lands of another. Andrews v. Village of Steele City, 2 Neb. Unof. 676, 89 N.W. 739 (1902).

16-222 Fire department; establishment authorized; fire prevention; regulations.

A city of the first class may provide for the organization and support of a fire department; procure fire engines, hooks, ladders, buckets, and other apparatus; organize fire engine, hook and ladder, and bucket companies, and prescribe rules for duty and the government of the fire department, with such penalties as the city council may deem proper, not exceeding one hundred dollars; make all necessary appropriations for the fire department; and establish regulations for the prevention and extinguishment of fires. The city may prescribe limits within which no building shall be constructed except of brick, stone, or other incombustible material, with fireproof roof, and impose a penalty for the violation of such ordinance. The city may cause the destruction or removal of any building constructed or repaired in violation of such ordinance, and after such limits are established, no special permits shall be given for the erection or repairing of buildings of combustible material. The city may regulate the construction and inspection of, and order the suppression of and cleaning of, fireplaces, chimneys, stoves, stovepipes, ovens, boilers, kettles, forges, or any apparatus used in any building, business, or enterprise which may be dangerous in causing or promoting fires, and prescribe limits within which dangerous or obnoxious and offensive businesses or enterprises may be conducted.

Source: Laws 1901, c. 18, § 48, XXIX, p. 253; R.S.1913, § 4838; C.S.1922, § 4006; C.S.1929, § 16-223; R.S.1943, § 16-222; Laws 2016, LB704, § 28.

A city is liable, under the workmen's compensation law, to a fireman injured while attending a firemen's convention with the consent and approval of city authorities. City of Fremont v. Lea, 115 Neb. 565, 213 N.W. 820 (1927).

16-222.01 Emergency response systems; legislative findings.

The Legislature finds that matters relating to emergency medical first response and fire protection are matters of state concern, particularly in larger cities that rely primarily or entirely upon volunteers to provide these services. Recognizing the increasing complexity and difficulty of providing these services, the stringent and growing training demands made upon volunteers, the demographics of an aging population, the economic pressures that deny or inhibit employers from granting the opportunity for volunteers to respond to emergency calls during business hours, and the economic costs to residents and businesses of financing either a paid or partly paid emergency response system, the Legislature hereby declares the necessity of establishing a system and process whereby certain cities of the first class would be required to review, study, and modify on a continuing basis their emergency response systems, with appropriate public input, based upon local conditions and circumstances.

Source: Laws 2008, LB1096, § 1.

16-222.02 Employment of full-time fire chief; appointment; duties.

Each city of the first class with a population in excess of forty-one thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census shall employ a full-time fire chief with appropriate training, credentials, and experience and for whom firefighting or emergency medical first response is a full-time career. The fire chief shall be appointed under the Civil Service Act by the mayor with the approval of the city council or by the city manager in cities that have adopted the city manager plan of government. The fire chief shall have the immediate superintendence of the fire prevention, fire suppression, and emergency medical first response services and the facilities and equipment related to such services of the city. The fire chief shall promulgate, implement, and enforce rules governing the actions and conduct of volunteer members of the department so as to be in conformity with the personnel policies of the city.

Source: Laws 2008, LB1096, § 2; Laws 2015, LB455, § 1; Laws 2016, LB857, § 1; Laws 2017, LB113, § 10.

Cross References

Civil Service Act, see section 19-1825.

16-222.03 Fire chief; annual report; contents; report to city council.

(1) In addition to such other duties as may be performed by the fire chief employed pursuant to section 16-222.02, he or she shall keep and maintain full and complete records regarding the twelve-month period ending thirty days prior to the annual report of the chief to the city council as provided for in subsection (2) of this section. Such records include, but are not limited to, the number of volunteers in active volunteer service providing emergency response services to the city including their ages, the amount and type of training received by each volunteer during the course of his or her time of service as an active volunteer, the number of new volunteers recruited during such period, the number of volunteers who ceased to be active volunteers during that period, the basic information regarding each volunteer specified in section 35-1309.01,

the number and nature of calls or requests for emergency services, the response time for each call, to be calculated from the time of receipt of the dispatch to the time of arrival of the first fire or rescue emergency response vehicle at the site of the request, the number of volunteers responding to each call, and the time each call was received. The city council may specify any additional information to be gathered or collected by the fire chief or as the fire chief may recommend.

(2) The fire chief shall collate and analyze the information gathered pursuant to subsection (1) of this section and shall, no less than once in any twelve-month period, on a date specified by the city council, provide a report to the city council at a regular council meeting on the prior year's experience regarding the volunteer department and shall make such recommendations as he or she deems appropriate.

Source: Laws 2008, LB1096, § 3.

16-223 Repealed. Laws 1991, LB 356, § 36.

16-224 Fuel and feed; inspection and sale; regulation.

A city of the first class by ordinance may provide for the inspection of electric light, water and gas meters, the inspection and weighing of hay, grain and coal, and the measuring of wood and fuel to be used in the city, and determine the place or places of the same. It may regulate and prescribe the place or places of exposing for sale of hay, coal and wood, provide for the appointment of an inspector, and fix the fees and duties of the inspector and of other persons authorized to perform such duties.

Source: Laws 1901, c. 18, § 48, XXXI, p. 254; Laws 1905, c. 25, § 2, p. 250; R.S.1913, § 4840; C.S.1922, § 4008; C.S.1929, § 16-225; R.S.1943, § 16-224.

16-225 Police; regulation; penalties; power to prescribe.

A city of the first class may regulate its police force, establish and support a night watch, impose fines, forfeitures, confinement, and penalties for the breach of any ordinance, and for recovery and collection of such fines, forfeitures, and penalties. In default of payment, it may provide for confinement in the city or county jail or other place of confinement as may be provided by ordinance or as provided under section 16-252.

Source: Laws 1901, c. 18, § 48, XXXII, p. 254; R.S.1913, § 4841; C.S.1922, § 4009; C.S.1929, § 16-226; R.S.1943, § 16-225; Laws 1965, c. 47, § 1, p. 247; Laws 2016, LB704, § 29.

16-226 Billiard halls; bowling alleys; disorderly houses; gambling; regulation.

A city of the first class by ordinance may regulate, prohibit, and suppress unlicensed billiard tables and bowling alleys, may restrain houses of prostitution, opium joints, dens, and other disorderly houses and practices, games, and gambling houses, may regulate all public amusements, shows, or exhibitions, and may prohibit all lotteries, all fraudulent devices and practices for the purpose of obtaining money or property, all shooting galleries except as provided in the Nebraska Shooting Range Protection Act, and all kinds of public indecencies, except that nothing in this section shall be construed to

apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act.

Source: Laws 1901, c. 18, § 48, XXXIII, p. 254; R.S.1913, § 4842; C.S. 1922, § 4010; C.S.1929, § 16-227; R.S.1943, § 16-226; Laws 1986, LB 1027, § 188; Laws 1991, LB 849, § 61; Laws 1993, LB 138, § 63; Laws 2009, LB503, § 13; Laws 2016, LB704, § 30.

Cross References

Nebraska Bingo Act, see section 9-201.
Nebraska Lottery and Raffle Act, see section 9-401.
Nebraska Pickle Card Lottery Act, see section 9-301.
Nebraska Shooting Range Protection Act, see section 37-1301.
Nebraska Small Lottery and Raffle Act, see section 9-501.
State Lottery Act, see section 9-801.

Under the terms of a prior act, the Legislature authorized cities to prohibit, or to license, the keeping of billiard and pool tables for hire, and to provide a fine for the violation thereof. In re Langston, 55 Neb. 310, 75 N.W. 828 (1898).

16-227 Riots; disorderly conduct; use of explosives; weapons; vagabonds; lights; bonfires; regulation.

A city of the first class may (1) prevent and restrain riots, routs, noises, disturbances, breach of the peace, or disorderly assemblies in any street, house, or place in the city, (2) regulate, punish, and prevent the discharge of firearms, rockets, powder, fireworks, or any other dangerous combustible material in the streets, lots, grounds, and alleys or about or in the vicinity of any buildings, (3) regulate, prevent, and punish the carrying of concealed weapons, except the carrying of a concealed handgun in compliance with the Concealed Handgun Permit Act, (4) arrest, regulate, punish, or fine vagabonds, (5) regulate and prevent the transportation or storage of gunpowder or other explosive or combustible articles, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitroglycerine, dynamite, petroleum or any other productions thereof, and other materials of like nature, the use of lights in stables, shops, or other places, and the building of bonfires, and (6) regulate and prohibit the piling of building material or any excavation or obstruction in the street.

Source: Laws 1901, c. 18, § 48, XXXIV, p. 255; R.S.1913, § 4843; C.S. 1922, § 4011; C.S.1929, § 16-228; R.S.1943, § 16-227; Laws 2009, LB430, § 3; Laws 2016, LB704, § 31.

Cross References

Concealed Handgun Permit Act, see section 69-2427.

City's delegated power hereunder to control storage of petroleum products must be exercised by ordinance. State ex rel. Andruss v. Mayor & Council of City of North Platte, 120 Neb. 413, 233 N.W. 4 (1930).

16-228 Disturbing the peace; punishment.

A city of the first class by ordinance may provide for the punishment of persons disturbing the peace and good order of the city by clamor and noise, by intoxication, drunkenness, fighting, or using obscene or profane language in the streets or other public places, or otherwise violating the public peace by indecent and disorderly conduct, or by lewd or lascivious behavior.

Source: Laws 1901, c. 18, § 48, XXXV, p. 255; R.S.1913, § 4844; C.S. 1922, § 4012; C.S.1929, § 16-229; R.S.1943, § 16-228.

Urinating in public constituted disorderly conduct under ordinance validly enacted pursuant to this section. State v. Cherry, 185 Neb. 103, 173 N.W.2d 887 (1970).

16-229 Vagrants; pickpockets; other offenders; punishment.

A city of the first class by ordinance may provide for the punishment of vagrants, tramps or street beggars, prostitutes, disturbers of the peace, pickpockets, gamblers, burglars, thieves, and persons who practice any game, trick, or device with intent to swindle.

Source: Laws 1901, c. 18, § 48, XXXVI, p. 255; R.S.1913, § 4845; C.S. 1922, § 4013; C.S.1929, § 16-230; R.S.1943, § 16-229; Laws 2016, LB704, § 32.

16-230 Drainage; nuisance; weeds; litter; removal; notice; action by city council; hearing; violation; penalty; civil action; special assessment.

(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. 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 excessive growth of weeds, grasses, or worthless vegetation, and may prohibit and control the throwing, depositing, or accumulation of litter on any lot or piece of ground within the city or within the city's extraterritorial zoning jurisdiction.

(2) Any city of the first class may by ordinance declare it to be a nuisance to permit or maintain excessive growth 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. 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, 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 as a special assessment 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.

Source: Laws 1901, c. 18, § 48, XXXVII, p. 255; R.S.1913, § 4846; Laws 1915, c. 84, § 1, p. 222; C.S.1922, § 4014; C.S.1929, § 16-231; R.S.1943, § 16-230; Laws 1975, LB 117, § 1; Laws 1988, LB 934, § 2; Laws 1991, LB 330, § 1; Laws 1995, LB 42, § 2; Laws 2004, LB 997, § 1; Laws 2009, LB495, § 5; Laws 2013, LB643, § 1; Laws 2015, LB266, § 6; Laws 2015, LB361, § 18; Laws 2016, LB704, § 33.

City owes no duty to provide drainage for property within its limits, where another due to a change in street grade caused inundation of plaintiff's premises. City of Beatrice v. Knight, 45 Neb. 546, 63 N.W. 838 (1895).

16-231 Health; nuisances; regulation.

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 the extraterritorial zoning jurisdiction 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.

Source: Laws 1901, c. 18, § 48, XXXVIII, p. 256; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4847; C.S.1922, § 4015; C.S.1929, § 16-232; R.S.1943, § 16-231; Laws 1988, LB 934, § 3; Laws 2016, LB704, § 34.

City had power to contract for removal of refuse, filth, and garbage from public and private premises, within its limits, and to pay therefor from the miscellaneous fund appropriated for such purposes, though it was impossible to estimate the exact amount required at time the appropriation was made. Kelly v. Broadwell, 3 Neb. Unof. 617, 92 N.W. 643 (1902).

16-232 Excavations; regulation.

A city of the first class by ordinance may prevent the digging of holes, pits, or excavations within the city, except for the purpose of building where such

excavations are made, prevent the leaving of any holes, pits, or excavations within such city in an exposed condition, and require the filling of same.

Source: Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4848; C.S.1922, § 4016; C.S.1929, § 16-233; R.S.1943, § 16-232; Laws 2016, LB704, § 35.

16-233 Public buildings; safety regulations; licensing; violations; penalty.

A city of the first class may regulate, license, or suppress halls, opera houses, places of amusement, entertainment, or instruction, or other buildings except churches and schools used for the assembly of citizens, and cause them to be provided with sufficient and ample means of exit and entrance, and to be supplied with necessary and appropriate appliances for the extinguishment of fire and for escape from such places in case of fire, and prevent overcrowding and regulate the placing and use of seats, chairs, benches, scenery, curtains, blinds, screens, or other appliances therein. A city of the first class may provide that for any violation of any such regulation a penalty of two hundred dollars shall be imposed, and upon conviction of any such licensees of any violation of any ordinance regulating such places, the license of any such place shall be revoked by the mayor and city council. Whenever the mayor and city council shall by resolution declare any such place to be unsafe, the license thereof shall be deemed revoked by adoption of such resolution. The city council may provide that in any case where it has so revoked a license, any owner, proprietor, manager, lessee or person opening, using, or permitting such place to be opened or used for any purpose involving the assemblage of more than twelve persons shall upon conviction thereof be deemed guilty of a misdemeanor and fined in any sum not exceeding two hundred dollars.

Source: Laws 1901, c. 18, § 48, XXXIX, p. 256; R.S.1913, § 4849; C.S.1922, § 4017; C.S.1929, § 16-234; R.S.1943, § 16-233; Laws 2016, LB704, § 36.

16-234 Building; construction; safety regulations.

A city of the first class by ordinance may prescribe the thickness, strength, and manner of constructing stone, brick, and other buildings, and the number and construction of means of exit and entrance, and of fire escapes. It may require the keeper or proprietor of any hotel, boarding house or dormitory to provide and maintain such kind and such number of ladders, ropes, balconies, stairways, and other appliances as by ordinance may be prescribed to facilitate the escape of persons from any such building in case of fire.

Source: Laws 1901, c. 18, § 48, XL, p. 256; R.S.1913, § 4850; C.S.1922, § 4018; C.S.1929, § 16-235; R.S.1943, § 16-234.

16-235 Animals and fowl; running at large; regulation.

A city of the first class may regulate or prohibit the running at large of cattle, hogs, horses, mules, sheep, goats, dogs and other animals, chickens, ducks, geese and other fowls, and cause such as may be running at large to be impounded and sold to discharge the costs and penalties provided for the violation of such prohibitions, and the fees and expenses of impounding and keeping the same, and of such sale.

Source: Laws 1901, c. 18, § 48, XLI, p. 257; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4851; C.S.1922, § 4019; C.S.1929, § 16-236; R.S.1943, § 16-235.

16-236 Pounds; erection; keepers.

A city of the first class may provide for the erection of all necessary pens, pounds, and buildings for the use of the city, within the city limits or within its extraterritorial zoning jurisdiction, appoint and compensate keepers thereof, and establish and enforce rules governing the same.

Source: Laws 1901, c. 18, § 48, XLII, p. 257; R.S.1913, § 4852; C.S.1922, § 4020; C.S.1929, § 16-237; R.S.1943, § 16-236; Laws 2016, LB704, § 37.

16-237 Property; sale at auction; regulation.

A city of the first class by ordinance may regulate, license, or prohibit the sale of domestic animals or of goods, wares, and merchandise at public auction on the streets, alleys, highways, or any public grounds within the city; and regulate or license the auctioneering of goods, wares, domestic animals, and merchandise. If the applicant is an individual, an application for a license shall include the applicant's social security number.

Source: Laws 1901, c. 18, § 48, XLIII, p. 257; R.S.1913, § 4853; C.S. 1922, § 4021; C.S.1929, § 16-238; R.S.1943, § 16-237; Laws 1997, LB 752, § 75.

The right to enact ordinances regulating auction sales within the corporate limits is conferred by this section, but ordinance enacted cannot place arbitrary and unreasonable restrictions on the conduct of lawful business. Webber v. City of Scottsbluff, 141 Neb. 363, 3 N.W.2d 635 (1942).

16-238 Spread of disease; regulation; board of health; creation; powers; duties.

A city of the first class may make regulations to prevent the introduction and spread of contagious, infectious, or malignant diseases into the city. In cities with a commission plan of government as provided in the Municipal Commission Plan of Government Act and cities with a city manager plan of government as provided in the City Manager Plan of Government Act, a board of health shall be created consisting of five members: The mayor, who shall be chairperson, a physician, who shall be medical adviser, the chief of police, who shall be secretary and quarantine officer, and two other members. In all other cities, a board of health shall be created consisting of five members: The mayor, who shall be chairperson, a physician, who shall be medical adviser, the chief of police, who shall be secretary and quarantine officer, the president of the city council, and one other member. A majority of such board shall constitute a quorum and shall enact rules and regulations, having the force and effect of law, to safeguard the health of the people of such city and prevent nuisances and unsanitary conditions, enforce the same, and provide fines and punishments for the violation of such rules and regulations.

Source: Laws 1901, c. 18, § 48, XLIV, p. 257; R.S.1913, § 4854; Laws 1919, c. 37, § 1, p. 118; C.S.1922, § 4022; C.S.1929, § 16-239; R.S.1943, § 16-238; Laws 1977, LB 190, § 1; Laws 1993, LB 119, § 1; Laws 1994, LB 1019, § 1; Laws 2016, LB704, § 38; Laws 2019, LB193, § 2.

Cross References

City Manager Plan of Government Act, see section 19-601.
Municipal Commission Plan of Government Act, see section 19-401.

16-239 Hospitals; jails; other institutions; erection; regulation.

A city of the first class may erect, establish, and regulate hospitals, multiunit housing, houses of correction, jails, station houses, and other necessary buildings and provide for the support and government of such buildings and facilities.

Source: Laws 1901, c. 18, § 48, XLV, p. 257; R.S.1913, § 4855; C.S.1922, § 4023; C.S.1929, § 16-240; R.S.1943, § 16-239; Laws 1992, LB 1240, § 13; Laws 2016, LB704, § 39.

16-240 Health; sanitary regulations.

A city of the first class by ordinance may make regulations to secure the general health of the city, prescribe rules for the prevention, abatement, and removal of nuisances, make and prescribe regulations for the construction, location, and keeping in order of all slaughterhouses, stockyards, warehouses, sheds, stables, barns, dairies, or other places where offensive matter is kept, or is likely to accumulate, within the city or within its extraterritorial zoning jurisdiction, and to limit or fix the maximum number of swine or neat cattle that may be kept in sheds, stables, barns, feedlots, or other enclosures.

Source: Laws 1901, c. 18, § 48, XLVI, p. 257; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4856; Laws 1919, c. 37, § 1, p. 119; C.S.1922, § 4024; C.S.1929, § 16-241; R.S.1943, § 16-240; Laws 2015, LB266, § 7; Laws 2016, LB704, § 40.

Ordinance prohibiting keeping classes of livestock within three hundred feet of a residence is constitutional and valid under this section. Beaty v. Baker, 183 Neb. 349, 160 N.W.2d 199 (1968).

City, by ordinance, is authorized to make it unlawful to maintain stockyards within certain limits of city, and such act is not an arbitrary and unreasonable interference with owner's property, though such yards are properly maintained and are not a nuisance. Union Pacific R. R. Co. v. State of Nebraska, 88 Neb. 247, 129 N.W. 290 (1911).

Cities have the power to contract for the removal of refuse, filth, and garbage from public and private premises, within their limits. Kelly v. Broadwell, 3 Neb. Unof. 617, 92 N.W. 643 (1902).

16-241 Cemeteries; hospital grounds; waterworks; acquisition; control.

A city of the first class may purchase, hold, and pay for, as provided in sections 16-241 to 16-245, lands for the purpose of the burial of the dead, and all necessary grounds for hospital grounds and waterworks, and have and exercise police jurisdiction over such lands, grounds, and waterworks, and over any cemetery lying near such city and used by the inhabitants thereof.

Source: Laws 1901, c. 18, § 48, XLVII, p. 258; R.S.1913, § 4857; C.S. 1922, § 4025; C.S.1929, § 16-242; R.S.1943, § 16-241; Laws 1973, LB 276, § 1; Laws 2016, LB704, § 41.

Cross References

For additional provisions relating to cemeteries, see Chapter 12.

16-242 Cemeteries; maintenance; funds; how used.

(1) A city of the first class may survey, plat, map, grade, fence, ornament, and otherwise improve all burial and cemetery grounds and avenues leading thereto owned by such city. It may construct walks, rear and protect ornamental trees therein, and provide for paying the expenses thereof.

(2) After the burial and cemetery grounds are fully paid for, the city may set aside the proceeds of the sale of lots as a perpetual fund to be invested as provided by ordinance. The income from the fund may be used for the general

care, management, maintenance, improvement, beautifying, and welfare of the cemetery. The principal of the perpetual fund may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as long as no more than twenty percent of the principal is so used in any fiscal year and no more than forty percent of the principal is so used in any period of ten consecutive fiscal years. The principal of the perpetual fund may also be used for the purchase and development of additional land to be used for cemetery purposes as long as no more than twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.

(3) The city may receive money by donation, bequest, or otherwise for credit to the perpetual fund to be invested as provided by ordinance or as conditioned by the donor. The income therefrom may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate. The principal therefrom may be used for the general care, management, maintenance, improvement, beautifying, and welfare of the cemetery as the donor may designate as long as no more than twenty percent of the principal is so used in any fiscal year and no more than forty percent of the principal is so used in any period of ten consecutive fiscal years. The principal therefrom may also be used for the purchase and development of additional land to be used for cemetery purposes as the donor may designate as long as no more than twenty-five percent of the principal is so used in any fiscal year and no more than thirty-five percent of the principal is so used in any period of ten consecutive fiscal years.

(4) The city treasurer shall be the custodian of such funds, and the same shall be invested by a board composed of the mayor, city treasurer, and city clerk.

(5) This section does not limit the use of any money that comes to the city by donation, bequest, or otherwise that is not designated to be credited to the perpetual fund or that allows greater use for purchase or development of additional land to be used for cemetery purposes.

Source: Laws 1901, c. 18, § 48, XLVIII, p. 258; Laws 1913, c. 256, § 1, p. 790; R.S.1913, § 4858; C.S.1922, § 4026; C.S.1929, § 16-243; R.S.1943, § 16-242; Laws 2005, LB 262, § 2; Laws 2009, LB500, § 2.

16-243 Cemeteries; lots; how conveyed; title.

A city of the first class may convey cemetery lots owned by such city, by certificates signed by the mayor and countersigned by the city clerk under the seal of the city specifying that the person to whom the certificate is issued is the owner of the lot or lots described therein by number as laid down on such plat or map, for the purpose of interment. Such certificate shall vest in the proprietor, his or her heirs and assigns, a right in fee simple of such lot for the sole purpose of interment, under the regulations of the city council.

Source: Laws 1901, c. 18, § 48, XLIX, p. 258; R.S.1913, § 4859; C.S.1922, § 4027; C.S.1929, § 16-244; R.S.1943, § 16-243; Laws 2015, LB241, § 2; Laws 2016, LB704, § 42.

16-244 Cemeteries; sale of lots; monuments; regulations.

A city of the first class by ordinance may limit the number of cemetery lots which shall be owned by one person at the same time; prescribe rules for

enclosing, adorning, and erecting monuments and tombstones on cemetery lots; prohibit any diversion of the use of such lots and any improper adornment thereof; but no religious test shall be made as to the ownership of lots, the burial therein or the ornamentation of graves or lots.

Source: Laws 1901, c. 18, § 48, L, p. 258; R.S.1913, § 4860; C.S.1922, § 4028; C.S.1929, § 16-245; R.S.1943, § 16-244.

16-245 Cemeteries; ordinances governing; enforcement.

A city of the first class may pass rules and ordinances imposing penalties and fines not exceeding one hundred dollars, regulating, protecting and governing the cemetery, the owners of lots therein, visitors thereof, and trespassers therein. The officers of such city shall have as full jurisdiction and power in the enforcing of such rules and ordinances as though they related to the city itself.

Source: Laws 1901, c. 18, § 48, LI, p. 258; R.S.1913, § 4861; C.S.1922, § 4029; C.S.1929, § 16-246; R.S.1943, § 16-245.

16-246 General ordinances; authorized; jurisdiction.

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, 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 may (1) impose fines, forfeitures, and penalties for the violation of any ordinance, (2) provide for the recovery, collection, and enforcement of such fines, forfeitures, or penalties, and (3) in default of payment, provide for confinement in the city or county jail or other place of confinement 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 the extraterritorial zoning jurisdiction of the city.

Source: Laws 1901, c. 18, § 48, LII, p. 259; R.S.1913, § 4862; C.S.1922, § 4030; C.S.1929, § 16-247; R.S.1943, § 16-246; Laws 1965, c. 47, § 2, p. 247; Laws 1965, c. 48, § 2, p. 249; Laws 1988, LB 934, § 4; Laws 2016, LB704, § 43.

City was authorized to enact ordinance for parking meters as a regulatory measure. School District of McCook v. City of McCook, 163 Neb. 817, 81 N.W.2d 224 (1957).

Where there is no building or other existing ordinance that prevents the building of an oil station, and where a few doors from the location where plaintiff wishes to construct such station there is a like station, the passing of an ordinance to prohibit plaintiff from building such station is so unreasonable and discriminatory as to be unconstitutional. Standard Oil Company v. City of Kearney, 106 Neb. 558, 184 N.W. 109 (1921).

16-247 Ordinances; revision; publication.

A city of the first class may revise the ordinances of the city from time to time and publish the same in book, pamphlet, or electronic form. Such revision shall be by one ordinance, embracing all ordinances preserved as changed or added to and perfected by revision, and shall embrace all the ordinances of every nature preserved, and be a repeal of all ordinances in conflict with such revision; but all ordinances then in force shall continue in force after such

revision for the purpose of all rights acquired, fines, penalties, forfeitures, and liabilities incurred, and actions therefor. The only title necessary for such revision and repeal shall be An ordinance to revise all the ordinances of the city of ....., and sections and chapters may be used instead of numbers, and original titles need not be preserved, nor signature of the mayor required.

Source: Laws 1901, c. 18, § 48, LIV, p. 259; Laws 1903, c. 19, § 9, p. 240; R.S.1913, § 4863; C.S.1922, § 4031; C.S.1929, § 16-248; R.S.1943, § 16-247; Laws 2016, LB704, § 44; Laws 2021, LB159, § 2.

Cross References

For procedure generally in revision of ordinances, see sections 16-403 to 16-405.

16-248 Trees, planting; birds, protection of.

A city of the first class may provide for planting and protection of shade, ornamental, and useful trees and for the protection of birds, their nests and eggs.

Source: Laws 1901, c. 18, § 50, p. 268; R.S.1913, § 4864; C.S.1922, § 4032; C.S.1929, § 16-249; R.S.1943, § 16-248.

16-249 Streets, alleys, bridges, and sewers; construction and maintenance.

A city of the first class may provide for the grading, repairing, and sprinkling of any street, avenue, or alley, and the construction of bridges, culverts, and sewers, and shall defray the repairs of the street, avenue, alley, bridge, culvert, or sewer out of the proper fund of such city, but no street shall be graded except the street ordered to be done by the affirmative vote of two-thirds of the city council. On written petition of not less than one-half the owners of street front of the land fronting on any street or any specified part thereof, the mayor and city council may order such street or any specified part thereof to be sprinkled with water at such time or times as the city council may deem proper. Such sprinkling shall be done by contract awarded to the lowest responsible bidder in each case, and for the entire city or specified district thereof. To pay the expenses of such sprinkling the city council may make special assessments upon the lands abutting upon such street or specified part thereof either on the valuation thereof, as listed for taxation, or by foot front. Such assessment shall be collected by special taxation.

Source: Laws 1901, c. 18, § 48, III, p. 245; Laws 1909, c. 19, § 1, p. 183; R.S.1913, § 4865; C.S.1922, § 4033; C.S.1929, § 16-250; R.S.1943, § 16-249; Laws 2016, LB704, § 45.

City has authority to establish a street grade and to work the streets accordingly, and where there is no evidence that the grade is changed, there being no provisions for payment of damages for injury, no action for damages will lie. Nebraska City v. Lampkin, 6 Neb. 27 (1877).

16-250 Sidewalks; sewers; drains; construction and repair; special assessments.

A city of the first class may construct or repair sidewalks, sewers, and drains on any highway in the city, construct or repair iron railings or gratings for areaways, cellars, or entrances to basements of buildings, and levy a special assessment on lots or parcels of land fronting on such sidewalk, waterway, highway, or alley to pay the expense of such improvements, to be assessed as a special assessment. Unless a majority of the owners of the property subject to

assessment for such improvements petition the city council to make the improvements, such improvements shall not be made until three-fourths of all the members of the city council, by vote, assent to the making of the improvements, which vote, by yeas and nays, shall be entered of record.

Source: Laws 1901, c. 18, § 48, VI, p. 246; Laws 1907, c. 13, § 1, p. 110; R.S.1913, § 4866; C.S.1922, § 4034; C.S.1929, § 16-251; R.S. 1943, § 16-250; Laws 2015, LB361, § 19; Laws 2016, LB704, § 46.

Cross References

Manner of assessment, see section 16-666.

16-251 Libraries and museums; establishment; maintenance; powers and duties of mayor and city council.

The mayor and city council of any city of the first class may (1) establish and maintain public libraries, reading rooms, art galleries, and museums and provide the necessary grounds or buildings therefor, (2) purchase the papers, books, maps, manuscripts, and works of art and objects of natural or scientific curiosity and instruction therefor, and (3) receive donations and bequests of money or property for the public libraries, reading rooms, art galleries, and museums in trust or otherwise. The mayor and city council may also pass necessary bylaws and regulations for the protection and government of the public libraries, reading rooms, art galleries, and museums. The ownership of the real and personal property of a public library shall be in the city. The mayor and city council shall approve any personnel administrative or compensation policy or procedure applying to a director or employee of a public library, reading room, art gallery, or museum before such policy or procedure is implemented.

Source: Laws 1901, c. 18, § 49, p. 268; Laws 1903, c. 19, § 10, p. 241; R.S.1913, § 4867; C.S.1922, § 4035; C.S.1929, § 16-252; R.S. 1943, § 16-251; Laws 2012, LB470, § 1; Laws 2016, LB704, § 47.

16-252 County jail; use by city; compensation.

Any city of the first class shall have the right to use the jail of the county for the confinement of such persons as may be imprisoned under the ordinances of such city. The city shall be liable to the county for the cost of keeping such prisoners as provided by section 47-120.

Source: Laws 1901, c. 18, § 95, p. 296; R.S.1913, § 4869; C.S.1922, § 4037; C.S.1929, § 16-254; Laws 1937, c. 85, § 1, p. 282; C.S.Supp.,1941, § 16-254; R.S.1943, § 16-252; Laws 1961, c. 40, § 1, p. 168; Laws 1989, LB 4, § 1.

Cross References

For additional provisions relating to city jails and joint county and city jails, see sections 47-201 to 47-208 and 47-302 to 47-308.

16-253 Mayor and city council; supplemental powers; authorized.

When the power is conferred upon the mayor and city council of any city of the first class to do and perform any act or thing, and the manner of exercising

such power is not specially pointed out, the mayor and city council may provide by ordinance the details necessary for the full exercise of such power.

Source: Laws 1901, c. 18, § 120, p. 303; R.S.1913, § 4870; C.S.1922, § 4038; C.S.1929, § 16-255; R.S.1943, § 16-253; Laws 2016, LB704, § 48.

Appointment of a board of public works is entirely optional. State ex rel. City of Grand Island v. Union Pacific R. R. Co., 152 Neb. 772, 42 N.W.2d 867 (1950).

This section is grant in nature of police power exercisable for public benefit, supplementing express powers. City of Fremont v. Lea, 115 Neb. 565, 213 N.W. 820 (1927).

16-254 Ordinance; parking lots and shopping centers; regulation; when authorized.

Any city of the first class may by ordinance provide for regulation of traffic, public use and conduct of invitees upon specified parking lots, shopping centers and similar semipublic but privately owned places located within the city limits of such city when the owners or operators of such semipublic places make written request for the same. Such ordinances may provide for regulation of the flow of traffic, speed limits, offenses against the public morals, unlawful assembly, trespass and similar offenses to the same effect and with the same authority as can be done in public thoroughfares, public parking lots and other public places. Such ordinance shall provide penalties within the limits of authority granted to cities of the first class for violation of city ordinances. Nothing in this section shall require the city to furnish labor, material, supervision, personnel or services in connection with the establishment, supervision or enforcement of such ordinance or the maintenance or upkeep of such parking areas.

Source: Laws 1969, c. 71, § 1, p. 393.

16-255 Facilities, programs, and services for elderly persons; authorized.

A city of the first class may plan, initiate, operate, maintain, administer funding for, and evaluate facilities, programs, and services designed to meet the needs of elderly persons. Such city may contract with state agencies, political subdivisions, and private nonprofit agencies to exercise and carry out such powers.

Source: Laws 1991, LB 810, § 1.

ARTICLE 3

OFFICERS, ELECTIONS, EMPLOYEES

Section
16-301. Repealed. Laws 1969, c. 257, § 44.
16-302. Repealed. Laws 1969, c. 257, § 44.
16-302.01. Officers; election; qualifications; term.
16-303. Repealed. Laws 1969, c. 257, § 44.
16-304. City council; members; bond or insurance; payment of premium; amount; conditions.
16-305. Officers and employees; merger of offices or employment; salaries.
16-306. City of the second class; reorganization as city of the first class; city council member; continuance in office.
16-307. Repealed. Laws 1994, LB 76, § 615.
16-308. Administrator, departments, and other appointed officers; enumerated; appointment and removal.
16-309. Appointed officers; terms.
16-310. Officers and employees; compensation fixed by ordinance.

Section
16-310.01. Repealed. Laws 1959, c. 266, § 1.
16-311. Officers; qualifications.
16-312. Mayor; powers and duties.
16-313. Mayor; veto power; passage over veto.
16-314. Mayor; legislative recommendations; jurisdiction.
16-315. Repealed. Laws 1994, LB 76, § 615.
16-316. Mayor; pardons; remission of fines.
16-317. City clerk; duties.
16-318. City treasurer; bond or insurance; premium; duties; reports; continuing education; requirements.
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16-328. Transferred to section 19-3501.
16-329. Repealed. Laws 1971, LB 562, § 7.
16-330. Repealed. Laws 1983, LB 237, § 22.
16-331. Repealed. Laws 1983, LB 237, § 22.
16-332. Repealed. Laws 1983, LB 237, § 22.
16-333. Repealed. Laws 1983, LB 237, § 22.
16-334. Repealed. Laws 1983, LB 237, § 22.
16-335. Repealed. Laws 1983, LB 237, § 22.
16-336. Repealed. Laws 1983, LB 237, § 22.
16-336.01. Repealed. Laws 1983, LB 237, § 22.
16-337. Repealed. Laws 1983, LB 237, § 22.

16-301 Repealed. Laws 1969, c. 257, § 44.

16-302 Repealed. Laws 1969, c. 257, § 44.

16-302.01 Officers; election; qualifications; term.

In any city of the first class except any city having adopted the commissioner or city manager plan of government, the mayor and city council members shall be registered voters of the city and the city council members shall be residents of the ward from which elected if elected by ward and residents of the city if elected at large. The city council may also, by a two-thirds vote of its members, provide by ordinance for the election of the treasurer and clerk. All nominations and elections of such officers shall be held as provided in the Election Act. The terms of office of all such members shall commence on the first regular meeting of the city council in December following their election.

Source: Laws 1969, c. 257, § 3, p. 933; Laws 1973, LB 558, § 1; Laws 1975, LB 323, § 1; Laws 1976, LB 688, § 1; Laws 1977, LB 201, § 4; Laws 1979, LB 421, § 2; Laws 1979, LB 80, § 22; Laws 1981, LB 446, § 1; Laws 1982, LB 807, § 41; Laws 1983, LB 308, § 2; Laws 1990, LB 957, § 3; Laws 1990, LB 853, § 2; Laws 1994, LB 76, § 485; Laws 2001, LB 730, § 1; Laws 2016, LB704, § 49.

Cross References

City council, election, see section 32-534.
Election Act, see section 32-101.
Vacancies, see sections 32-568 and 32-569.

16-303 Repealed. Laws 1969, c. 257, § 44.

16-304 City council; members; bond or insurance; payment of premium; amount; conditions.

Each city council member of a city of the first class, before entering upon the duties of his or her office, shall be required to give bond or evidence of equivalent insurance to the city. The bond shall be with two or more good and sufficient sureties or some responsible surety company. If by two sureties, they shall each justify that he or she is worth at least two thousand dollars over and above all debts and exemptions. Such bonds or evidence of equivalent insurance shall be in the sum of one thousand dollars, shall be conditioned for the faithful discharge of the duties of the city council member giving such bond or insurance, and shall be further conditioned that if the city council member shall vote for any expenditure or appropriation of money or creation of any liability in excess of the amount allowed by law, such city council member, and the sureties signing such bond, shall be liable thereon. The bond shall be filed with the city clerk and approved by the mayor, and upon the approval, the city may pay the premium for such bond. Any liability sought to be incurred, or debt created in excess of the amount limited or authorized by law, shall be taken and held by every court of the state as the joint and several liability and obligation of the city council member voting for and the mayor approving such liability, obligation, or debt, and not the debt, liability, or obligation of the city. Voting for or approving of such liability, obligation, or debt shall be conclusive evidence of malfeasance in office for which such city council member or mayor may be removed from office.

Source: Laws 1901, c. 18, § 12, p. 232; Laws 1903, c. 19, § 1, p. 232; Laws 1907, c. 13, § 1, p. 106; R.S.1913, § 4872; Laws 1915, c. 85, § 1, p. 223; C.S.1922, § 4040; Laws 1923, c. 67, § 2, p. 202; C.S.1929, § 16-302; R.S.1943, § 16-304; Laws 1965, c. 49, § 1, p. 250; Laws 1979, LB 80, § 23; Laws 2007, LB347, § 9; Laws 2016, LB704, § 50; Laws 2019, LB194, § 4.

16-305 Officers and employees; merger of offices or employment; salaries.

All officers and employees of a city of the first class shall receive such compensation as the mayor and city council may fix at the time of their appointment or employment, subject to the limitations set forth in this section. The city council may at its discretion by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except mayor and city council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time. The city manager in a city under the city manager plan of government as provided in the City Manager Plan of Government Act may in his or her discretion combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except mayor and city council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any

combination of duties of any such offices or employments may be held by the same officer or employee at the same time. The offices or employments so merged and combined shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined.

Source: Laws 1907, c. 13, § 1, p. 107; R.S.1913, § 4872; Laws 1915, c. 85, § 1, p. 224; C.S.1922, § 4040; Laws 1923, c. 67, § 2, p. 203; C.S.1929, § 16-302; R.S.1943, § 16-305; Laws 1984, LB 368, § 1; Laws 1990, LB 756, § 1; Laws 1990, LB 931, § 2; Laws 1991, LB 12, § 1; Laws 1994, LB 76, § 486; Laws 2016, LB704, § 51; Laws 2019, LB193, § 3; Laws 2019, LB194, § 5.

Cross References

City Manager Plan of Government Act, see section 19-601.

The city clerk is an elective officer, and cannot be appointed as a disbursing officer or to any other office by the council. City of Scottsbluff v. Southern Surety Co., 124 Neb. 260, 246 N.W. 346 (1933).

16-306 City of the second class; reorganization as city of the first class; city council member; continuance in office.

In any city which becomes a city of the first class, any city council member whose term extends through another year or years by reason of his or her prior election under the provisions governing cities of the second class shall hold his or her office as a city council member from the ward in which he or she is a resident as if he or she were elected for the same term under the provisions of the Election Act governing cities of the first class.

Source: Laws 1915, c. 85, § 1, p. 224; C.S.1922, § 4040; Laws 1923, c. 67, § 2, p. 203; C.S.1929, § 16-302; R.S.1943, § 16-306; Laws 1969, c. 257, § 4, p. 934; Laws 1979, LB 80, § 24; Laws 1990, LB 957, § 4; Laws 1994, LB 76, § 487; Laws 2016, LB704, § 52.

Cross References

Election Act, see section 32-101.
For reorganization as city of the first class, see sections 16-102 and 16-103.

16-307 Repealed. Laws 1994, LB 76, § 615.

16-308 Administrator, departments, and other appointed officers; enumerated; appointment and removal.

Each city of the first class shall have such departments and appointed officers as shall be established by ordinance passed by the city council, which shall include a city clerk, treasurer, engineer, and attorney, and such officers as may otherwise be required by law. Except as provided in the City Manager Plan of Government Act, the mayor may, with the approval of the city council, appoint the necessary officers, as well as an administrator, who shall perform such duties as prescribed by ordinance. Except as provided in the City Manager Plan of Government Act, the appointed officers may be removed at any time by the mayor with approval of a majority of the city council. The office of administrator may not be held by the mayor. The appointed administrator may concur-

rently hold any other appointive office provided for in this section and section 16-325.

Source: Laws 1901, c. 18, § 14, p. 233; Laws 1903, c. 19, § 2, p. 233; Laws 1907, c. 13, § 1, p. 107; R.S.1913, § 4874; Laws 1917, c. 95, § 1, p. 252; Laws 1921, c. 164, § 1, p. 657; C.S.1922, § 4042; C.S.1929, § 16-304; R.S.1943, § 16-308; Laws 1953, c. 26, § 1, p. 110; Laws 1961, c. 41, § 1, p. 171; Laws 1963, c. 61, § 2, p. 254; Laws 1974, LB 1024, § 1; Laws 1975, LB 93, § 1; Laws 1976, LB 782, § 12; Laws 2016, LB704, § 53; Laws 2019, LB193, § 4.

Cross References

City Manager Plan of Government Act, see section 19-601.

City attorney is appointive officer and not principal officer; may be removed at any time by mayor with approval of majority of city council; and has no statutory power to make governmental decisions which affect the city. Communication Workers of America, AFL-CIO v. City of Hastings, 198 Neb. 668, 254 N.W.2d 695 (1977).

16-309 Appointed officers; terms.

All officers of a city of the first class appointed by the mayor and confirmed by the city council shall hold the office to which they may be appointed until the end of the mayor's term of office and until their successors are appointed and qualified, unless sooner removed or the ordinance creating the office is repealed, or as otherwise provided by law.

Source: Laws 1901, c. 18, § 15, p. 233; Laws 1903, c. 19, § 3, p. 234; R.S.1913, § 4875; C.S.1922, § 4043; C.S.1929, § 16-305; R.S. 1943, § 16-309; Laws 1997, LB 734, § 1; Laws 2016, LB704, § 54; Laws 2019, LB194, § 6.

16-310 Officers and employees; compensation fixed by ordinance.

The officers and employees in cities of the first class shall receive such compensation as the mayor and city council shall fix by ordinance.

Source: Laws 1901, c. 18, § 17, p. 234; Laws 1901, c. 19, § 1, p. 306; Laws 1903, c. 19, § 4, p. 234; Laws 1907, c. 13, § 1, p. 108; R.S.1913, § 4876; Laws 1915, c. 85, § 2, p. 224; Laws 1917, c. 95, § 1, p. 253; Laws 1919, c. 36, § 1, p. 117; C.S.1922, § 4044; C.S.1929, § 16-306; Laws 1943, c. 30, § 1, p. 139; R.S. 1943, § 16-310; Laws 1947, c. 25, § 1, p. 126; Laws 1955, c. 29, § 1, p. 134; Laws 1963, c. 62, § 1, p. 255; Laws 1965, c. 50, § 1, p. 251; Laws 1969, c. 75, § 1, p. 404; Laws 2016, LB704, § 55.

The clerk is required to perform all his duties for a compensation not to exceed the amount previously fixed by the council. City of Scottsbluff v. Southern Surety Company, 124 Neb. 260, 246 N.W. 346 (1933).

Where no ordinance fixing salaries was in effect, at time of the election, the fixing of salaries by the council after the election did not constitute raising such salaries. Wheelock v. McDowell, 20 Neb. 160, 29 N.W. 291 (1886).

16-310.01 Repealed. Laws 1959, c. 266, § 1.

16-311 Officers; qualifications.

All elected officers of a city of the first class shall be registered voters of the city.

Source: Laws 1901, c. 18, § 18, p. 234; Laws 1907, c. 13, § 1, p. 108; R.S.1913, § 4877; Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4045; C.S.1929, § 16-307; Laws 1931, c. 31, § 1, p. 122; C.S.Supp.,1941, § 16-307; R.S.1943, § 16-311; Laws 1969, c. 76, § 1, p. 405; Laws 1994, LB 76, § 488.

16-312 Mayor; powers and duties.

The mayor of a city of the first class shall preside at all the meetings of the city council and shall have the right to vote when his or her vote will provide the additional vote required to create a number of votes equal to a majority of the number of members elected to the city council. He or she shall have the superintending control of all the officers and affairs of the city and shall take care that the ordinances of the city and the provisions of law relating to cities of the first class are complied with. He or she may administer oaths and shall sign the commissions and appointments of all the officers appointed in the city.

Source: Laws 1901, c. 18, § 19, p. 234; R.S.1913, § 4878; C.S.1922, § 4046; C.S.1929, § 16-308; R.S.1943, § 16-312; Laws 1957, c. 55, § 2, p. 266; Laws 1980, LB 662, § 1; Laws 1989, LB 790, § 1; Laws 2016, LB704, § 56; Laws 2019, LB194, § 7.

When the population of a city of the first class, at the last United States census, drops below the number required for such classification, it becomes a city of the second class and the duties of the mayor are definite and mandatory. State ex rel. Cashman v. Carmean, 138 Neb. 819, 295 N.W. 801 (1941).

16-313 Mayor; veto power; passage over veto.

The mayor of a city of the first class shall have the power to approve or veto any ordinance passed by the city council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim. If the mayor approves the ordinance, order, bylaw, resolution, contract, or claim, he or she shall sign it, and it shall become effective. If the mayor vetoes the ordinance, order, bylaw, resolution, contract, or any item or items of appropriations or claims, he or she shall return it to the city council stating that the measure is vetoed. The mayor may issue the veto at the meeting at which the measure passed or within seven calendar days after the meeting. If the mayor issues the veto after the meeting, the mayor shall notify the city clerk of the veto in writing. The city clerk shall notify the city council in writing of the mayor's veto. Any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim vetoed by the mayor, may be passed over his or her veto by a vote of two-thirds of all the members elected to the city council, notwithstanding his or her veto. If the mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim, but fails to veto the measure within the time required by this section, the measure shall become effective without his or her signature. The mayor may veto any item or items of any appropriation bill or any claims bill, and approve the remainder thereof, and the item or items so vetoed may be passed by the city council over the veto as in other cases.

Source: Laws 1901, c. 18, § 20, p. 234; R.S.1913, § 4879; C.S.1922, § 4047; C.S.1929, § 16-309; R.S.1943, § 16-313; Laws 2014, LB803, § 1; Laws 2016, LB704, § 57; Laws 2019, LB194, § 8.

Under a similar section where four councilmen voted for, and four councilmen against, the issuance of a liquor license, and the mayor voted for its issuance, such vote of the mayor does not come within any exceptions direct or implied, and such mayor has the authority to cast the deciding vote. Rohrer v. Hastings Brewing Company, 83 Neb. 111, 119 N.W. 27 (1908).

16-314 Mayor; legislative recommendations; jurisdiction.

The mayor of a city of the first class shall, from time to time, communicate to the city council such information and recommend such measures as in his or her opinion may tend to the improvement of the finances of the city, the police,

health, comfort, and general prosperity of the city, and may have such jurisdiction as may be invested in him or her by ordinance over all places within the extraterritorial zoning jurisdiction of the city, for the enforcement of health or quarantine ordinances and the regulation thereof.

Source: Laws 1901, c. 18, § 21, p. 235; Laws 1901, c. 19, § 2, p. 307; R.S.1913, § 4880; C.S.1922, § 4048; C.S.1929, § 16-310; R.S.1943, § 16-314; Laws 2016, LB704, § 58; Laws 2019, LB194, § 9.

16-315 Repealed. Laws 1994, LB 76, § 615.

16-316 Mayor; pardons; remission of fines.

The mayor of a city of the first class shall have power after conviction to remit fines and forfeitures, and to grant reprieves and pardons for all offenses arising under the ordinances of the city.

Source: Laws 1901, c. 18, § 23, p. 235; R.S.1913, § 4882; C.S.1922, § 4050; C.S.1929, § 16-312; R.S.1943, § 16-316; Laws 2019, LB194, § 10.

16-317 City clerk; duties.

The city clerk of a city of the first class shall have the custody of all laws and ordinances and shall keep a correct journal of the proceedings of the city council. After the period of time specified by the State Records Administrator pursuant to the Records Management Act, the city clerk may transfer such journal of the proceedings of the city council to the State Archives of the Nebraska State Historical Society for permanent preservation. He or she shall also perform such other duties as may be required by the ordinances of the city.

Source: Laws 1901, c. 18, § 25, p. 236; R.S.1913, § 4883; C.S.1922, § 4051; C.S.1929, § 16-313; R.S.1943, § 16-317; Laws 1973, LB 224, § 4; Laws 2013, LB112, § 1; Laws 2016, LB704, § 59; Laws 2019, LB194, § 11.

Cross References

Records Management Act, see section 84-1220.

This section does not require that the minutes of a meeting embody the full text of an ordinance adopted thereat, but they should set forth proceedings showing statutory requirements were complied with and that ordinance identified therein is preserved in a volume or file separate from the minutes. Webber v. City of Scottsbluff, 187 Neb. 282, 188 N.W.2d 214 (1971).

16-318 City treasurer; bond or insurance; premium; duties; reports; continuing education; requirements.

(1) The city treasurer of a city of the first class shall be required to give bond or evidence of equivalent insurance of not less than twenty-five thousand dollars, or he or she may be required to give bond in double the sum of money estimated by the city council at any time to be in his or her hands belonging to the city. The city treasurer shall be the custodian of all money belonging to the city. The city council shall pay the actual premium of the bond or insurance coverage of such treasurer.

(2) The city treasurer of a city of the first class shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt therefor, specifying date of payment and on what account paid. He or she shall also file

copies of such receipts, except tax receipts, with his or her monthly reports, and he or she shall at the end of every month, and as often as may be requested, render an account to the city council, under oath, showing the state of the treasury at the date of such account, the amount of money remaining in each fund and the amount paid therefrom, and the balance of money in the treasury. The city treasurer shall also accompany such account with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with all vouchers held by him or her, shall be filed with his or her account in the city clerk's office. He or she shall produce and show all funds shown by such report to be on hand, or satisfy the city council or its committee that he or she has such funds in his or her custody or under his or her control. If the city treasurer fails to render his or her account within twenty days after the end of the month, or by a later date established by the city council, the mayor with the consent of the city council may consider this failure as cause to remove the city treasurer from office.

(3) The city treasurer of a city of the first class shall keep a record of all outstanding bonds against the city, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. He or she shall accompany the annual statement submitted pursuant to section 19-1101 with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof.

(4) The city treasurer of a city of the first class may employ and appoint a delinquent tax collector, who shall be allowed a percentage upon his or her collections to be fixed by the city council, not to exceed the fees allowed by law to the county treasurer for like services. Upon taxes collected by such delinquent tax collector, the city treasurer shall receive no fees.

(5) The city treasurer of a city of the first class shall prepare all special assessment lists and shall collect all special assessments.

(6) The city treasurer shall annually complete continuing education through a program approved by the Auditor of Public Accounts, and proof of completion of such program shall be submitted to the Auditor of Public Accounts.

Source: Laws 1901, c. 18, § 26, p. 236; Laws 1909, c. 19, § 1, p. 181; R.S.1913, § 4884; C.S.1922, § 4052; C.S.1929, § 16-314; R.S.1943, § 16-318; Laws 1969, c. 77, § 1, p. 405; Laws 2005, LB 528, § 1; Laws 2007, LB347, § 10; Laws 2013, LB112, § 2; Laws 2016, LB704, § 60; Laws 2019, LB194, § 12; Laws 2020, LB781, § 3.

16-318.01 City clerk; city treasurer; offices combined; duties; salary.

Cities of the first class may by ordinance combine the offices of clerk and treasurer and provide for the payment of a salary to the person holding such combined offices. Such salary shall not be in excess of the maximum amount provided by law for the salary of the clerk in such city plus the maximum amount provided by law for the salary of the treasurer in such a city. When these offices are so combined, the duties of the treasurer shall be performed by the clerk.

Source: Laws 1943, c. 41, § 1, p. 185; R.S.1943, § 19-1601; Laws 1945, c. 25, § 4, p. 136.

16-319 City attorney; duties; compensation; additional legal assistance.

The city attorney of a city of the first class shall be the legal advisor of the city council and other city officers. The city attorney shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the city, or that may be ordered by the city council. He or she shall attend meetings of the city council and give them his or her opinion upon any matters submitted to him or her, either orally or in writing as may be required. The mayor and city council shall have the right to pay the city attorney additional compensation for legal services performed by him or her for the city or to employ additional legal assistance and to pay for such legal assistance out of the funds of the city. Whenever the mayor and city council have by ordinance so authorized, the board of public works shall have the right to pay the city attorney additional compensation for legal services performed by him or her for it or to employ additional legal assistance other than the city attorney and pay such legal assistance out of funds disbursed under the orders of the board of public works.

Source: Laws 1901, c. 18, § 27, p. 237; R.S.1913, § 4885; C.S.1922, § 4053; C.S.1929, § 16-315; R.S.1943, § 16-319; Laws 1947, c. 26, § 1, p. 127; Laws 1955, c. 30, § 1, p. 136; Laws 2016, LB704, § 61; Laws 2019, LB194, § 13.

City attorney is appointive officer and not principal officer; may be removed at any time by mayor with approval of majority of city council; and has no statutory power to make governmental decisions which affect the city. Communication Workers of America, AFL-CIO v. City of Hastings, 198 Neb. 668, 254 N.W.2d 695 (1977).

Where city attorney joined in resisting action to recover funds, demand to bring action was not required. Arthur v. Trindel, 168 Neb. 429, 96 N.W.2d 208 (1959).

16-320 City engineer; duties.

The city engineer of a city of the first class shall make a record of the minutes of his or her surveys and of all work done for the city, including sewers, extension of water systems and heating systems, electric light and sewerage systems, and power plants, and accurately make such plats, sections, profiles, and maps as may be necessary in the prosecution of any public work, which shall be public records and belong to the city and be turned over to his or her successor.

Source: Laws 1901, c. 18, § 28, p. 237; R.S.1913, § 4886; C.S.1922, § 4054; C.S.1929, § 16-316; R.S.1943, § 16-320; Laws 2016, LB704, § 62; Laws 2019, LB194, § 14.

Appointment of a board of public works is entirely optional. State ex rel. City of Grand Island v. Union Pacific R. R. Co., 152 Neb. 772, 42 N.W.2d 867 (1950).

16-321 City engineer; public works; prepare estimate of cost; board of public works; powers; contracts; procedure; city council; powers and duties; public emergency.

(1) The city engineer of a city of the first class shall, when requested by the mayor or city council, make estimates of the cost of labor and material which may be done or furnished by contract with the city and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, the building of culverts, sewers, electric light systems, waterworks, power plants, public heating systems, bridges, curbing, and gutters, the improvement of streets, and the erection and repair of buildings and shall perform

such other duties as the city council may require. When the city has appointed a board of public works, and the mayor and city council have by ordinance so authorized, such board may utilize its own engineering staff and may hire consulting engineers for the design and installation of extensions and improvements of the works under the jurisdiction of the board of public works. Whenever the mayor and city council have authorized the same, the board of public works may purchase material and employ labor for the enlargement or improvement of the systems and works under the jurisdiction of the board.

(2) Except as provided in section 18-412.01, no contract for enlargement or general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets, or any other work or improvement when the cost of such improvement is assessed to the property, costing over thirty thousand dollars shall be made unless it is first approved by the city council.

(3) Except as provided in section 18-412.01, before the city council makes any contract in excess of thirty thousand dollars for enlargement or general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the city engineer and submitted to the city council. In advertising for bids as provided in subsections (4) and (6) of this section, the city council may publish the amount of the estimate.

(4) Advertisements for bids shall be required for any contract costing over thirty thousand dollars entered into (a) for enlargement or general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, or (b) for the purchase of equipment used in the construction of such enlargement or general improvements.

(5) A municipal electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is: (a) Thirty thousand dollars or less; (b) sixty thousand dollars or less and the municipal electric utility has gross annual revenue from retail sales in excess of one million dollars; (c) ninety thousand dollars or less and the municipal electric utility has gross annual revenue from retail sales in excess of five million dollars; or (d) one hundred twenty thousand dollars or less and the municipal electric utility has gross annual revenue from retail sales in excess of ten million dollars.

(6) The advertisement provided for in subsections (3) and (4) of this section shall be published at least seven days prior to the bid closing in a legal newspaper in or of general circulation in the city. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of, or serious injury or damage to, life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by section 16-405 when adopted by a three-fourths vote of the city council and entered of record.

(7) If, after advertising for bids as provided in subsections (3), (4), and (6) of this section, the city council receives fewer than two bids on a contract or if the bids received by the city council contain a price which exceeds the estimated

cost, the mayor and the city council may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

(8) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the city council or board of public works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the city, the city council or board of public works may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

Source: Laws 1901, c. 18, § 29, p. 237; R.S.1913, § 4887; C.S.1922, § 4055; Laws 1925, c. 44, § 1, p. 174; C.S.1929, § 16-317; R.S.1943, § 16-321; Laws 1947, c. 26, § 2, p. 128; Laws 1951, c. 25, § 1, p. 115; Laws 1959, c. 61, § 1, p. 276; Laws 1969, c. 78, § 1, p. 407; Laws 1971, LB 85, § 1; Laws 1975, LB 171, § 1; Laws 1979, LB 356, § 1; Laws 1983, LB 304, § 1; Laws 1984, LB 540, § 7; Laws 1997, LB 238, § 1; Laws 2008, LB947, § 1; Laws 2016, LB704, § 63; Laws 2019, LB194, § 15.

Engineer may make an estimate of cost of paving without making a separate estimate of individual items going to make up such complete estimate. Wurdeman v. City of Columbus, 100 Neb. 134, 158 N.W. 924 (1916).

16-321.01 Municipal bidding procedure; waiver; when.

Any municipal bidding procedure may be waived by the city council or board of public works of a city of the first class (1) when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in sections 81-145 to 81-162, (2) when the contract is negotiated directly with a sheltered workshop pursuant to section 48-1503, or (3) when required to comply with any federal grant, loan, or program.

Source: Laws 1997, LB 238, § 2; Laws 2011, LB335, § 3; Laws 2019, LB194, § 16.

16-322 Special engineer; when employed.

The mayor and city council of a city of the first class may, whenever they deem it expedient, employ a special engineer to make or assist in making any particular estimate or survey, and any estimate or survey made by such special engineer shall have the same validity and serve in all respects as though the same had been made by the city engineer.

Source: Laws 1901, c. 18, § 98, p. 297; R.S.1913, § 4888; C.S.1922, § 4056; C.S.1929, § 16-318; R.S.1943, § 16-322; Laws 2016, LB704, § 64; Laws 2019, LB194, § 17.

16-323 Chief of police; police officers; powers and duties.

The chief of police of a city of the first class shall have the immediate superintendence of the police. He or she and the police officers shall have the power and the duty to arrest all offenders against the laws of the state or of the city, by day or by night, in the same manner as a county sheriff and to keep such offenders in the city prison or other place to prevent their escape until a trial or examination may be had before the proper officer. The chief of police and police officers shall have the same power as the county sheriff in relation to

all criminal matters arising out of a violation of a city ordinance and all process issued by the county court in connection with a violation of a city ordinance.

Source: Laws 1901, c. 18, § 30, p. 238; R.S.1913, § 4889; C.S.1922, § 4057; C.S.1929, § 16-319; R.S.1943, § 16-323; Laws 1972, LB 1032, § 103; Laws 1979, LB 80, § 26; Laws 1988, LB 1030, § 4; Laws 2016, LB704, § 65; Laws 2019, LB194, § 18.

Cross References

Ticket quota requirements, prohibited, see section 48-235.

Cited but not discussed. Frederickson v. Albertsen, 183 Neb. 494, 161 N.W.2d 712 (1968).

One can infer from this section that police officers may, under proper circumstances, exercise their authority and peacekeeping duties at any time. State v. Wilen, 4 Neb. App. 132, 539 N.W.2d 650 (1995).

16-324 Street commissioner; duties.

The street commissioner of a city of the first class shall be subject to the orders of the mayor and city council by resolution, have general charge, direction, and control of all work in the streets, sidewalks, culverts, and bridges of the city, except matters in charge of the board of public works, and shall perform such other duties as the city council may require.

Source: Laws 1901, c. 18, § 31, p. 238; R.S.1913, § 4890; C.S.1922, § 4058; C.S.1929, § 16-320; R.S.1943, § 16-324; Laws 1961, c. 42, § 1, p. 173; Laws 2016, LB704, § 66; Laws 2019, LB194, § 19.

16-325 Board of public works; appointment; oath; terms; duties; removal from office.

(1) There may be in each city of the first class a board of public works which shall consist of three members, each having a three-year term of office, or five members, each having a five-year term of office, the number to be set by ordinance, which members shall be residents of such city and be appointed by the mayor with the assent of the city council. When such board is first established, one member shall be appointed for a term of one year, one for two years, and one for three years and, in the case of a five-member board, an additional member shall be so appointed for four years and another for five years. Thereafter, as their terms expire, all members shall be appointed for a full term of three or five years as the case may be. The mayor, with the assent of the city council, shall designate one of the members of such board to be the chairperson thereof.

(2) Each of the members of the board of public works shall, before entering upon the discharge of his or her duties, take an oath to discharge faithfully the duties of the office.

(3) It shall be the duty of the board of public works to (a) make contracts on behalf of the city for the performance of all such work and erection of all such improvements in the manner provided in section 16-321, (b) superintend the performance of all such work and the erection of all such improvements, (c) approve the estimates of the city engineer, which may be made from time to time, of the value of the work as the same may progress, (d) accept any work done or improvements made when the same shall be fully completed according to contract, subject to the approval of the mayor and city council, and (e) perform such other duties as may be conferred upon such board by ordinance.

(4) Any member of the board of public works may at any time be removed from office by the mayor and a majority of the city council, and the proceedings in regard thereto shall be entered in the journal of the city council.

Source: Laws 1901, c. 18, § 70, p. 283; R.S.1913, § 4891; C.S.1922, § 4059; Laws 1925, c. 44, § 2, p. 175; C.S.1929, § 16-321; R.S.1943, § 16-325; Laws 1947, c. 26, § 3, p. 129; Laws 1953, c. 26, § 2, p. 111; Laws 1965, c. 52, § 1, p. 255; Laws 1971, LB 494, § 2; Laws 1973, LB 24, § 1; Laws 1984, LB 682, § 6; Laws 2016, LB704, § 67.

A member of the board of public works is prohibited from being interested in purchase of any material to be used for municipal purposes. Arthur v. Trindel, 168 Neb. 429, 96 N.W.2d 208 (1959).

Appointment of a board of public works is entirely optional. State ex rel. City of Grand Island v. Union Pacific R. R. Co., 152 Neb. 772, 42 N.W.2d 867 (1950).

16-326 Elective officers; compensation; change during term prohibited; exception.

The salary of any elective officer of any city of the first class shall not be increased or diminished during the term for which he or she was elected, except that when there are officers elected to the city council, or to a board or commission having more than one member and the terms of one or more members commence and end at different times, the compensation of all members of such city council, board, or commission may be increased or diminished at the beginning of the full term of any member thereof. No person who shall have resigned or vacated any office shall be eligible to the same during the time for which he or she was elected when, during the same time, the salary has been increased.

Source: Laws 1901, c. 18, § 32, p. 238; R.S.1913, § 4892; C.S.1922, § 4060; C.S.1929, § 16-322; R.S.1943, § 16-326; Laws 1969, c. 75, § 2, p. 404; Laws 1972, LB 943, § 1; Laws 2016, LB704, § 68; Laws 2019, LB194, § 20.

Member of board of public works cannot contract with city or village for additional salary as manager of public utilities. Neisius v. Henry, 142 Neb. 29, 5 N.W.2d 291 (1942).

16-327 Officers; reports required.

The mayor or city council of a city of the first class shall have power, when he, she, or it deems it necessary, to require any officer of the city to exhibit his or her accounts or other papers and make reports to the city council, in writing, touching any subject or matter it may require pertaining to the office.

Source: Laws 1901, c. 18, § 33, p. 239; R.S.1913, § 4893; C.S.1922, § 4061; C.S.1929, § 16-323; R.S.1943, § 16-327; Laws 1979, LB 80, § 27; Laws 2016, LB704, § 69; Laws 2019, LB194, § 21.

16-328 Transferred to section 19-3501.

16-329 Repealed. Laws 1971, LB 562, § 7.

16-330 Repealed. Laws 1983, LB 237, § 22.

16-331 Repealed. Laws 1983, LB 237, § 22.

16-332 Repealed. Laws 1983, LB 237, § 22.

16-333 Repealed. Laws 1983, LB 237, § 22.

16-334 Repealed. Laws 1983, LB 237, § 22.

16-335 Repealed. Laws 1983, LB 237, § 22.

16-336 Repealed. Laws 1983, LB 237, § 22.

16-336.01 Repealed. Laws 1983, LB 237, § 22.

16-337 Repealed. Laws 1983, LB 237, § 22.

ARTICLE 4
COUNCIL AND PROCEEDINGS

Section
16-401. City council; meetings, regular and special; quorum.
16-402. City council; president; acting president; duties.
16-403. City council; ordinances; passage; proof; publication.
16-404. City council; ordinances, resolutions, or orders; procedure for passage; vote of mayor, when; amendments; revision ordinances; revised election district boundaries; ordinance.
16-405. City council; ordinances; style; publication; emergency ordinances.
16-406. City council; testimony; power to compel; oaths.

16-401 City council; meetings, regular and special; quorum.

Regular meetings of the city council of a city of the first class shall be held at such times as may be fixed by ordinance and special meetings whenever called by the mayor or any four city council members. A majority of all the members elected to the city council shall constitute a quorum for the transaction of any business, except as otherwise required by law, but a less number may adjourn, from time to time, and compel the attendance of absent members. When the city council consists of four members as established by ordinance or home rule charter, the mayor shall be deemed a member of the city council for purposes of establishing a quorum when the mayor's presence is necessary to establish the quorum. An affirmative vote of not less than one-half of the elected members shall be required for the transaction of any business.

Source: Laws 1901, c. 18, § 16, p. 233; R.S.1913, § 4894; C.S.1922, § 4062; C.S.1929, § 16-401; R.S.1943, § 16-401; Laws 1975, LB 118, § 1; Laws 1987, LB 652, § 1; Laws 2016, LB704, § 70; Laws 2019, LB194, § 22; Laws 2020, LB1003, § 169.

Any business that might have been transacted at the regular meeting may be transacted at an adjournment thereof, where the adjournment is taken to a fixed date, unless a specified provision is made to the contrary. Ex parte Wolf, 14 Neb. 24, 14 N.W. 660 (1883).

16-402 City council; president; acting president; duties.

The city council of a city of the first class shall elect one of the city council members as president of the city council, and he or she shall preside at all meetings of the city council in the absence of the mayor. In the absence of the president, the city council members shall elect one of their own body to occupy the place temporarily, who shall be styled acting president of the city council. The president and acting president, when occupying the place of mayor, shall have the same privileges as other members of the city council, and all acts of

the president or acting president while so acting shall be as binding upon the city council and upon the city as if done by the mayor.

Source: Laws 1901, c. 18, § 53, p. 259; R.S.1913, § 4895; C.S.1922, § 4063; C.S.1929, § 16-402; R.S.1943, § 16-402; Laws 1987, LB 652, § 2; Laws 2016, LB704, § 71; Laws 2019, LB194, § 23.

16-403 City council; ordinances; passage; proof; publication.

All ordinances of a city of the first class shall be passed pursuant to such rules and regulations as the city council may provide, and all such ordinances may be proved by the certificate of the city clerk under the seal of the city. When printed or published in book, pamphlet, or electronic form and purporting to be published by authority of the city, such ordinances shall be read and received in evidence in all courts and places without further proof. The passage, approval, and publication or posting of such ordinance shall be sufficiently proved by a certificate under the seal of the city from the city clerk showing that such ordinance was passed and approved, and when and in what paper the same was published, and when and by whom and where the same was posted. When ordinances are published in book, pamphlet, or electronic form, purporting to be published by authority of the city council, the same need not be otherwise published and such book, pamphlet, or electronic form shall be received as evidence of the passage and legal publication of such ordinances, as of the dates mentioned in such book, pamphlet, or electronic form, in all courts without further proof.

Source: Laws 1901, c. 18, § 46, p. 244; R.S.1913, § 4896; C.S.1922, § 4064; C.S.1929, § 16-403; R.S.1943, § 16-403; Laws 2016, LB704, § 72; Laws 2019, LB194, § 24; Laws 2021, LB159, § 3.

Ordinances as published in book form are not competent evidence unless ''purported to be published by authority of the city''. Christensen v. Tate, 87 Neb. 848, 128 N.W. 622 (1910).

An ordinance that is duly approved and published is in full force and effect. In re Langston, 55 Neb. 310, 75 N.W. 828 (1898).

Where certificate shows ordinance was not properly published, ordinance is not admissible without further proof. Union P. Ry. Co. v. Montgomery, 49 Neb. 429, 68 N.W. 619 (1896).

16-404 City council; ordinances, resolutions, or orders; procedure for passage; vote of mayor, when; amendments; revision ordinances; revised election district boundaries; ordinance.

(1) All ordinances and resolutions or orders for the appropriation or payment of money in a city of the first class shall require for their passage or adoption the concurrence of a majority of all members elected to the city council. The mayor may vote on any such matter when his or her vote will provide the additional vote required to create a number of votes equal to a majority of the number of members elected to the city council, and the mayor shall, for the purpose of such vote, be deemed to be a member of the city council.

(2)(a) Ordinances of a general or permanent nature in a city of the first class shall be read by title on three different days unless three-fourths of the city council members vote to suspend this requirement, except that in a city having a commission plan of government such requirement may be suspended by a three-fifths majority vote.

(b) Regardless of the form of government, such requirement shall not be suspended (i) for any ordinance for the annexation of territory or the redrawing

of boundaries for city council election districts or wards except as otherwise provided in subsection (4) of this section or (ii) as otherwise provided by law.

(c) In case such requirement is suspended, the ordinances shall be read by title or number and then moved for final passage.

(d) Three-fourths of the city council members may require a reading of any such ordinance in full before enactment under either procedure set out in this section, except that in a city having a commission plan of government, such reading may be required by a three-fifths majority vote.

(3) Ordinances in a city of the first class shall contain no subject which is not clearly expressed in the title, and, except as provided in section 19-915, no ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that:

(a) For an ordinance revising all the ordinances of a city of the first class, the only title necessary shall be An ordinance of the city of . . . . . , revising all the ordinances of the city. Under such title all the ordinances may be revised in sections and chapters or otherwise, may be corrected, added to, and any part suppressed, and may be repealed with or without a saving clause as to the whole or any part without other title; and

(b) For an ordinance used solely to revise ordinances or code sections or to enact new ordinances or code sections in order to adopt statutory changes made by the Legislature which are specific and mandatory and bring the ordinances or code sections into conformance with state law, the title need only state that the ordinance revises those ordinances or code sections affected by or enacts ordinances or code sections generated by legislative changes. Under such title, all such ordinances or code sections may be revised, repealed, or enacted in sections and chapters or otherwise by a single ordinance without other title.

(4) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, the city council of any city of the first class requesting the adjustment of the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the requesting city council and subjected to all public review and challenge ordinances of the city by December 30, 2021. The revised election district boundary map shall be adopted by ordinance. Such ordinance shall be read by title on three different days unless three-fourths of the city council members vote to suspend this requirement.

Source: Laws 1901, c. 18, § 37, p. 240; Laws 1903, c. 19, § 5, p. 235; R.S.1913, § 4897; C.S.1922, § 4065; C.S.1929, § 16-404; R.S. 1943, § 16-404; Laws 1961, c. 43, § 1, p. 174; Laws 1969, c. 108, § 2, p. 510; Laws 1972, LB 1235, § 1; Laws 1975, LB 172, § 1; Laws 1980, LB 662, § 2; Laws 1989, LB 790, § 2; Laws 1990, LB 966, § 1; Laws 1994, LB 630, § 2; Laws 2003, LB 365, § 1; Laws 2016, LB704, § 73; Laws 2018, LB865, § 3; Laws 2019, LB193, § 5; Laws 2019, LB194, § 25; Laws 2021, LB131, § 11; Laws 2021, LB285, § 3.

Cross References

For other provisions for revision of ordinances, see section 16-247.

To be valid, a resolution recommending issuance or refusal of liquor license must be adopted by a majority of all elected members of city council. Hadlock v. Nebraska Liquor Control Commission, 193 Neb. 721, 228 N.W.2d 887 (1975).

Title of condemnation ordinance was sufficient. Webber v. City of Scottsbluff, 155 Neb. 48, 50 N.W.2d 533 (1951).

Provision of this section does not require a resolution or ordinance for a special election to authorize the construction of waterworks to be read three different days. Hevelone v. City of Beatrice, 120 Neb. 648, 234 N.W. 791 (1931).

To extent that ordinances are plainly repugnant, first is repealed by implication. Ex parte Wolf, 14 Neb. 24, 14 N.W. 660 (1883).

16-405 City council; ordinances; style; publication; emergency ordinances.

The style of ordinances of a city of the first class shall be: ''Be it ordained by the mayor and city council of the city of .....,'' and all ordinances of a general nature shall, within fifteen days after they are passed, be published in a legal newspaper in or of general circulation within the city, or in book, pamphlet, or electronic form, to be distributed or sold, as may be provided by ordinance. Every ordinance fixing a penalty or forfeiture for its violation shall, before the ordinance takes effect, be published for at least one week in the manner prescribed in this section. In cases of riots, infectious diseases, or other impending danger, or any other emergency requiring its immediate operation, such ordinance shall take effect upon the proclamation of the mayor immediately upon its first publication as provided in this section.

Source: Laws 1901, c. 18, § 47, p. 245; R.S.1913, § 4898; C.S.1922, § 4066; C.S.1929, § 16-405; R.S.1943, § 16-405; Laws 1971, LB 282, § 1; Laws 2016, LB704, § 74; Laws 2019, LB194, § 26; Laws 2021, LB159, § 4.

Publication in one regular issue of a legal newspaper in any week was sufficient notwithstanding this section and home rule charter. Skag-Way Department Stores, Inc. v. City of Grand Island, 176 Neb. 169, 125 N.W.2d 529 (1964).

One insertion in a daily paper does not meet the requirement of statute, since a publication must be continued in each issue thereof for a week. Union Pacific Railway Co. v. McNally, 54 Neb. 112, 74 N.W. 390 (1898); Union Pacific Railway Co. v. Montgomery, 49 Neb. 429, 68 N.W. 619 (1896).

One publication is sufficient if in weekly paper. State ex rel. Hahn v. Hardy, 7 Neb. 377 (1878).

16-406 City council; testimony; power to compel; oaths.

The city council of a city of the first class or any committee of the members thereof shall have power to compel the attendance of witnesses for the investigation of matters that may come before them. The president or acting president of the city council, or chairperson of such committee for the time being, may administer such requisite oaths. Such city council or committee shall have the same authority to compel the giving of testimony as is conferred on courts of justice.

Source: Laws 1901, c. 18, § 94, p. 296; R.S.1913, § 4899; C.S.1922, § 4067; C.S.1929, § 16-406; R.S.1943, § 16-406; Laws 2016, LB704, § 75; Laws 2019, LB194, § 27.

ARTICLE 5
CONTRACTS AND FRANCHISES

Section
16-501. Contracts; appropriation a condition precedent.
16-502. Officer; extra compensation prohibited; exception.
16-503. Contracts; concurrence of majority of city council required; vote of mayor; record.

16-501 Contracts; appropriation a condition precedent.

No contract shall be made by the city council in a city of the first class or any committee or member thereof and no expense shall be incurred by any of the officers or departments of the city, whether the object of the expenditure shall have been ordered by the city council or not, unless an appropriation shall have been previously made concerning such expense, except as otherwise expressly provided by law.

Source: Laws 1901, c. 18, § 44, p. 243; R.S.1913, § 4900; C.S.1922, § 4068; C.S.1929, § 16-501; R.S.1943, § 16-501; Laws 2016, LB704, § 76; Laws 2019, LB194, § 28.

16-502 Officer; extra compensation prohibited; exception.

No officer shall receive any pay or perquisites from a city of the first class other than his or her salary, as provided by ordinance and the law relating to cities of the first class, and the city council shall not pay or appropriate any money or any valuable thing to any person not an officer for the performance of any act, service, or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of such city, unless the money or valuable thing is specifically appropriated and ordered by a vote of three-fourths of all the members elected to the city council.

Source: Laws 1901, c. 18, § 45, p. 244; R.S.1913, § 4901; C.S.1922, § 4069; C.S.1929, § 16-502; R.S.1943, § 16-502; Laws 1957, c. 38, § 2, p. 207; Laws 1959, c. 62, § 1, p. 279; Laws 1961, c. 283, § 2, p. 830; Laws 1971, LB 491, § 3; Laws 1972, LB 1209, § 1; Laws 1973, LB 24, § 2; Laws 1983, LB 370, § 7; Laws 2016, LB704, § 77; Laws 2019, LB194, § 29.

Cross References

For other provisions of officers interested in public contracts, see sections 49-14,103.01 to 49-14,103.07.

Contracts between officer and city are void, and amount paid officer can be recovered. Arthur v. Trindel, 168 Neb. 429, 96 N.W.2d 208 (1959).

Salary of clerk was the limit of city clerk's compensation for official services of all kinds. City of Scottsbluff v. Southern Surety Co., 124 Neb. 260, 246 N.W. 346 (1933).

Under former law, the fact that a mayor and member of city council may have been subscribers for stock of the water company and such stock subscriptions were still unpaid, did not void a judgment of the water company against such city, where such city officers were no longer stockholders of such water company. City of Broken Bow v. Broken Bow Water-Works Company, 57 Neb. 548, 77 N.W. 1078 (1899).

Under former law, where a contract was made between the contractor and the city and a member of the city council was a stockholder and officer of the corporation, such contract was illegal and a taxpayer could enjoin the same. McElhinney v. City of Superior, 32 Neb. 744, 49 N.W. 705 (1891).

Under former law, a contract could be canceled at suit of taxpayer where one of the members of the council was also a stockholder in and officer of the corporation contracting with the city, but city must pay for the reasonable value of the services received prior to the commencement of the action. Grand Island Gas Company v. West, 28 Neb. 852, 45 N.W. 242 (1890).

16-503 Contracts; concurrence of majority of city council required; vote of mayor; record.

On the passage or adoption of every resolution or order to enter into a contract, or accepting of work done under contract, by the mayor or city council of a city of the first class, the yeas and nays shall be called and entered upon the record. To pass or adopt any bylaw or ordinance or any such resolution or order, a concurrence of a majority of the whole number of the members elected to the city council shall be required. The mayor may vote on any such matter when his or her vote will provide the additional vote required to create a number of votes equal to a majority of the number of members elected to the city council, and the mayor shall, for the purpose of such vote, be deemed to be a member of the city council. The requirements of a roll call or

viva voce vote shall be satisfied by a city which utilizes an electronic voting device which allows the yeas and nays of each city council member to be readily seen by the public.

Source: Laws 1901, c. 18, § 34, p. 239; R.S.1913, § 4903; C.S.1922, § 4071; C.S.1929, § 16-503; R.S.1943, § 16-503; Laws 1961, c. 43, § 2, p. 174; Laws 1975, LB 172, § 2; Laws 1978, LB 609, § 1; Laws 1980, LB 662, § 3; Laws 1988, LB 625, § 1; Laws 2016, LB704, § 78; Laws 2019, LB194, § 30.

Under former law mayor was not authorized to cast deciding vote on acceptance of bid for public works. Day v. City of Beatrice, 169 Neb. 858, 101 N.W.2d 481 (1960).

ARTICLE 6

PUBLIC IMPROVEMENTS

(a) CONDEMNATION PROCEEDINGS

Section

16-601. Transferred to section 19-709.
16-602. Repealed. Laws 1951, c. 101, § 127.
16-603. Repealed. Laws 1951, c. 101, § 127.
16-604. Repealed. Laws 1951, c. 101, § 127.
16-605. Property; condemnation for streets; damages; how paid.
16-606. Property; condemnation for streets; assessments; levy; collection.
16-607. Property; condemnation for other public purposes; bonds; issuance; approval by electors.
16-608. Property; condemnation; plat; filing.

(b) STREETS

16-609. Improvements; power of city council.
16-609.01. Land abutting street; industrial tract or school site; improvement; agreement.
16-610. Public ways; maintenance and repair.
16-611. Vacation of street or alley; abutting property; how treated.
16-612. Repealed. Laws 1980, LB 660, § 1.
16-613. Bridges; repair; duty of county; aid by city, when.
16-614. House numbers.
16-615. Grade or change of grade; procedure; damages; how ascertained; special assessments.
16-616. Repealed. Laws 1951, c. 101, § 127.
16-617. Improvement districts; power to establish.
16-617.01. Improvement, defined.
16-618. Improvement districts; property included.
16-619. Improvement districts; creation; notice.
16-620. Improvement districts; objections of property owners; effect.
16-621. Improvement districts; materials; kind; petition of landowners; bids; advertisement.
16-621.01. Improvements of streets and alleys; use of salt stabilized base or armor coating, when.
16-622. Improvement districts; assessments; how levied; when delinquent; interest; collection; procedure.
16-623. Improvement districts; bonds; interest.
16-624. Improvement districts; creation upon petition; denial; assessments; bonds.
16-625. Intersections; improvements; railways; duty to pave right-of-way.
16-626. Intersection improvement bonds; amount; interest; warrants; partial payments; final payment; interest; restrictions on work.
16-627. Intersections; improvement; cost; tax levy.
16-628. Improvements; tax; when due.
16-629. Curbs and gutters; authorized; petition; formation of district; bonds.

Section
16-630. Curbing and guttering bonds; interest rate; special assessments; how levied.
16-631. Curbing and guttering; cost; paving bonds may include; special assessment.
16-632. Improvement districts; assessments; when authorized; ordinary repairs excepted.
16-633. Improvements; assessments against public lands.
16-634. Improvements; real estate owned by minor or protected person; petition; guardian or conservator may sign.
16-635. Improvements; terms, defined; depth to which assessable.
16-636. Improvement districts; land which city council may include.
16-637. Improvements; special tax; assessments; action to recover.
16-638. Repealed. Laws 1963, c. 339, § 1.
16-639. Repealed. Laws 1963, c. 339, § 1.
16-640. Repealed. Laws 1963, c. 339, § 1.
16-641. Repealed. Laws 1963, c. 339, § 1.
16-642. Repealed. Laws 1963, c. 339, § 1.
16-643. Repealed. Laws 1963, c. 339, § 1.
16-644. Repealed. Laws 1963, c. 339, § 1.
16-645. Damages caused by construction; procedure.
16-646. Special taxes; lien upon property; collection.
16-647. Special taxes; payment by part owner.
16-648. Money from special assessments; how used.
16-649. Improvements; contracts; bids; requirement.
16-650. Public improvements; acceptance by city engineer; approval or rejection by city council.
16-651. Grading and grading districts.
16-652. Grading; special assessments; when delinquent.
16-653. Grading bonds; interest rate.
16-654. Grading upon petition; assessments; bonds.
16-655. Grading bonds; amount; sale; damages; how ascertained.

(c) VIADUCTS

16-656. Repealed. Laws 1949, c. 28, § 20.
16-657. Repealed. Laws 1949, c. 28, § 20.
16-658. Repealed. Laws 1949, c. 28, § 20.
16-659. Repealed. Laws 1949, c. 28, § 20.
16-660. Repealed. Laws 1949, c. 28, § 20.

(d) SIDEWALKS

16-661. Construction and repair; materials.
16-662. Construction and repair; failure of property owner; power of city.
16-663. Maintenance; snow and ice removal; duty of landowner; violation of ordinance; cause of action for damages.
16-664. Construction; cost; special assessment; levy; when delinquent; payment.
16-665. Ungraded streets; construction of sidewalks.
16-666. Assessments; levy; certification; collection.

(e) WATER, SEWER, AND DRAINAGE DISTRICTS

16-667. Creation of districts; regulations.
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16-6,111. Repealed. Laws 1999, LB 640, § 1.
16-6,112. Repealed. Laws 1999, LB 640, § 1.
16-6,113. Repealed. Laws 1999, LB 640, § 1.
16-6,114. Repealed. Laws 1999, LB 640, § 1.
16-6,115. Repealed. Laws 1999, LB 640, § 1.
16-6,116. Repealed. Laws 1999, LB 640, § 1.

(a) CONDEMNATION PROCEEDINGS

16-601 Transferred to section 19-709.

16-602 Repealed. Laws 1951, c. 101, § 127.

16-603 Repealed. Laws 1951, c. 101, § 127.

16-604 Repealed. Laws 1951, c. 101, § 127.

16-605 Property; condemnation for streets; damages; how paid.

Payment of damages assessed for the appropriation of private property for streets, alleys or boulevards in cities of the first class may be made out of the general or any other surplus fund.

Source: Laws 1903, c. 19, § 7, p. 239; R.S.1913, § 4906; C.S.1922, § 4074; Laws 1923, c. 145, § 1, p. 358; C.S.1929, § 16-603; R.S.1943, § 16-605.

Appropriation of lands for streets outside of city and the payment therefor is authorized. Webber v. City of Scottsbluff, 138 Neb. 416, 293 N.W. 276 (1940).

16-606 Property; condemnation for streets; assessments; levy; collection.

The city council of a city of the first class may assess and levy the whole expense and damage incurred in the creation of any street, avenue, or alley upon the real property fronting upon the same and other property nearby that may be benefited thereby in proportions according to benefits. Such assessments and levy shall be made by resolution, at a regular meeting of the city council, and notice of the time of such meeting and that such assessments will be made thereat shall be published in a legal newspaper in or of general circulation within the city ten days before such meeting. Such special taxes shall be due and payable to the city treasurer in thirty days after the assessment and levy. At the time of the next certification to the county clerk for general revenue purposes, such special assessment and levy, so far as not then paid, shall be certified to the county clerk and be put upon the tax list and be collected as other real estate taxes are collected, and paid over to the city treasurer to reimburse the city. Such special taxes shall be a lien on the property upon which assessed and levied from the assessment, and shall bear interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the time due until paid. The proceedings for widening streets shall be the same as herein provided for creating new streets, and shall apply to the widening of streets, alleys, and avenues.

Source: Laws 1903, c. 19, § 7, p. 239; R.S.1913, § 4906; C.S.1922, § 4074; Laws 1923, c. 145, § 1, p. 359; C.S.1929, § 16-603; R.S.1943, § 16-606; Laws 1980, LB 933, § 9; Laws 1981, LB 167, § 10; Laws 2016, LB704, § 79; Laws 2019, LB194, § 31.

16-607 Property; condemnation for other public purposes; bonds; issuance; approval by electors.

(1) Payment of damages assessed for the appropriation of private property for any of the purposes provided in section 19-709 but not provided for in section 16-606 may be made by the sale of the negotiable bonds of the city, and for that purpose the mayor and city council shall have power to borrow money and to pledge the property and credit of the city upon its negotiable bonds or otherwise in an amount not exceeding in the aggregate two hundred thousand dollars.

(2) No such bonds, referred to in subsection (1) of this section, shall be issued by the city council until the question of issuing the same shall have been submitted to the electors of the city at an election called and held for that purpose, notice of which election shall have been given by publication once each week three successive weeks prior thereto in a legal newspaper in or of general circulation in such city, and a majority of the electors voting on the

proposition shall have voted in favor of issuing such bonds. The proposition shall not be submitted until after the appraisers referred to in section 76-710 have made their report fixing the amount of the damages for the property appropriated. If the proposition fails to carry, it shall be equivalent to a repeal of the ordinance authorizing the appropriation proceedings, and the city shall not be bound in any way on account of the appropriation proceedings referred to in section 19-709.

(3) When the bonds, referred to in subsections (1) and (2) of this section, are for the purpose of purchasing any system or portion of a system already in existence, it shall not be necessary for the city engineer to make or the city council to adopt any plans or specifications for the work already in existence, but only for proposed changes or additional work.

Source: Laws 1923, c. 145, § 1, p. 359; C.S.1929, § 16-603; R.S.1943, § 16-607; Laws 1951, c. 26, § 1, p. 117; Laws 1953, c. 27, § 1, p. 113; Laws 1971, LB 534, § 12; Laws 2016, LB704, § 80.

16-608 Property; condemnation; plat; filing.

All cities of the first class upon condemning private property, shall cause to be recorded an accurate plat and a clear, definite description of the property so taken in the office of the register of deeds for the county within which such city is located, within sixty days after the other legal steps for the acquisition of such title shall have been taken.

Source: Laws 1901, c. 18, § 50, p. 268; R.S.1913, § 4907; C.S.1922, § 4075; C.S.1929, § 16-604; R.S.1943, § 16-608.

(b) STREETS

16-609 Improvements; power of city council.

The city council of a city of the first class shall have power to open, control, name, rename, extend, widen, narrow, vacate, grade, curb, gutter, park, and pave or otherwise to improve and control and keep in good repair and condition, in any manner it may deem proper, any street, avenue, or alley, or public park or square, or part of either, within the limits of the city or within its extraterritorial zoning jurisdiction, and it may grade partially or to the established grade, or park or otherwise improve any width or part of any such street, avenue, or alley. When the city vacates all or any portion of a street, avenue, or alley, or public park or square, or part of either, the city shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4908; C.S.1922, § 4076; C.S.1929, § 16-605; R.S.1943, § 16-609; Laws 2001, LB 483, § 4; Laws 2016, LB704, § 81; Laws 2019, LB194, § 32.

Authority is conferred on cities of the first class to regulate parking of vehicles on the street. Vap v. City of McCook, 178 Neb. 844, 136 N.W.2d 220 (1965).

Grant of power to city to curb and pave street was a delegation of police power. Hillerege v. City of Scottsbluff, 164 Neb. 560, 83 N.W.2d 76 (1957).

While authority is conferred upon the municipality to control its streets, yet the discretion must be exercised in a reasonable and not in an arbitrary and discriminatory manner. State ex rel. Andruss v. Mayor & Council of City of North Platte, 120 Neb. 413, 233 N.W. 4 (1930).

The mere establishment of grade, without alteration, creates no damage and the statute of limitations does not commence to

run against property owners' right by reason thereof, until there is actual alteration. Hilger v. City of Nebraska City, 97 Neb. 268, 149 N.W. 807 (1914).

The mere filing of petitions sufficient upon their face, without proof of such allegations, is not sufficient to confer jurisdiction upon the city to make the improvements and to assess the costs upon the abutting property, where the jurisdictional facts are put in issue, and injunction will restrain the taxes therefor. City of South Omaha v. Tighe, 67 Neb. 572, 93 N.W. 946 (1903).

The duty devolves on cities and towns to keep streets and sidewalks reasonably safe and fit for travel, and such duty applies to defects in construction, as well as neglect of repair. Village of Plainview v. Mendelson, 65 Neb. 85, 90 N.W. 956 (1902).

16-609.01 Land abutting street; industrial tract or school site; improvement; agreement.

Whenever any street of any city of the first class is partly inside the city and partly outside the city, and the land outside the city abutting on such street is an industrial tract or a school site, or the property of the state or any political subdivision thereof, such street may be included in any street improvement project of the city upon the written agreement thereto of the owner or owners of such land outside the city, which agreement shall subject such land to the assessment of costs of the benefits resulting from the improvement. Except as provided in this section, any such improvement shall be subject to the provisions of sections 16-609 to 16-655.

Source: Laws 1965, c. 46, § 1, p. 246.

16-610 Public ways; maintenance and repair.

The mayor and city council of a city of the first class shall have the care, supervision and control of all public highways, bridges, streets, alleys, public squares and commons, and shall cause the same to be kept open and in repair and free from nuisances.

Source: Laws 1901, c. 18, § 35, p. 239; Laws 1909, c. 19, § 1, p. 183; R.S.1913, § 4909; C.S.1922, § 4077; C.S.1929, § 16-606; R.S. 1943, § 16-610; Laws 2019, LB194, § 33.

Contract between city and state prohibiting parking on designated street was upheld. Vap v. City of McCook, 178 Neb. 844, 136 N.W.2d 220 (1965).

Duty devolving on cities and villages to keep streets and sidewalks reasonably safe and fit for travel applies to defects in construction as well as neglect to repair, and the safety required extends to travel by night as well as by day. Village of Plainview v. Mendelson, 65 Neb. 85, 90 N.W. 956 (1902).

It is the duty of a city to keep all its streets and bridges in a reasonably safe condition for travel and such care and diligence is not controlled or affected by the fact that they are not as frequently used as some others in the city. City of South Omaha v. Powell, 50 Neb. 798, 70 N.W. 391 (1897).

16-611 Vacation of street or alley; abutting property; how treated.

(1) Upon the vacation of any street or alley by a city of the first class, the title to such property shall vest in the owners of the abutting property and become a part of such property, one-half on each side thereof, unless the city reserves title in the ordinance vacating such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.

(2) When a portion of a street or alley is vacated only on one side of the center thereof, the title to such property shall vest in the owner of the abutting property and become part of such property unless the city reserves title in the ordinance vacating a portion of such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.

(3) When the city vacates all or any portion of a street or alley, the city shall, within thirty days after the effective date of the vacation, file a certified copy of

the vacating ordinance with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

(4) The title to property vacated pursuant to this section shall be subject to the following:

(a) There is reserved to the city the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and

(b) There is reserved to the city, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

Source: Laws 1901, c. 18, § 48, IV, p. 145; Laws 1903, c. 19, § 7, p. 237; R.S.1913, § 4910; C.S.1922, § 4078; C.S.1929, § 16-607; R.S.1943, § 16-611; Laws 1969, c. 58, § 2, p. 363; Laws 2001, LB 483, § 5; Laws 2005, LB 161, § 3; Laws 2019, LB194, § 34.

Where conveyance describes lot by block and number, contains no reservation of rights in alley, conveyance transfers fee to center line of abutting portion of vacated alley even though conveyance also describes lots by metes and bounds which did not include any part of alley and used edge of alley as boundary. Seefus v. Briley, 185 Neb. 202, 174 N.W.2d 339 (1970).

This section is not applicable to vacation of a nominal street of a platted addition. Trahan v. Council Bluffs Steel Erection Co., 183 Neb. 170, 159 N.W.2d 207 (1968).

This section has no relation to streets which have been platted and dedicated. Dell v. City of Lincoln, 170 Neb. 176, 102 N.W.2d 62 (1960).

Cities own in fee simple, the streets, alleys, etc., and may maintain ejectment, may vacate them, or even sell and dispose of them. Krueger v. Jenkins, 59 Neb. 641, 81 N.W. 844 (1900).

There is no constitutional restraint of the Legislature's plenary power, to vacate or discontinue the public easement on streets. City of Columbus v. Union Pacific R. R. Co., 137 F. 869 (8th Cir. 1905).

16-612 Repealed. Laws 1980, LB 660, § 1.

16-613 Bridges; repair; duty of county; aid by city, when.

All public bridges within a city of the first class, exceeding sixty feet in length, and the approaches thereto, over any stream crossing a county highway, shall be constructed and kept in repair by the county. When any city of the first class has constructed or repaired a bridge over sixty-feet span with approaches thereto, on any county highway within its corporate limits, and has incurred a debt for the same, then the treasurer of the county in which such bridge is located shall pay to the city treasurer seventy-five percent of all bridge taxes collected in such city until such debt and interest upon the same are fully paid. The city council may appropriate a sum not exceeding five dollars per linear foot to aid in the construction of any county bridge within the limits of such city, or may appropriate a like sum to aid in the construction of any bridge contiguous to such city on a highway leading to such bridge.

Source: Laws 1909, c. 19, § 1, p. 183; R.S.1913, § 4912; C.S.1922, § 4080; C.S.1929, § 16-609; R.S.1943, § 16-613; Laws 1955, c. 31, § 1, p. 137; Laws 2016, LB704, § 82.

City is required to exercise reasonable care and diligence in keeping streets and bridges in a safe condition for travel, even though they may not be frequently used by the public. City of South Omaha v. Powell, 50 Neb. 798, 70 N.W. 391 (1897).

16-614 House numbers.

The mayor and city council of a city of the first class may provide for regulating and requiring the numbering of houses along public streets or avenues.

Source: Laws 1901, c. 18, § 50, p. 268; R.S.1913, § 4913; C.S.1922, § 4081; C.S.1929, § 16-610; R.S.1943, § 16-614; Laws 2019, LB194, § 35.

16-615 Grade or change of grade; procedure; damages; how ascertained; special assessments.

(1) The mayor and city council of a city of the first class may establish the grade of any street, avenue, or alley in the city or within a county industrial area as defined in section 13-1111 contiguous to such city. When the grade of any street, avenue, or alley has been established, the grade of all or any part shall not be changed unless the city clerk has sent notice of the proposed change in grade to the owners of the lots or land abutting upon the street, avenue, or alley or part of a street, avenue, or alley where such change of grade is to be made. The notice shall be sent to the addresses of the owners as they appear in the office of the register of deeds upon the date of the mailing of the notice. The notice shall be sent by regular United States mail, postage prepaid, postmarked at least twenty-one days before the date upon which the city council takes final action on approval of the ordinance authorizing the change in grade. The notice shall inform the owner of the nature of the proposed change, that final action by the city council is pending, and of the location where additional information on the project may be obtained. Following the adoption of an ordinance changing the grade of all or any part of a street, avenue, or alley, no change in grade shall be made until the damages to property owners which may be caused by such change of grade are determined as provided in sections 76-704 to 76-724.

(2) For the purpose of paying the damages, if any, so awarded, the mayor and city council may borrow money from any available fund in the amount necessary, which amount, upon the collection of such amount by special assessment, shall be transferred from such special fund to the fund from which it has been borrowed. No street, avenue, or alley shall be worked to such grade or change of grade until the damages so assessed shall be tendered to such property owners or their agents. Before the mayor and city council enter into any contract to grade any such street, avenue, or alley, the damages, if any, sustained by the property owners, shall be ascertained by condemnation proceedings. For the purpose of paying the damages awarded and the costs of the condemnation proceedings, the mayor and city council may levy a special assessment upon the lots and lands abutting upon such street, avenue, or alley, or part thereof, so graded, as adjudged by the mayor and city council to be especially benefited in proportion to such benefits. Such assessment shall be collected as other special assessments.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4914; C.S.1922, § 4082; C.S.1929, § 16-611; R.S.1943, § 16-615; Laws 1951, c.

101, § 51, p. 470; Laws 1969, c. 81, § 1, p. 412; Laws 1995, LB 196, § 1; Laws 2015, LB361, § 20; Laws 2016, LB704, § 83; Laws 2019, LB194, § 36.

Claim for injunctive relief on ground of violation of this section was abandoned in Supreme Court. Danielson v. City of Bellevue, 167 Neb. 809, 95 N.W.2d 57 (1959).

Recovery could not be had for change in grade of street where only damage resulted from destruction of shade trees. Weibel v. City of Beatrice, 163 Neb. 183, 79 N.W.2d 67 (1956).

Where a taxpayer was one of the petitioners for the creation of paving district, and stood by while such improvement was in progress, such taxpayer cannot enjoin the collections of special taxes to pay for such improvement. Kister v. City of Hastings, 108 Neb. 476, 187 N.W. 909 (1922).

Provision for filing of petitions, the assessment and payment of damages, to lot owners, refers to new construction in the creation, opening and improvements of streets, and not to ordinary repairs of streets or alleys. Payment of such repairs, may be made without the levy of special taxes. Hilger v. City of Nebraska City, 97 Neb. 268, 149 N.W. 807 (1914).

Where a husband had created improvements on his wife's lot he was not entitled to recover damages sustained thereto by city's change in the grade. City of Nebraska City v. Northcutt, 45 Neb. 456, 63 N.W. 807 (1895).

Where land owner joins in petition to grade and pave a street, she is not estopped from claiming damages to her property. City of Beatrice v. Leary, 45 Neb. 149, 63 N.W. 370 (1895).

Church property used exclusively for religious purposes is not exempt from special assessments for local improvements. City of Beatrice v. Brethren Church of Beatrice, 41 Neb. 358, 59 N.W. 932 (1894); Von Steen v. City of Beatrice, 36 Neb. 421, 54 N.W. 677 (1893).

16-616 Repealed. Laws 1951, c. 101, § 127.

16-617 Improvement districts; power to establish.

The mayor and city council of any city of the first class shall have power to make improvements of any street, streets, alley, alleys, or any part of any street, streets, alley or alleys, in the city, a street which divides the corporate limits of the city and the area adjoining the city, or within a county industrial area as defined in section 13-1111 contiguous to such city, and for that purpose to create suitable improvement districts, which shall be consecutively numbered, and such work shall be done under contract. Such districts may include properties within the corporate limits, adjoining the corporate limits, and within county industrial areas as defined in section 13-1111 contiguous to such cities.

Source: Laws 1901, c. 18, § 48, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 114; R.S.1913, § 4916; Laws 1915, c. 86, § 1, p. 225; Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4084; Laws 1925, c. 50, § 1, p. 191; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-617; Laws 1967, c. 67, § 3, p. 219; Laws 1969, c. 81, § 2, p. 413; Laws 1979, LB 136, § 1; Laws 2016, LB704, § 84.

City acted within its authority when it made improvements to a street located along the city's corporate limits. Iverson v. City of North Platte, 243 Neb. 506, 500 N.W.2d 574 (1993).

Ordinance is required to state the kind of improvement that is proposed to be made. Danielson v. City of Bellevue, 167 Neb. 809, 95 N.W.2d 57 (1959).

Where city council found property owner failed to file sufficient objection within twenty days of creation of district, it acted judicially, and unless appealed from such finding was final. Hiddleson v. City of Grand Island, 115 Neb. 287, 212 N.W. 619 (1927).

Under prior act, a petition of the property owners was not necessary for the creation of a paving district. Broghamer v. City of Chadron, 107 Neb. 532, 186 N.W. 362 (1922).

Description in paving ordinance was sufficient. Chittenden v. Kibler, 100 Neb. 756, 161 N.W. 272 (1917).

In absence of a limitation in the act granting it authority to issue bonds, the city had power to levy sufficient taxes to pay the same. United States ex rel. Masslich v. Saunders, 124 F. 124 (8th Cir. 1903).

16-617.01 Improvement, defined.

As used in sections 16-617 to 16-649, improvement shall include but shall not be limited to paving, repaving, graveling, grading, curbing, guttering, and the construction and replacement of pedestrian walks, plazas, malls, landscaping, lighting systems and permanent facilities used in connection therewith.

Source: Laws 1967, c. 67, § 2, p. 219.

16-618 Improvement districts; property included.

Any improvement district created pursuant to section 16-617 shall include only portions of different streets, or portions of alleys, or portions of each, which abut or adjoin so that such district, when created, makes up one continuous or extended street or more, except that the district may include a cul de sac, any street, alley, or portion thereof which is closed at one end or which connects with only one other existing street, alley, or portion thereof. Any improvement district may include portions of different streets, or portions of different alleys, or portions of each, if they abut or connect with each other, or if the several portions abut on pavement or gravel already laid, or any other of improvements already laid.

Source: Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4084; Laws 1925, c. 50, § 1, p. 192; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-618; Laws 1980, LB 654, § 1; Laws 2016, LB704, § 85; Laws 2019, LB194, § 37.

16-619 Improvement districts; creation; notice.

The mayor and city council of any city of the first class exercising authority to make improvements as provided under section 16-617 shall, by ordinance, create an improvement district or districts. After the passage, approval, and publication of such ordinance, the city clerk shall publish notice of the creation of any such district or districts one time each week for not less than twenty days in a legal newspaper in or of general circulation in the city.

Source: Laws 1915, c. 86, § 1, p. 225; Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4084; Laws 1925, c. 50, § 1, p. 192; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-619; Laws 2016, LB704, § 86.

Attack on sufficiency of paving petition could be made by error proceedings. Elliott v. City of Auburn, 172 Neb. 1, 108 N.W.2d 328 (1961).

Publication of notice is a mandatory and jurisdictional step. Danielson v. City of Bellevue, 167 Neb. 809, 95 N.W.2d 57 (1959).

16-620 Improvement districts; objections of property owners; effect.

If the owners of the record title representing more than fifty percent of the front footage of the property abutting or adjoining any continuous or extended street, cul de sac, or alley of an improvement district created pursuant to section 16-617, or portion thereof which is closed at one end, and who were such owners at the time the ordinance creating such district was published, shall file with the city clerk, within twenty days from the first publication of such notice, written objections to the improvement of a district, such work shall not be done in such district under such ordinance, but such ordinance shall be repealed. If objections are not filed against any district in the time and manner provided in this section, the mayor and city council shall forthwith proceed to construct such improvement.

Source: Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4084; Laws 1925, c. 50, § 1, p. 192; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-620; Laws 1949, c. 20, § 1, p. 90; Laws 1967, c. 67, § 4, p. 219; Laws 1980, LB 654, § 2; Laws 2016, LB704, § 87.

In passing on sufficiency of paving petition, city council exercises a judicial function. Elliott v. City of Auburn, 172 Neb. 1, 108 N.W.2d 328 (1961).

Property owners are given right to object to kind of materials used in improving street. Danielson v. City of Bellevue, 167 Neb. 809, 95 N.W.2d 57 (1959).

Ordinance creating special improvement district may be repealed before additional steps have been taken. Brasier v. City of Lincoln, 159 Neb. 12, 65 N.W.2d 213 (1954).

16-621 Improvement districts; materials; kind; petition of landowners; bids; advertisement.

In advertising for bids for paving, repaving, graveling, or macadamizing, the mayor and city council of a city of the first class may provide for bids on different materials and types of construction, and shall in addition provide for asking bids on any material or materials that may be suggested by petition of owners of the record title representing twenty-five percent of the abutting property owners in an improvement district, if such petition is filed with the city clerk before advertisement for bids is ordered. On opening of bids for paving or repaving in any such district, the mayor and city council shall postpone action thereon for a period of not less than ten days. During such period of postponement, the owners of the record title representing a majority of the abutting property owners in a district may file with the city clerk a petition for the use of a particular material for paving for which a bid has been received, in which event a bid on that material shall be accepted and the work shall be done with that material. The regulations as to advertising for bids and opening of bids and postponing of action thereon and the right of selection of materials shall not apply in case of graveling. In case such owners fail to designate the material they desire used in such paving or repaving, or macadamizing, in the manner and within the time provided in this section, the mayor and city council shall determine the material to be used. The mayor and city council may reject all bids and readvertise if, in their judgment, the public interest requires.

Source: Laws 1917, c. 95, § 1, p. 254; C.S.1922, § 4034; Laws 1925, c. 50, § 1, p. 192; C.S.1929, § 16-613; Laws 1933, c. 27, § 1, p. 202; C.S.Supp.,1941, § 16-613; R.S.1943, § 16-621; Laws 1965, c. 54, § 1, p. 259; Laws 2016, LB704, § 88; Laws 2019, LB194, § 38.

16-621.01 Improvements of streets and alleys; use of salt stabilized base or armor coating, when.

A city of the first class may improve its streets and alleys by the use of salt stabilized base or armor coating in the same manner, to the same extent, and with the same limitations as provided by law for paving or repaving such streets or alleys. All provisions of law respecting paving or repaving by a city of the first class shall apply to any improvements made under the authority of this section.

Source: Laws 1961, c. 45, § 1, p. 177.

16-622 Improvement districts; assessments; how levied; when delinquent; interest; collection; procedure.

The cost of making improvements of the streets and alleys within any improvement district created pursuant to section 16-619 or 16-624 shall be assessed upon the lots and lands in such districts specially benefited thereby in proportion to such benefits. The amounts thereof shall, except as provided in sections 19-2428 to 19-2431, be determined by the mayor and city council

under section 16-615. The assessment of the special tax for the cost of such improvements, except as provided in this section, shall be levied at one time and shall become delinquent in equal annual installments over such period of years, not to exceed twenty, as the mayor and city council may determine at the time of making the levy, the first such installment to become delinquent in fifty days after the date of such levy. Each installment, including those for graveling and the construction and replacement of pedestrian walks, plazas, malls, landscaping, lighting systems, and permanent facilities used in connection therewith as provided in this section, except the first, shall draw interest at a rate established by the mayor and city council not exceeding the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the time of levy until the levy becomes delinquent. After the levy becomes delinquent, interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be paid thereon. Should there be three or more installments delinquent and unpaid on the same property the mayor and city council may by resolution declare all future installments on such delinquent property to be due on a future fixed date. The resolution shall set forth the description of the property and the names of its record title owners and shall provide that all future installments shall become delinquent upon the date fixed. A copy of such resolution shall be published one time each week for not less than twenty days in a legal newspaper in or of general circulation in the city and after the fixed date such future installments shall be deemed to be delinquent and the city may proceed to enforce and collect the total amount due and all future installments. For assessments for graveling alone and without guttering or curbing, one-third of the total amount assessed against each lot or parcel of land shall become delinquent in fifty days after the date of the levy of the same, one-third in one year, and one-third in two years.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4917; C.S.1922, § 4085; Laws 1925, c. 50, § 2, p. 193; C.S.1929, § 16-614; Laws 1933, c. 136, § 18, p. 527; C.S.Supp.,1941, § 16-614; R.S.1943, § 16-622; Laws 1953, c. 28, § 1, p. 115; Laws 1955, c. 32, § 1, p. 139; Laws 1959, c. 64, § 1, p. 285; Laws 1959, c. 47, § 1, p. 233; Laws 1967, c. 67, § 5, p. 220; Laws 1972, LB 1213, § 1; Laws 1973, LB 541, § 1; Laws 1980, LB 933, § 10; Laws 1981, LB 167, § 11; Laws 1983, LB 94, § 1; Laws 2016, LB704, § 89; Laws 2017, LB132, § 1.

This section and section 16-669 require that three payments be delinquent before the city may foreclose, and the city is required to pass and publish an acceleration resolution declaring the entire amount due and owing. City of Kearney v. Johnson, 222 Neb. 541, 385 N.W.2d 427 (1986).

Rate of interest on paving assessment was governed by home rule charter and not by this section. State ex rel. Martin v. Cunningham, 158 Neb. 708, 64 N.W.2d 465 (1954).

An unplatted and nonsubdivided tract of land in a city of the first class may be subjected to assessment for special benefits. City of Scottsbluff v. Kennedy, 141 Neb. 728, 4 N.W.2d 878 (1942).

Cities of the first class that adopt a ''home rule'' charter possess no power to remit or cancel interest or penalties on special taxes. Falldorf v. City of Grand Island, 138 Neb. 212, 292 N.W. 598 (1940).

In absence of a limitation in the act granting it authority to issue bonds, the city had power to levy sufficient taxes to pay the same. United States ex rel. Masslich v. Saunders, 124 F. 124 (8th Cir. 1903).

16-623 Improvement districts; bonds; interest.

For the purpose of paying the cost of improving the streets, avenues, or alleys in an improvement district created pursuant to section 16-619 or 16-624, exclusive of intersections of streets or avenues, or spaces opposite alleys

therein, the mayor and city council shall have power and may, by ordinance, cause to be issued bonds of the city, to be called Street Improvement Bonds of District No. . . . . , payable in not exceeding twenty years from date, and bearing interest, payable either annually or semiannually, with interest coupons attached. In such cases they shall also provide that the special taxes and assessments shall constitute a sinking fund for the payment of the bonds. The entire cost of improving any such street, avenue, or alley, properly chargeable to any lot or land within any such improvement district according to the front footage thereof, may be paid by the owners of such lots or lands within fifty days from the levying of such special taxes, and thereupon such lot or lands shall be exempt from any lien or charge therefor.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4918; C.S.1922, § 4086; Laws 1925, c. 50, § 3, p. 194; C.S.1929, § 16-615; Laws 1931, c. 32, § 1, p. 123; C.S.Supp.,1941, § 16-615; R.S.1943, § 16-623; Laws 1967, c. 67, § 6, p. 221; Laws 1969, c. 51, § 27, p. 288; Laws 2016, LB704, § 90; Laws 2017, LB132, § 2.

16-624 Improvement districts; creation upon petition; denial; assessments; bonds.

Whenever the owners of lots or lands abutting upon any street, avenue, or alley within a city of the first class, representing three-fourths of the front footage thereon, so that an improvement district when created will make up one continuous or extended thoroughfare or more, shall petition the mayor and city council to make improvement of such street, avenue, or alley without cost to the city, and to assess the entire cost of any such improvements in any such street, avenue, or alley, including intersections of streets or avenues and spaces opposite alleys, against the private property within such improvement district or districts, it shall be the duty of the mayor and city council to create the proper improvement district or districts, which shall be consecutively numbered, and to improve the same and to proceed in the same manner and form as provided for in other improvement districts. The mayor and city council shall have power to levy the entire cost of such improvements of any such street, avenue, or alley, including intersections of streets or avenues and spaces opposite alleys, against the private property within such district, and to issue Street Improvement Bonds of District No. . . . . to pay for such improvements in the same manner and form as provided for in other improvement bonds. Such bonds shall be issued to cover the entire cost of so improving such streets or avenues, intersections of the same, and spaces opposite alleys. If the assessments provided for, or any part thereof, shall fail, or for any reason shall be invalid, the mayor and city council may make other and further assessments upon such lots or lands as may be required to collect from the same the cost of any improvements properly chargeable thereto, as provided in this section. The mayor and city council shall have the discretion to deny the formation of the proposed district when the area to be improved has not previously been improved with a water system, sewer system, and grading of streets. If the mayor and city council should deny a requested improvement district formation, they shall state their grounds for such denial in a written letter to interested parties.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4919; C.S.1922,

§ 4087; Laws 1925, c. 50, § 4, p. 194; C.S.1929, § 16-616; Laws 1933, c. 27, § 2, p. 203; C.S.Supp.,1941, § 16-616; R.S.1943, § 16-624; Laws 1967, c. 67, § 7, p. 222; Laws 1983, LB 125, § 1; Laws 2016, LB704, § 91; Laws 2019, LB194, § 39.

16-625 Intersections; improvements; railways; duty to pave right-of-way.

The cost of improving the intersections of streets or avenues and spaces opposite alleys in an improvement district, except as specially provided in sections 16-609 to 16-624, shall be paid by the city as provided in sections 16-625 to 16-628. Nothing in sections 16-617 to 16-650 shall be construed to exempt any street or other railway company from improving, with such material as the mayor and city council may order, its whole right-of-way including all space between and one foot beyond the outer rails, at its own cost, whenever any street or avenue shall be ordered improved by the mayor and city council as provided by law. No street or other railway company shall enter upon or occupy any paved street or avenue, within five years after such paving shall have been completed, until it shall pay into the city treasury the original cost of paving between and one foot beyond the outer rails, which sum shall be credited on the special assessment upon the abutted lots. If the special assessment shall have been paid, then the money shall be paid, by warrant, to the party who has already paid such special assessment.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4920; C.S.1922, § 4088; Laws 1925, c. 50, § 5, p. 195; C.S.1929, § 16-617; R.S.1943, § 16-625; Laws 1967, c. 67, § 8, p. 223; Laws 2016, LB704, § 92.

16-626 Intersection improvement bonds; amount; interest; warrants; partial payments; final payment; interest; restrictions on work.

In a city of the first class, for all improvements of the intersections and areas formed by the crossing of streets, avenues, or alleys, and one-half of the streets adjacent to real estate owned by the United States, the State of Nebraska, or the city, the assessment shall be made upon all the taxable property of the city, and for the payment of such improvements, the mayor and city council are hereby authorized to issue improvement bonds of the city in such denominations as they deem proper, to be called Intersection Improvement Bonds, payable in not to exceed twenty years from date of the bonds and to bear interest payable annually or semiannually. Such bonds shall not be issued in excess of the cost of such improvements. For the purpose of making partial payments as the work progresses in making the improvements of streets, avenues, alleys, or intersections and areas formed by the crossing of streets, avenues, or alleys, or one-half of the streets adjacent to real estate owned by the United States, the State of Nebraska, or the city, warrants may be issued by the mayor and city council upon certificates of the engineer in charge showing the amount of the work completed and materials necessarily purchased and delivered for the orderly and proper continuation of the project, in a sum not exceeding ninety-five percent of the cost thereof, and upon completion and acceptance of the work issue a final warrant for the balance of the amount due the contractor, which warrants shall be redeemed and paid upon the sale of bonds authorized by law. The city shall pay to the contractor interest at the rate of eight percent per annum on the amounts due on partial and final payments beginning forty-five

days after the certification of the amounts due by the engineer in charge and approval by the city council, and running until the date that the warrant is tendered to the contractor. Nothing in this section shall be construed as authorizing the mayor and city council to make improvements of any intersections or areas formed by the crossing of streets, avenues, or alleys, unless in connection with one or more blocks of any of aforesaid kinds or forms of street improvement of which the improvement of such intersection or areas shall form a part.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4921; Laws 1917, c. 96, § 1, p. 259; C.S.1922, § 4089; Laws 1923, c. 146, § 1, p. 360; Laws 1925, c. 50, § 14, p. 201; C.S.1929, § 16-618; R.S.1943, § 16-626; Laws 1965, c. 55, § 1, p. 261; Laws 1967, c. 67, § 9, p. 223; Laws 1969, c. 51, § 28, p. 289; Laws 1974, LB 636, § 1; Laws 2016, LB704, § 93; Laws 2019, LB194, § 40.

16-627 Intersections; improvement; cost; tax levy.

The cost and expense of improving, constructing, or repairing streets, avenues, alleys, and sidewalks, at their intersections as provided in section 16-626, may be included in the special tax levied for the construction or improvement of any one street, avenue, alley, or sidewalk, as may be deemed best by the city council.

Source: Laws 1901, c. 18, § 75, p. 288; R.S.1913, § 4922; C.S.1922, § 4090; C.S.1929, § 16-619; R.S.1943, § 16-627; Laws 1967, c. 67, § 10, p. 224; Laws 2016, LB704, § 94; Laws 2019, LB194, § 41.

16-628 Improvements; tax; when due.

Special taxes as provided in section 16-627 shall be due and may be collected as the improvements are completed in front of or along or upon any block or piece of ground, or at the time the improvement is entirely completed or otherwise, as shall be provided in the ordinance levying the tax.

Source: Laws 1901, c. 18, § 76, p. 288; R.S.1913, § 4923; C.S.1922, § 4091; C.S.1929, § 16-620; R.S.1943, § 16-628; Laws 2016, LB704, § 95.

16-629 Curbs and gutters; authorized; petition; formation of district; bonds.

In a city of the first class, curbing and guttering shall not be required or ordered to be laid on any street, avenue or alley not ordered to be paved, repaved, graveled or macadamized, except on a petition of the owners of two-thirds of the front footage of property abutting along the line of that portion of the street, avenue or alley which is to be curbed or guttered.

When such petition is presented, a curbing and guttering district shall be formed, which district shall be governed by the provisions of section 16-630. Any bonds issued on account of such district shall be known as Bonds of Curbing and Guttering District No. . . . . .

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4924; C.S.1922,

§ 4092; Laws 1925, c. 50, § 6, p. 196; C.S.1929, § 16-621; R.S. 1943, § 16-629; Laws 1965, c. 56, § 1, p. 263; Laws 2019, LB194, § 42.

16-630 Curbing and guttering bonds; interest rate; special assessments; how levied.

If curbing, or curbing and guttering, is done upon any street, avenue, or alley in any improvement district in a city of the first class in which paving or other such improvement has been ordered, and the mayor and city council shall deem it expedient to do so, the mayor and city council may, for the purpose of paying the cost of such curbing, or curbing and guttering, cause to be issued bonds of the city, to be called Curbing and Guttering Bonds of Improvement District No. . . . . , payable in not exceeding ten years from date, bearing interest, payable annually or semiannually, with interest coupons attached. In all cases the mayor and city council shall assess at one time as a special assessment the total cost of such curbing, or curbing and guttering, upon the property abutting or adjacent to the portion of the street, avenue, or alley so improved, according to the special benefits. Such special assessments shall become delinquent the same as the special assessments for paving, repaving, graveling, or macadamizing purposes, draw the same rate of interest, be subject to the same penalties, and may be paid in the same manner, as special assessments for such purpose. The special assessment shall constitute a sinking fund for the payment of such bonds and interest, and the bonds shall not be sold for less than their par value.

Source: Laws 1901, c. 18, § 48, LV, p. 267; Laws 1901, c. 19, § 4, p. 315; Laws 1907, c. 13, § 1, p. 119; R.S.1913, § 4925; Laws 1915, c. 87, § 1, p. 226; C.S.1922, § 4093; Laws 1925, c. 50, § 7, p. 196; C.S.1929, § 16-622; R.S.1943, § 16-630; Laws 1945, c. 21, § 1, p. 128; Laws 1969, c. 51, § 29, p. 290; Laws 2015, LB361, § 21; Laws 2016, LB704, § 96; Laws 2019, LB194, § 43.

Under prior act, where street had been reduced to grade, and only limited expense was necessary to complete the work, engineer's estimate, advertisement, etc., for bids was not necessary, and city was permitted to pay for such work out of proper city funds. Hilger v. City of Nebraska City, 97 Neb. 268, 149 N.W. 807 (1914).

16-631 Curbing and guttering; cost; paving bonds may include; special assessment.

If an improvement district has been established in a city of the first class, an improvement thereon constructed, and curbing, or curbing and guttering, is therewith constructed and it becomes necessary to issue and sell street improvement bonds to pay for the cost of construction of the improvement and the curbing, or curbing and guttering, the mayor and city council may, at their discretion, include the cost of curbing, or curbing and guttering, with the cost of other improvements in the improvement district, and issue bonds for the combined cost of the improvement and curbing, or curbing and guttering, in any of the districts, naming the bonds Street Improvement Bonds of District No. . . . . . The amount of money necessary for the payment of such bonds shall be levied upon and collected from abutting and adjacent property and property specially benefited as a special assessment.

Source: Laws 1915, c. 87, § 1, p. 227; C.S.1922, § 4093; Laws 1925, c. 50, § 7, p. 197; C.S.1929, § 16-622; R.S.1943, § 16-631; Laws 1967, c. 67, § 11, p. 224; Laws 2015, LB361, § 22; Laws 2016, LB704, § 97; Laws 2019, LB194, § 44.

16-632 Improvement districts; assessments; when authorized; ordinary repairs excepted.

In order to defray the costs and expenses of improvements in any improvement district in a city of the first class, the mayor and city council shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to or abutting upon the street, avenue, alley, or sidewalk, thus in whole or in part improved or repaired or which may be specially benefited by such improvements. The provisions in this section shall not apply to ordinary repairs of streets or alleys, and the cost of such repairs shall be paid out of the road fund. The mayor and city council are authorized to draw warrants against such fund not to exceed eighty-five percent of the amount levied as soon as levy shall be made by the county board.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4926; C.S.1922, § 4094; Laws 1925, c. 50, § 8, p. 198; C.S.1929, § 16-623; R.S.1943, § 16-632; Laws 1967, c. 67, § 12, p. 225; Laws 2016, LB704, § 98; Laws 2019, LB194, § 45.

An unplatted and nonsubdivided tract of land in a city of the first class may be subjected to assessment for special benefits. City of Scottsbluff v. Kennedy, 141 Neb. 728, 4 N.W.2d 878 (1942).

Section refers to proceedings for the creation, opening, and improvements of streets by new construction work, and not to ordinary repairs. Hilger v. City of Nebraska City, 97 Neb. 268, 149 N.W. 807 (1914).

16-633 Improvements; assessments against public lands.

If, in any city of the first class, there shall be any real estate belonging to any county, school district, city, village, or other political subdivision abutting upon the street, avenue, or alley whereon paving or other improvements have been ordered, it shall be the duty of the governing body of the political subdivision to pay such special taxes. In the event of the neglect or refusal of such governing body to pay such taxes, or to levy and collect the taxes necessary to pay for such improvements, the city may recover the amount of such special taxes in a proper action. The judgment thus obtained may be enforced in the usual manner, and the signatures of such political subdivisions to all petitions shall have like force and effect as that of other property owners.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4927; C.S.1922, § 4095; C.S.1929, § 16-624; R.S.1943, § 16-633; Laws 2016, LB704, § 99.

Though church property, used exclusively for church purposes, is exempt from general taxation under the Constitution, such property is not exempt from special assessments for local improvements. City of Beatrice v. Brethren Church of Beatrice, 41 Neb. 358, 59 N.W. 932 (1894).

Officers representing state, county, or school districts, may not sign petition for paving on behalf of the property of the district they represent. Von Steen v. City of Beatrice, 36 Neb. 421, 54 N.W. 677 (1893).

16-634 Improvements; real estate owned by minor or protected person; petition; guardian or conservator may sign.

If, in any city of the first class, there shall be any real estate of any minor or protected person, the guardian or conservator of such minor or protected person may sign any petition referred to by law, and such signature shall have like force and effect as that of other property owners.

Source: Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4928; C.S.1922, § 4096; C.S.1929, § 16-625; R.S.1943, § 16-634; Laws 1975, LB 481, § 3; Laws 2016, LB704, § 100.

16-635 Improvements; terms, defined; depth to which assessable.

(1) For purposes of sections 16-617 to 16-650:

(a) Lot means a lot as described and designated upon the record plat of any city of the first class, or within a county industrial area as defined in section 13-1111 contiguous to such city. If there is no recorded plat of any such city or county industrial area, lot means a lot as described and designated upon any generally recognized map of any such city or county industrial area; and

(b) Land means any subdivided or unplatted real estate in such city or county industrial area.

(2) If the lots and real estate abutting upon that part of the street ordered improved, as shown upon any recorded plat or map, are not of uniform depth, or, if for any reason, it shall appear just and proper to the mayor and city council, they are authorized and empowered to determine and establish the depth to which such real estate shall be charged and assessed with the costs of the improvements, which shall be determined and established according to the benefits accruing to the property by reason of such improvements. Real estate may be so charged and assessed to a greater depth than lots as shown on any such plat or map.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4929; C.S.1922, § 4097; Laws 1925, c. 50, § 9, p. 198; C.S.1929, § 16-626; R.S.1943, § 16-635; Laws 1967, c. 67, § 13, p. 225; Laws 1969, c. 81, § 3, p. 414; Laws 2016, LB704, § 101.

An unplatted and nonsubdivided tract of land in a city of the first class may be subjected to assessment for special benefits. City of Scottsbluff v. Kennedy, 141 Neb. 728, 4 N.W.2d 878 (1942).

16-636 Improvement districts; land which city council may include.

The mayor and city council may, in their discretion, include all the real estate to be charged and assessed with the cost of such improvements in the improvement districts described in sections 16-617 to 16-635 but are not required to do so. The mayor and city council may, in their discretion, in determining whether the requisite majority of owners who are authorized in sections 16-617 to 16-635 to petition for improvements, and to object to the improvements and to determine the kind of material to be used therefor, have joined in such petition, determination, or objections, consider and take into account all the owners of real estate to be charged and assessed with the cost of any of such improvements, or only such as own lots, parts of lots, and real estate which, in fact, abut upon the part of the street, avenue, or alley proposed to be so improved. This section, in regard to the depth to which real estate may be charged and assessed, shall apply to all special taxes that may be levied by the mayor and city council in any such city in proportion to the front footage.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4930; Laws 1917, c. 95, § 1, p. 255; C.S.1922, § 4098; Laws 1925, c. 50, § 10, p. 199; C.S.1929, § 16-627; R.S.1943, § 16-636; Laws 1967, c. 67, § 14, p. 226; Laws 1969, c. 81, § 4, p. 414; Laws 2016, LB704, § 102.

16-637 Improvements; special tax; assessments; action to recover.

Any party feeling aggrieved by any special tax or assessment, or proceeding for improvements in a city of the first class, may pay such special taxes assessed and levied upon his, her, or its property, or such installments thereof as may be due at any time before the special tax or assessment shall become delinquent, under protest, and with notice in writing to the city treasurer that he, she, or it intends to sue to recover the special tax or assessment, which notice shall particularly state the alleged grievance and the ground for the grievance. Such party shall have the right to bring a civil action within sixty days to recover so much of the special tax or assessment paid as he, she, or it shows to be illegal, inequitable, and unjust, the costs to follow the judgment or to be apportioned by the court, as may seem proper, which remedy shall be exclusive. The city treasurer shall promptly report all such notices to the city council for such action as may be proper. No court shall entertain any complaint that the party was authorized to make and did not make to the city council, sitting as a board of equalization, nor any complaint not specified in such notice fully enough to advise the city of the exact nature thereof, nor any complaint that does not go to the groundwork, equity, and justness of such tax. The burden of proof to show such tax or part thereof invalid, inequitable, and unjust shall rest upon the party who brings the suit.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4931; C.S.1922, § 4099; Laws 1925, c. 50, § 11, p. 199; C.S.1929, § 16-628; R.S.1943, § 16-637; Laws 1967, c. 67, § 15, p. 226; Laws 2016, LB704, § 103; Laws 2019, LB194, § 46.

A special tax assessment which violates the federal Constitution is illegal, and thus a claim that a special tax assessment violates the federal Constitution can be raised and adjudicated in claims made under this section. Francis v. City of Columbus, 267 Neb. 553, 676 N.W.2d 346 (2004).

As a prerequisite to bringing suit for a refund under this section, a party must pay the tax under protest before it becomes delinquent. Francis v. City of Columbus, 267 Neb. 553, 676 N.W.2d 346 (2004).

This section provides an adequate remedy for adjudicating a claim that a special tax assessment violates the federal Constitution. Francis v. City of Columbus, 267 Neb. 553, 676 N.W.2d 346 (2004).

City may not take property for street improvement by eminent domain, and then nullify the value of the property taken by levying local assessment for the improvement in excess of the special benefits conferred. Hayman v. City of Grand Island, 135 Neb. 873, 284 N.W. 737 (1939).

Where there is a variation between the established gradeline and the permanent street improvement, failure of property owner, who knows such fact while the work is progressing, to file timely objections to the assessment because of such defect, will estop him from raising the question under this section by injunction. Kister v. City of Hastings, 108 Neb. 476, 187 N.W. 909 (1922).

16-638 Repealed. Laws 1963, c. 339, § 1.

16-639 Repealed. Laws 1963, c. 339, § 1.

16-640 Repealed. Laws 1963, c. 339, § 1.

16-641 Repealed. Laws 1963, c. 339, § 1.

16-642 Repealed. Laws 1963, c. 339, § 1.

16-643 Repealed. Laws 1963, c. 339, § 1.

16-644 Repealed. Laws 1963, c. 339, § 1.

16-645 Damages caused by construction; procedure.

In a city of the first class, all cases of damages arising from the creation or widening of new streets, avenues, or alleys, from the appropriation of property for sewers, parks, parkways, public squares, public heating plants, power plants, gas works, electric light plants, waterworks, or market places, and from

change of grade in streets, avenues, or alleys, the damages sustained shall be ascertained and determined as provided in sections 76-704 to 76-724, except as to property specifically excluded by section 76-703 and as to which sections 19-701 to 19-707 or the Municipal Natural Gas System Condemnation Act is applicable.

Source: Laws 1901, c. 18, § 53, p. 271; Laws 1903, c. 19, § 12, p. 243; R.S.1913, § 4937; C.S.1922, § 4105; C.S.1929, § 16-634; R.S.1943, § 16-645; Laws 1951, c. 101, § 52, p. 471; Laws 2002, LB 384, § 23; Laws 2019, LB194, § 47.

Cross References

Municipal Natural Gas System Condemnation Act, see section 19-4624.

Objections as to lack of notice were waived by appeal from award of appraisers. Webber v. City of Scottsbluff, 155 Neb. 48, 50 N.W.2d 533 (1951).

Damage for opening of street was separate cause of action from annexation of territory. City of Alliance v. Cover-Jones Motor Co., 154 Neb. 900, 50 N.W.2d 349 (1951).

The owner has right of appeal from board's decision to the district court. Stuhr v. City of Grand Island, 123 Neb. 369, 243 N.W. 80 (1932), vacated on rehearing, 124 Neb. 285, 246 N.W. 461 (1933).

Property owner is entitled to a jury trial to determine his damages. Grantham v. City of Chadron, 20 F.2d 40 (8th Cir. 1927).

16-646 Special taxes; lien upon property; collection.

In every case of the levy of special taxes by a city of the first class, the special taxes shall be a lien on the property on which levied from date of levy and shall be due and payable to the city treasurer thirty days after such levy when not otherwise provided. At the time of the next certification for general revenue purposes to the county clerk, if not previously paid, the special taxes, except paving, repaving, graveling, macadamizing, and curbing or curbing and guttering shall be certified to the county clerk, placed upon the tax list, collected as other real estate taxes are collected, and paid over to the city treasurer. Paving, repaving, graveling, macadamizing, and curbing, or curbing and guttering taxes may be so certified and collected by the county treasurer at the option of such city.

Source: Laws 1901, c. 18, § 77, p. 288; Laws 1903, c. 19, § 14, p. 245; R.S.1913, § 4938; Laws 1917, c. 95, § 1, p. 255; C.S.1922, § 4106; Laws 1925, c. 50, § 12, p. 200; C.S.1929, § 16-635; R.S.1943, § 16-646; Laws 2016, LB704, § 104; Laws 2019, LB194, § 48.

Special assessment was a lien at time of foreclosure, and could have been included in tax foreclosure proceeding. Dent v. City of North Platte, 148 Neb. 718, 28 N.W.2d 562 (1947).

16-647 Special taxes; payment by part owner.

In every case of the levy of special taxes by a city of the first class, it shall be sufficient in any case to describe the lot or piece of ground as it is platted and recorded although the lot or piece of ground belongs to several persons. If any lot or piece of ground belongs to different persons, the owner of any part thereof may pay his or her portion of the tax on such lot or piece of ground, and his or her proper share may be determined by the city treasurer.

Source: Laws 1901, c. 18, § 78, p. 289; R.S.1913, § 4939; C.S.1922, § 4107; C.S.1929, § 16-636; R.S.1943, § 16-647; Laws 2016, LB704, § 105; Laws 2019, LB194, § 49.

16-648 Money from special assessments; how used.

All money received from special assessments by a city of the first class may be applied to pay for the improvement for which assessed, or applied to reimburse the fund of the city from which the cost of the improvement may have been made.

Source: Laws 1901, c. 18, § 79, p. 289; Laws 1903, c. 19, § 15, p. 245; R.S.1913, § 4940; C.S.1922, § 4108; C.S.1929, § 16-637; R.S.1943, § 16-648; Laws 2019, LB194, § 50.

16-649 Improvements; contracts; bids; requirement.

All improvements of any streets, avenues, or alleys in a city of the first class for which, or any part thereof, a special tax shall be levied, shall be done by contract with the lowest responsible bidder to be determined by the city council.

Source: Laws 1901, c. 18, § 74, p. 288; R.S.1913, § 4941; C.S.1922, § 4109; Laws 1925, c. 50, § 13, p. 201; C.S.1929, § 16-638; R.S.1943, § 16-649; Laws 1967, c. 67, § 16, p. 227; Laws 2016, LB704, § 106; Laws 2019, LB194, § 51.

Engineer may estimate total work and need not do so by item, and where bids are called for on four different kinds of material, and the contract is let for one of the kinds shown in the advertisement for bids, such estimate and advertisement for bids are sufficient. Wurdeman v. City of Columbus, 100 Neb. 134, 158 N.W. 924 (1916).

16-650 Public improvements; acceptance by city engineer; approval or rejection by city council.

When any improvement in a city of the first class is completed according to contract, it shall be the duty of the city engineer to carefully inspect the improvement and if the improvement is found to be properly done, such engineer shall accept the improvement and report his or her acceptance to the board of public works or mayor, who shall report the same to the city council with recommendation that the same be approved or disapproved. The city council may confirm or reject such acceptance. When the ordinance levying the tax makes the same due as the improvement is completed in front of or along any block or piece of ground, the city engineer may accept the same in sections from time to time, if found to be done according to the contract, reporting his or her acceptance as in other cases.

Source: Laws 1901, c. 18, § 66, p. 278; R.S.1913, § 4942; C.S.1922, § 4110; C.S.1929, § 16-639; R.S.1943, § 16-650; Laws 2016, LB704, § 107; Laws 2019, LB194, § 52.

16-651 Grading and grading districts.

Whenever the owners of lots and lands abutting upon any street or alley, or part thereof, within a city of the first class, representing two-thirds of the feet front abutting upon such part of street or alley desired to be graded, shall petition the city council to grade such street or alley, or part thereof, without cost to the city, the mayor and city council shall order the grading done and assess the costs thereof against the property abutting upon such street or alley or such part thereof so graded. For this purpose the mayor and city council shall create suitable grading districts, which shall be consecutively numbered.

Source: Laws 1901, c. 18, § 73, p. 285; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-651; Laws 2016, LB704, § 108; Laws 2019, LB194, § 53.

Petition signed as required is necessary prerequisite. City of South Omaha v. Tighe, 67 Neb. 572, 93 N.W. 946 (1903).

16-652 Grading; special assessments; when delinquent.

The cost of grading the streets and alleys within a grading district in a city of the first class shall be assessed upon the lots and lands specially benefited thereby in such district in proportion to such benefits, to be determined by the mayor and city council under section 16-615, as a special assessment. The special assessment for grading purposes shall be levied at one time and shall become delinquent as follows: One-fifth of the total amount shall become delinquent in fifty days after such levy; one-fifth in one year; one-fifth in two years; one-fifth in three years; and one-fifth in four years. Each of the installments, except the first, shall draw interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the time of the levy until the installment becomes delinquent. If the installment becomes delinquent, interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be paid thereon, as in the case of other special assessments. The cost of grading the intersections of streets and spaces opposite alleys in any such district shall be paid by the city out of the general fund of such city.

Source: Laws 1901, c. 18, § 73, p. 286; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-652; Laws 1980, LB 933, § 11; Laws 1981, LB 167, § 12; Laws 2015, LB361, § 23; Laws 2019, LB194, § 54.

16-653 Grading bonds; interest rate.

For the purpose of paying the costs of grading the streets and alleys in a grading district in a city of the first class, exclusive of the intersection of streets and spaces opposite alleys therein, the mayor and city council shall have power, and may, by ordinance, cause to be issued bonds of the city, to be called District Grading Bonds of District No. . . . . , payable in not exceeding five years from date and to bear interest, payable annually or semiannually, with interest coupons attached, and that as nearly as possible an equal amount of the bonds shall be made to mature each year, and in such case shall also provide that such special taxes and assessments shall constitute a sinking fund for the payment of such bonds and interest. The entire cost of grading any such street or alley properly chargeable to any lots or lands within any such grading district, according to feet front thereof, may be paid by the owner of such lots or lands within fifty days from the levy of such special taxes or assessments. Upon payment, such lot or land shall be exempt from any lien or charge therefor.

Source: Laws 1901, c. 18, § 73, p. 285; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-653; Laws 1945, c. 21, § 2, p. 129; Laws 1969, c. 51, § 30, p. 290; Laws 2016, LB704, § 109; Laws 2019, LB194, § 55.

16-654 Grading upon petition; assessments; bonds.

Whenever the owner of lots and lands abutting upon any street or avenue, alley, or lane, or part thereof in a city of the first class, representing three-fourths of the feet front abutting upon any such street, avenue, alley, or lane, or

part thereof, shall petition the mayor and city council to grade the street, avenue, alley, or lane, including the intersections of streets, avenues, or lanes and spaces opposite alleys and lanes, without cost to the city, and to assess the entire cost of grading such street, avenue, alley, or lane or part thereof, including the intersections of streets, avenues, or lanes and spaces opposite alleys or lanes, against the lots and lands abutting upon such street, avenue, alley, or lane, or part thereof, so graded, thereupon the mayor and city council shall create grading districts, make assessments, issue bonds, and proceed in the same manner as in cases of grading provided in sections 16-651 and 16-653. Bonds shall be issued to cover the entire cost of grading both the streets, avenues, or alleys, and the intersections of streets or avenues and spaces opposite alleys.

Source: Laws 1901, c. 18, § 73, p. 287; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-654; Laws 2016, LB704, § 110; Laws 2019, LB194, § 56.

16-655 Grading bonds; amount; sale; damages; how ascertained.

The aggregate amount of bonds issued under sections 16-653 and 16-654 in any one year shall not exceed fifty thousand dollars and shall not be sold for less than their par value. If any assessment or part thereof shall fail or for any reason be invalid, the mayor and city council may make such further assessments upon such lots or lands, as may be required, and collect from the owners the cost of any grading properly chargeable. No street, avenue, alley, or lane shall be so graded until the damages to property owners, if any, shall be ascertained by three disinterested property owners to be appointed by the mayor and city council and the proceedings to be the same in all respects as provided in section 16-615 for cases of change of grade.

Source: Laws 1901, c. 18, § 73, p. 287; R.S.1913, § 4943; C.S.1922, § 4111; C.S.1929, § 16-640; R.S.1943, § 16-655; Laws 2016, LB704, § 111.

Council is without power to grade or change the grade of a street, including the sidewalk space, until damages are ascertained and paid. Shewell v. City of Nebraska City, 52 Neb. 138, 71 N.W. 952 (1897).

(c) VIADUCTS

16-656 Repealed. Laws 1949, c. 28, § 20.

16-657 Repealed. Laws 1949, c. 28, § 20.

16-658 Repealed. Laws 1949, c. 28, § 20.

16-659 Repealed. Laws 1949, c. 28, § 20.

16-660 Repealed. Laws 1949, c. 28, § 20.

(d) SIDEWALKS

16-661 Construction and repair; materials.

The mayor and city council of a city of the first class may construct and repair, or cause and compel the construction and repair, of sidewalks in such city of such material and in such manner as they may deem necessary.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4945; C.S.1922, § 4114; C.S.1929, § 16-643; R.S.1943, § 16-661; Laws 2016, LB704, § 112; Laws 2019, LB194, § 57.

16-662 Construction and repair; failure of property owner; power of city.

In case the owner or owners of any lot, lots, or lands abutting on any street or avenue, or part thereof in a city of the first class, shall fail to construct or repair any sidewalk in front of his, her, or their lot, lots, or lands within the time and in the manner as directed and requested by the mayor and city council, after having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the mayor and city council shall have power to cause such sidewalk to be constructed or repaired and assess the cost thereof against such property.

Source: Laws 1901, c. 18, § 48, LV, p. 259; Laws 1901, c. 19, § 4, p. 307; Laws 1907, c. 13, § 1, p. 111; R.S.1913, § 4946; C.S.1922, § 4115; C.S.1929, § 16-644; R.S.1943, § 16-662; Laws 2016, LB704, § 113; Laws 2019, LB194, § 58.

16-663 Maintenance; snow and ice removal; duty of landowner; violation of ordinance; cause of action for damages.

The mayor and city council of a city of the first class shall have power to provide for keeping the sidewalks clean and free from obstructions and accumulations of snow, ice, mud, and slush, and may provide for the assessment and collection of taxes on real estate and for the sale and conveyance thereof to pay expenses of keeping the sidewalks adjacent to such real estate clean and free from obstructions and accumulations of snow, ice, mud, and slush, and the mayor and city council shall also have power to provide that the violation of the ordinance relative thereto shall give rise to a cause of action for damages in favor of any person who is injured by the failure or neglect of the owner and occupant of the real estate to comply with the ordinance in question.

Source: Laws 1901, c. 18, § 50, p. 268; R.S.1913, § 4947; C.S.1922, § 4116; C.S.1929, § 16-645; R.S.1943, § 16-663; Laws 1963, c. 64, § 1, p. 263; Laws 2019, LB194, § 59.

16-664 Construction; cost; special assessment; levy; when delinquent; payment.

The mayor and city council of a city of the first class may provide for the laying of permanent sidewalks. Upon the petition of any property owner who desires to build such a permanent sidewalk, the mayor and city council may order the sidewalk to be built, the cost of the sidewalk until paid shall be a perpetual lien upon the real estate along which the property owner desires such sidewalk to be constructed, and the city council may assess and levy the costs of the sidewalk against such real estate as a special assessment. The total cost of the building of the permanent sidewalk shall be levied at one time upon the property along which such permanent sidewalk is to be built, and become

delinquent as follows: One-seventh of the total cost shall become delinquent in ten days after such levy; one-seventh in one year; one-seventh in two years; one-seventh in three years; one-seventh in four years; one-seventh in five years; and one-seventh in six years. Each of such installments, except the first, shall draw interest at a rate of not exceeding the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the time of the levy, until the installment becomes delinquent. If the installment becomes delinquent, interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be paid thereon as in the case of other special assessments. The city council shall pay for the building of such permanent sidewalk out of the general fund. The mayor and city council may pass an ordinance to carry into effect this section.

Source: Laws 1901, c. 18, § 121, p. 303; R.S.1913, § 4948; C.S.1922, § 4117; C.S.1929, § 16-646; R.S.1943, § 16-664; Laws 1963, c. 65, § 1, p. 264; Laws 1965, c. 57, § 1, p. 264; Laws 1980, LB 933, § 12; Laws 1981, LB 167, § 13; Laws 2015, LB361, § 24; Laws 2016, LB704, § 114; Laws 2019, LB194, § 60.

Cities of the first class that adopt a ''home rule'' charter possess no power to remit or cancel interest or penalties on special taxes. Falldorf v. City of Grand Island, 138 Neb. 212, 292 N.W. 598 (1940).

16-665 Ungraded streets; construction of sidewalks.

The mayor and city council of a city of the first class may provide for the laying of permanent sidewalks and of temporary plank sidewalks upon the natural surface of the ground without regard to the grade, on streets not permanently improved, and provide for the assessment of the cost therein on the property in front of which such sidewalks shall be laid.

Source: Laws 1901, c. 18, § 48, VII, p. 246; R.S.1913, § 4949; C.S.1922, § 4118; C.S.1929, § 16-647; R.S.1943, § 16-665; Laws 2016, LB704, § 115; Laws 2019, LB194, § 61.

16-666 Assessments; levy; certification; collection.

Assessments made under sections 16-250 and 16-665 shall be made and assessed in the following manner:

(1) Such assessments shall be made by the city council at any meeting by a resolution fixing the costs of the construction or repair of such work along the lot adjacent thereto as a special assessment thereon, the amount charged against the same, which, with the vote thereon by yeas and nays, shall be recorded in the minutes, and notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a legal newspaper in or of general circulation in the city at least ten days before the same shall be held, or in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed;

(2) All such assessments shall be known as special assessments for improvements, and with the cost of notice shall be levied and collected as a special tax, in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other city taxes, but such special assessment shall draw interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted

by the Legislature, and the same shall be certified to the county clerk at the same time as the next certification for general revenue purposes.

Source: Laws 1901, c. 18, § 48, VIII, p. 246; Laws 1903, c. 19, § 8, p. 240; R.S.1913, § 4950; C.S.1922, § 4119; C.S.1929, § 16-648; R.S. 1943, § 16-666; Laws 1980, LB 933, § 13; Laws 1981, LB 167, § 14; Laws 2016, LB704, § 116.

(e) WATER, SEWER, AND DRAINAGE DISTRICTS

16-667 Creation of districts; regulations.

A city of the first class may, by ordinance, lay off the city into suitable districts for the purpose of establishing one or more systems of sewerage, drainage, or water service; provide such sewerage, drainage, and water systems and regulate the construction, repair, and use of such systems; compel all proper connections therewith and branches from other streets, avenues, and alleys, and from private property; and provide a penalty not to exceed one hundred dollars for any obstruction or injury to any sewer, drain, or water main or part thereof, or for failure to comply with the regulations therefor prescribed.

Source: Laws 1901, c. 18, § 48, XXVII, p. 251; Laws 1905, c. 24, § 1, p. 247; Laws 1911, c. 14, § 1, p. 129; Laws 1913, c. 161, § 1, p. 500; R.S.1913, § 4951; C.S.1922, § 4120; C.S.1929, § 16-649; Laws 1933, c. 136, § 19, p. 528; C.S.Supp.,1941, § 16-649; R.S.1943, § 16-667; Laws 2016, LB704, § 117.

This section as it existed in 1975 authorized a city of the first class to create a water district to extend water service within the city limit without giving notice of the creation of the district to property owners affected. First Assembly of God Church v. City of Scottsbluff, 203 Neb. 452, 279 N.W.2d 126 (1979).

To the extent the opinion in Matzke v. City of Seward, 193 Neb. 211, 226 N.W.2d 340 (1975), may imply that a city of the first class had no authority to create a water extension district under this section and is in conflict with this case, it is overruled. First Assembly of God Church v. City of Scottsbluff, 203 Neb. 452, 279 N.W.2d 126 (1979).

Sections 16-667 to 16-670 provide procedures for construction and financing for water mains in a water district. Matzke v. City of Seward, 193 Neb. 211, 226 N.W.2d 340 (1975).

A city of the first class has statutory authority to create water district and to levy assessments for the payment of the cost thereof. Wiborg v. City of Norfolk, 176 Neb. 825, 127 N.W.2d 499 (1964).

Power to construct local improvements and levy special assessments is strictly construed. Besack v. City of Beatrice, 154 Neb. 142, 47 N.W.2d 356 (1951).

It is the duty of a city issuing warrants in payment of special improvements to create a fund for payment of the warrants and to collect special assessments to retire the same, and upon failure to do so, the warrants become general obligations of the city. Miller v. City of Scottsbluff, 133 Neb. 547, 276 N.W. 158 (1937).

City has independent and complete authority to erect, extend, or improve and maintain a sewer system and to issue bonds in payment thereof, even though such bonds are not the general obligation of the city. State ex rel. City of Columbus v. Price, 127 Neb. 132, 254 N.W. 889 (1934).

Where a city has power to contract for pipe, but the manner of so exercising the contract is irregular, and where such city purchases and retains such pipe, there being no fraud shown, such contract is not ultra vires and a taxpayer will not be permitted by suit to prevent the council's allowance of the seller's claim therefor. Stickel Lumber Company v. City of Kearney, 103 Neb. 636, 173 N.W. 595 (1919).

16-667.01 Prohibit formation of district; procedure.

Upon formation by city ordinance of sewerage, drainage, and water service districts as described by section 16-667, the city shall mail copies of such city ordinance and this section to the owners of the record title of any property abutting upon the streets, avenues, or alleys, or parts thereof, which are within such district within twenty calendar days of the passage of the ordinance. The owners of the record title representing more than fifty percent of the front footage of the property abutting upon the streets, avenues, or alleys, or parts thereof which are within such a proposed district may, by petition, stop formation of such a district. Such written protest shall be submitted to the city council or city clerk within thirty calendar days after publication of notice

concerning the ordinance in a legal newspaper in or of general circulation in the city. Publication of such notice shall follow within ten calendar days after passage of such an ordinance. The mailing notice requirement of this section shall be satisfied by mailing a copy of the ordinance and this section by United States mail to the last-known address of the owners of the record title.

Source: Laws 1901, c. 18, § 48, XXVII, p. 251; Laws 1905, c. 24, § 1, p. 247; Laws 1911, c. 14, § 1, p. 129; Laws 1913, c. 161, § 1, p. 500; R.S.1913, § 4951; C.S.1922, § 4120; C.S.1929, § 16-649; Laws 1933, c. 136, § 19, p. 528; C.S.Supp.,1941, § 16-649; R.S.1943, § 16-667.01; Laws 1981, LB 31, § 1; Laws 2016, LB704, § 118.

16-667.02 Districts; formation; sewer, drainage, or water systems and mains; special assessments; use of other funds.

Upon formation of a district as provided in section 16-667.01, the mayor and city council may order sewer, drainage, or water systems and mains to be laid and constructed in such district and the costs, to the extent of the special benefit, assessed against the lots and parcels of real estate in such district. The cost of sewer, drainage, or water systems or mains in excess of collections from special assessments under this section may be paid out of the sewer fund or water fund, or, if money in such fund is insufficient, out of the general fund of the city.

Source: Laws 1977, LB 483, § 2; Laws 2016, LB704, § 119.

16-667.03 Sewer, drainage, or water systems and mains; failure to make connections; order; costs assessed.

If, after ten days' notice by certified mail or publication in a legal newspaper in or of general circulation in the city, a property owner fails to make such connections and comply with such regulations as the city council may order in accordance with section 16-667.02, the city council may order such connection be made, and assess the cost thereof against the property so benefited.

Source: Laws 1977, LB 483, § 3; Laws 2016, LB704, § 120.

16-668 Repealed. Laws 1977, LB 483, § 6.

16-669 Special assessments; when delinquent; interest; future installments; collection.

(1) Except as provided in subsection (2) of this section, special assessments for sewer, drainage, or water improvements in a district created pursuant to section 16-667 shall be levied at one time and shall become delinquent in equal annual installments over a period of years equal to the number of years for which the bonds for such project were issued pursuant to section 16-670. The first installment becomes delinquent fifty days after the making of such levy. Each installment, except the first, shall draw interest from the time of such levy until such installment becomes delinquent. After an installment becomes delinquent, interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be paid thereon until such installment is collected and paid. Such special assessments shall be collected and enforced as in cases of other special assessments and shall be a lien on such real estate from and after the date of the levy thereof. If three or more installments are delinquent and unpaid on the same property, the city council

may by resolution declare all future installments on such delinquent property to be due on a future fixed date. The resolution shall set forth the description of the property and the names of its record title owners and shall provide that all future installments shall become delinquent upon the date fixed. A copy of such resolution shall be published one time each week for not less than twenty days in a legal newspaper in or of general circulation in the city and after the fixed date such future installments shall be deemed to be delinquent and the city may proceed to enforce and collect the total amount due and all future installments.

(2) If the city incurs no new indebtedness pursuant to section 16-670 for sewer or water improvements in a district, special assessments for sewer or water improvements shall be levied at one time and shall become delinquent in equal annual installments over such period of years as the city council determines at the time of making the levy to be reasonable and fair.

Source: Laws 1901, c. 18, § 48, XXVII, p. 252; Laws 1905, c. 24, § 1, p. 248; Laws 1911, c. 14, § 1, p. 130; Laws 1913, c. 161, § 1, p. 501; R.S.1913, § 4951; C.S.1922, § 4120; C.S.1929, § 16-649; Laws 1933, c. 136, § 19, p. 528; C.S.Supp.,1941, § 16-649; R.S.1943, § 16-669; Laws 1953, c. 29, § 1, p. 116; Laws 1955, c. 33, § 1, p. 140; Laws 1959, c. 64, § 2, p. 286; Laws 1969, c. 51, § 31, p. 291; Laws 1977, LB 483, § 4; Laws 1980, LB 933, § 14; Laws 1981, LB 167, § 15; Laws 2005, LB 161, § 4; Laws 2015, LB361, § 25; Laws 2016, LB704, § 121.

This section and section 16-622 require that three payments be delinquent before the city may foreclose, and the city is required to pass and publish an acceleration resolution declaring the entire amount due and owing. City of Kearney v. Johnson, 222 Neb. 541, 385 N.W.2d 427 (1986).

16-670 Bonds; amount; interest; maturity; special assessments; revenue bonds.

For the purpose of paying the cost of any sewer, drainage, or water improvements in any district created pursuant to section 16-667, the city council shall have the power and may by ordinance cause bonds of the city to be issued called District Sewer Bonds of District No. . . . . , District Drainage Bonds of District No. . . . . , or District Water Bonds of District No. . . . . , payable in not exceeding twenty years from date and to bear interest payable annually or semiannually with interest coupons attached. All special assessments which may be levied upon properties specially benefited by such work or improvements shall, when collected, be set aside and constitute a sinking fund for the payment of the interest and principal of such bonds. The cost of such sewer, drainage, or water improvements chargeable by special assessment to the private property within such district may be paid by the owners of such property within fifty days from the levy of such special assessments, and thereupon such property shall be exempt from any lien for the special assessment. Such bonds shall not be sold for less than their par value and if any assessment or any part thereof fails or for any reason is invalid, the city council may make such other and further assessments on such lots or lands as may be required to collect from the lots or lands the cost of any such sewer, drainage, or water improvements properly chargeable to the lots or lands as provided in this section. If such assessments or any part thereof fails or for any reason is invalid, the city council may, without further notice, make such other and further assessments on such lots or lands as may be required to collect from the lots or lands the cost of such improvement properly chargeable to the lots or

lands as provided in this section. Nothing in this section shall be construed to prevent a city from paying the cost of sewer, drainage, or water improvements from revenue bonds as otherwise provided by law. When revenue bonds are issued to pay the cost of sewer, drainage, or water improvements, the city council may provide that the collections from any related special assessment district shall be allocated to the gross revenue of the appropriate utility system.

Source: Laws 1901, c. 18, § 48, XXVII, p. 252; Laws 1905, c. 24, § 1, p. 248; Laws 1911, c. 14, § 1, p. 130; Laws 1913, c. 161, § 1, p. 501; R.S.1913, § 4952; C.S.1922, § 4121; C.S.1929, § 16-650; Laws 1937, c. 25, § 1, p. 144; C.S.Supp.,1941, § 16-650; R.S.1943, § 16-670; Laws 1969, c. 82, § 1, p. 415; Laws 1969, c. 51, § 32, p. 292; Laws 1977, LB 483, § 5; Laws 2005, LB 161, § 5; Laws 2016, LB704, § 122.

16-671 Construction costs; warrants; power to issue; amount; interest; payment; fund; created.

For the purpose of paying the cost of construction of sewer, drainage, or water systems or mains, or any or all of such sewer, drainage, or water systems or mains, the mayor and city council shall have power to issue warrants in amounts not to exceed the total sum of the special assessments provided for in section 16-670, which such warrants shall bear interest at such rate as the mayor and city council shall order. When there are no funds immediately available for the payment thereof, such warrants shall be registered in the manner provided for the registration of other warrants, and called and paid whenever there are funds available for the purpose in the manner provided for the calling and paying of other warrants. For the purpose of paying such warrants and the interest thereon from the time of their registration until paid, the special assessments pursuant to section 16-670 shall be kept as they are paid and collected in a fund to be designated and known as the Sewer and Water Extension Fund into which all money levied for such improvements shall be paid as collected, and out of which all warrants issued for such purposes shall be paid.

Source: Laws 1913, c. 161, § 1, p. 502; R.S.1913, § 4952; C.S.1922, § 4121; C.S.1929, § 16-650; Laws 1937, c. 25, § 1, p. 145; C.S.Supp.,1941, § 16-650; R.S.1943, § 16-671; Laws 1969, c. 82, § 2, p. 416; Laws 1969, c. 51, § 33, p. 293; Laws 2016, LB704, § 123.

16-671.01 Partial payments, authorized; interest; rate; warrants; issuance; payment.

For the purpose of making partial payments as the work progresses, warrants may be issued by the mayor and city council of a city of the first class upon certificates of the engineer in charge showing the amount of work completed and materials necessarily purchased and delivered for the orderly and proper continuation of the project in a total amount not to exceed ninety-five percent of the cost thereof and upon the completion and acceptance of the work issue a final warrant for the balance of the amount due the contractor. The city shall pay to the contractor interest at the rate of eight percent per annum on the amounts due on partial and final payments beginning forty-five days after the certification of the amounts due by the engineer in charge and approval of the

governing body, and running until the date that the warrant is tendered to the contractor. The warrants shall be redeemed and paid out of the proceeds received from the special assessments levied under the provisions of section 16-669, or out of the proceeds of the bonds or warrants issued under the provisions of sections 16-670 and 16-671. The warrants shall draw such interest as shall be provided in the warrants from the date of registration until paid.

Source: Laws 1955, c. 34, § 1, p. 142; Laws 1969, c. 51, § 34, p. 293; Laws 1974, LB 636, § 2; Laws 2019, LB194, § 62.

16-672 Special assessments; equalization; reassessment.

Special assessments may be levied by the mayor and city council of a city of the first class for the purpose of paying the cost of constructing sewers, drainage, or water systems or mains within the city. Such assessment shall be levied on the real estate lying and being within the sewerage, drainage, or water service district in which such improvements may be situated to the extent of benefits to such property by reason of such improvement. The benefits to such property shall be determined by the city council sitting as a board of equalization, after notice to property owners is provided as in other cases of special assessment. If the city council, sitting as such board of equalization, shall find such benefits to be equal and uniform, such levy may be according to the front foot of the lots or real estate within such sewerage district, according to such other rule as the city council sitting as such board of equalization may adopt for the distribution or adjustment of such cost upon the lots or real estate in such district benefited by such improvement. All assessments made for sewerage, drainage, or water purposes shall be collected as special assessments and shall be subject to the same penalty as other special assessments. If sewers, drainage, or water systems or mains are constructed and any assessments to cover the costs thereof shall be declared void, or doubts exist as to the validity of such assessment, the mayor and city council, for the purpose of paying the cost of such improvement, may make a reassessment of such costs on lots and real estate lying and being within the district in which such improvements may be situated, to the extent of the benefits to such property by reason of such improvements. Such reassessment shall be made substantially in the manner provided for making original special assessments as provided in this section. Any sums which may have been paid toward such improvement upon any lots or real estate included in such assessment shall be applied under the direction of the city council to the credit of the persons and property on account of which the sums were paid. If the credits exceed the sum reassessed against such persons and property, the city council shall cause such excess, with lawful interest, to be refunded to the party who made payment thereof. The sums so reassessed and not paid under a prior special assessment shall be collected and enforced in the same manner and be subject to the same penalty as other special assessments.

Source: Laws 1901, c. 18, § 67, p. 279; R.S.1913, § 4953; C.S.1922, § 4122; C.S.1929, § 16-651; R.S.1943, § 16-672; Laws 2015, LB361, § 26; Laws 2016, LB704, § 124; Laws 2019, LB194, § 63.

Special taxes cannot be levied upon property outside the district and within another district to pay cost of sewer construction. Besack v. City of Beatrice, 154 Neb. 142, 47 N.W.2d 356 (1951).

Special taxes to pay the cost of sewers may be levied only on real estate within a sewer district and city. City of Scottsbluff v. Acton, 135 Neb. 636, 283 N.W. 374 (1939).

(f) STORM SEWER DISTRICTS

16-672.01 Storm sewer districts; ordinance; contents.

Supplemental to any existing law on the subject, whenever the mayor and city council of any city of the first class shall deem it advisable or necessary to construct storm water sewers and appurtenances in any section of the city and the extraterritorial zoning jurisdiction of the city as established pursuant to section 16-901, together with outlets for such storm water sewers or appurtenances, the advisability and necessity thereof shall be declared in a proposed ordinance, which shall state the kinds of pipe proposed to be used, and shall include concrete pipe and vitrified clay pipe and any other material deemed suitable and shall state the size or sizes and kinds of sewers proposed to be constructed and shall designate the location and terminal points thereof. The ordinance shall refer to the plans and specifications thereof which shall have been made and filed with the city clerk by the city engineer before publication of such ordinance. The city engineer shall also make and file, prior to the publication of such ordinance, an estimate of the total cost of the proposed improvement, which shall be stated in the ordinance. The mayor and city council shall have power to assess, to the extent of special benefits, the cost of such portions of the improvements as are local improvements, upon properties found specifically benefited. The ordinance shall state the outer boundaries of the district or districts in which it is proposed to make special assessments.

Source: Laws 1961, c. 46, § 1, p. 177; Laws 2005, LB 234, § 1; Laws 2016, LB704, § 125.

16-672.02 Ordinance; hearing; notice.

Notice of the time when any ordinance as provided in section 16-672.01 shall be set for consideration before the mayor and city council shall be given by at least two publications in a legal newspaper in or of general circulation in such city, which publication shall state the entire wording of the ordinance. The last publication shall be not less than five days nor more than two weeks prior to the time set for the hearing of objections to the passage of any such ordinance, at which hearing the owners of real property located in such improvement district and which might become subject to assessment for the cost of the contemplated improvement may appear and make objections to the improvement. Thereafter the ordinance may be amended and passed or passed as proposed.

Source: Laws 1961, c. 46, § 2, p. 178; Laws 2016, LB704, § 126.

16-672.03 Ordinance; protest; filing; effect.

If a written protest signed by owners of the property located in an improvement district provided in section 16-672.01 and representing a majority of the front footage which may become subject to assessment for the cost of the improvement is filed with the city clerk within three days before the date of the meeting for the consideration of such ordinance, such ordinance shall not be passed.

Source: Laws 1961, c. 46, § 3, p. 178; Laws 2016, LB704, § 127.

16-672.04 Ordinance; adoption.

Upon compliance with sections 16-672.01 to 16-672.03, the mayor and city council may, by ordinance, order the making and construction of the improvements provided for in section 16-672.01. To adopt such ordinance, a majority of the whole number of members elected to the city council shall be required. If the vote is a tie, the mayor may vote to break such tie.

Source: Laws 1961, c. 46, § 4, p. 179; Laws 2016, LB704, § 128.

16-672.05 Construction; notice to contractors, when; contents; bids; acceptance.

After ordering improvements as provided in section 16-672.01, the mayor and city council may enter into a contract for the construction of the improvements in one or more contracts, but no work shall be done or contract let, if the estimated cost of the improvements, as determined by the city engineer, is in excess of two thousand dollars, until notice to contractors has been published once each week for three weeks in a legal newspaper in or of general circulation in the city. The notice shall state the extent of the work, and the kind of materials to be bid upon, including in such notice all kinds of material mentioned in the ordinance specified in section 16-672.01, and the time when bids will be received, and may set forth the amount of the engineer's estimate of the cost of such improvements. The work provided for in sections 16-672.01 to 16-672.11 shall be done under a written contract with the lowest responsible bidder on the material selected after the bids are opened and in accordance with the requirements of the plans and specifications. The mayor and city council may reject any or all bids received and advertise for new bids in accordance with this section.

Source: Laws 1961, c. 46, § 5, p. 179; Laws 1969, c. 82, § 3, p. 416; Laws 1975, LB 112, § 1; Laws 2016, LB704, § 129.

16-672.06 Construction; acceptance; notice of assessments.

After the completion of work in the construction of public improvements as provided in section 16-672.05, the city engineer shall file with the city clerk a certificate of acceptance, which acceptance shall be approved by the mayor and city council by ordinance. The mayor and city council shall then require the city engineer to make a complete statement of all the costs of such improvement and a plat of the property in the storm water sewer district and a schedule of the amount proposed to be assessed against each separate parcel of real property in such district, which shall be filed with the city clerk within ten days from the date of the acceptance of the work. The mayor and city council shall then order the clerk to give notice that the plat and schedules are on file in his or her office and that all objections thereto, or to prior proceedings on account of errors, irregularities, or inequalities, not made in writing and filed with the city clerk within twenty days after the first publication of the notice shall be deemed to have been waived. Such notice shall be given by two publications in a legal newspaper in or of general circulation in the city and by notices posted in three conspicuous places in such storm water sewer district. Such notice shall state the time and place where objections, filed as provided in this section, shall be considered by the mayor and city council.

Source: Laws 1961, c. 46, § 6, p. 180; Laws 2016, LB704, § 130.

16-672.07 Assessments; hearing; equalization; delinquent payments; interest.

The hearing on the proposed assessments as provided in section 16-672.06 shall be held by the mayor and city council sitting as a board of adjustment and equalization, at the time and place specified in such notice which shall not be less than twenty days nor more than thirty days after the date of the first publication, unless adjourned. Such session may be adjourned, with provisions for proper notice of such adjournment. At such meeting, the proposed assessment shall be adjusted and equalized with reference to benefits resulting from the improvement and shall not exceed such benefits. If any special assessment is payable in installments, each installment shall draw interest payable annually or semiannually from the date of levy until due. Any delinquent installments shall draw interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date of delinquency until paid.

Source: Laws 1961, c. 46, § 7, p. 180; Laws 1969, c. 51, § 35, p. 294; Laws 1980, LB 933, § 15; Laws 1981, LB 167, § 16; Laws 2016, LB704, § 131; Laws 2019, LB194, § 64.

16-672.08 Special assessments; levy.

After the equalization of special assessments as required under section 16-672.07, the special assessments shall be levied by the mayor and city council upon all lots or parcels of real property within the storm water sewer district, specifically benefited by reason of the improvement. The special assessment may be relevied if, for any reason, the levy thereof is void or not enforceable and in an amount not exceeding the previous levy. Such levy shall be enforced as special assessments for street improvements are enforced in cities of the first class, and any payments thereon, made under previous levies, shall be credited to the property involved. All assessments made for such purposes shall be collected in the same manner as general taxes and shall be subject to the same penalties.

Source: Laws 1961, c. 46, § 8, p. 181; Laws 2016, LB704, § 132.

16-672.09 Assessments; maturity; interest; rate.

All special assessments provided for in section 16-672.08 shall become due in fifty days after the date of levy and may be paid within that time without interest, but if not so paid, they shall bear interest at the rate set by the city council until delinquent. Such assessments shall become delinquent in equal annual installments over such period of years as the mayor and city council may determine at the time of making the levy. Delinquent installments shall bear interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, until paid and shall be collected in the usual manner for the collection of general taxes and shall be subject to the same penalties.

Source: Laws 1961, c. 46, § 9, p. 181; Laws 1969, c. 51, § 36, p. 294; Laws 1980, LB 933, § 16; Laws 1981, LB 167, § 17.

16-672.10 Assessments; sinking fund; disbursement.

All the special assessments provided for in section 16-672.08, shall, when levied and collected be placed in a sinking fund for the purpose of paying the cost of the improvements as provided in sections 16-672.01 to 16-672.11 with allowable interest thereon, and shall be solely and strictly applied to such

purpose to the extent required; but any excess thereof may be by the mayor and city council, after fully discharging the purposes for which levied, transferred to such other fund or funds as the mayor and city council may deem advisable.

Source: Laws 1961, c. 46, § 10, p. 182.

16-672.11 Bonds; maturity; interest; rate; contractor; interest; warrants; tax levy.

For the purpose of paying the cost of the public improvements as provided in sections 16-672.01 to 16-672.11, the mayor and city council of any city of the first class, after such improvements have been completed and accepted, shall have the power to issue negotiable bonds of the city to be called storm water sewer district bonds, payable in not exceeding twenty years and bearing interest payable annually, which may either be sold by the city or delivered to the contractor in payment for the work, but in either case for not less than their par value. For the purpose of making partial payments as the work progresses, warrants may be issued by the mayor and city council upon certificates of the engineer in charge, showing the amount of work completed and materials necessarily purchased and delivered for the orderly and proper continuance of the project, in a sum not exceeding ninety-five percent of the cost thereof, and upon the completion and acceptance of the work, a final warrant may be issued for the balance due the contractor, which warrants shall be redeemed and paid upon the sale of the bonds issued and sold as provided in this section. The city shall pay to the contractor interest at the rate of eight percent per annum on the amounts due on partial and final payments beginning forty-five days after the certification of the amounts due by the engineer in charge and approval by the city council and running until the date that the warrant is tendered to the contractor. All special assessments which may be levied upon property specially benefited by such work or improvements in any such storm water sewer district shall, when collected, be set aside and placed in a sinking fund for the payment of the interest and principal of the bonds. There shall be levied annually upon all of the taxable property in the city a tax which, together with such sinking fund derived from special assessments collected, shall be sufficient to meet payments of interest and principal on the bonds as the same become due. Such tax shall be known as the storm water sewer tax, shall be payable annually, shall be collected in the same manner as general taxes, and shall be subject to the same penalties.

Source: Laws 1961, c. 46, § 11, p. 182; Laws 1969, c. 51, § 37, p. 295; Laws 1974, LB 636, § 3; Laws 1992, LB 719A, § 42; Laws 2016, LB704, § 133.

(g) PUBLIC UTILITIES

16-673 Construction and operation; contracts; procedures.

The mayor and city council of any city of the first class shall have power to make contracts with and authorize any person, company, or association to erect a gas works, power plant, electric or other light works, heating plant, or waterworks in such city and give such persons, company, or association the privilege of furnishing water, lights, power, or heat for the streets, lanes, alleys, and public places and property of such city and its inhabitants for any length of time not exceeding twenty-five years. Any city of the first class may by

resolution of the city council contract for the furnishing of electricity at retail to such city and the inhabitants thereof with any public power district, or an electric cooperative which cooperative has an approved retail service area adjoining such city's retail service area.

Source: Laws 1901, c. 18, § 54, p. 272; Laws 1905, c. 23, § 2, p. 244; Laws 1907, c. 14, § 1, p. 121; Laws 1909, c. 19, § 1, p. 184; R.S.1913, § 4954; Laws 1917, c. 97, § 1, p. 260; Laws 1919, c. 38, § 1, p. 120; Laws 1921, c. 169, § 1, p. 661; C.S.1922, § 4123; C.S.1929, § 16-652; Laws 1931, c. 29, § 1, p. 118; C.S.Supp.,1941, § 16-652; R.S.1943, § 16-673; Laws 1951, c. 26, § 2, p. 118; Laws 1965, c. 58, § 1, p. 266; Laws 1969, c. 83, § 1, p. 418; Laws 1975, LB 67, § 1.

Contract with private corporation to supply water to supplement city waterworks system authorized. Hevelone v. City of Beatrice, 120 Neb. 648, 234 N.W. 791 (1931).

Power company that contracted with village, to furnish electric power at a given rate for twenty-five years, is estopped, after operating thereunder for six years, to claim the contract was ultra vires and confiscatory. Village of Davenport v. Meyer Hydro-Electric Power Co., 110 Neb. 367, 193 N.W. 719 (1923).

Under prior act, city's authority to grant a franchise to a gas company was not restricted to such works being built within such city nor need its franchise be limited to a period of five years. Sharp v. City of South Omaha, 53 Neb. 700, 74 N.W. 76 (1898).

City cannot make a contract precluding it from increasing or decreasing the rates for electric power during the life of the contract, but such city cannot make rates that are noncompensatory or confiscatory. Central Power Co. v. City of Kearney, 274 F. 253 (8th Cir. 1921).

Authority granted city to contract to build and operate a waterworks ''on such terms and under such regulations as may be agreed on'' constitutes authority to agree with water company on water rates for twenty-five years, and city's attempt to alter such rates may be enjoined. Omaha Water Co. v. City of Omaha, 147 F. 1 (8th Cir. 1906).

City is estopped to defend against waterworks bonds in hands of innocent purchasers where such bonds reflect city certified in bond that they were legally issued, it having plenary power so to do, though the bonds cited the wrong statutory section as authority therefor. City of Beatrice v. Edminson, 117 F. 427 (8th Cir. 1902).

16-674 Acquisition of plants or facilities; condemnation; procedure.

The mayor and city council of a city of the first class shall have power to purchase or provide for, establish, construct, extend, enlarge, maintain, operate, and regulate for the city any such waterworks, gas works, power plant, including an electrical distribution facility, electric or other light works, or heating plant, or to condemn and appropriate, for the use of the city, waterworks, gas works, power plant, including an electrical distribution facility, electric or other light works, or heating plant. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724, except as to property specifically excluded by section 76-703 and as to which sections 19-701 to 19-707 or the Municipal Natural Gas System Condemnation Act is applicable. For purposes of this section, an electrical distribution facility shall be located within the retail service area of such city as approved by and on file with the Nebraska Power Review Board, pursuant to Chapter 70, article 10.

Source: Laws 1901, c. 18, § 54, p. 272; Laws 1905, c. 23, § 2, p. 244; Laws 1907, c. 14, § 1, p. 122; Laws 1909, c. 19, § 1, p. 184; R.S.1913, § 4954; Laws 1917, c. 97, § 1, p. 260; Laws 1919, c. 38, § 1, p. 120; Laws 1921, c. 169, § 1, p. 661; C.S.1922, § 4123; C.S.1929, § 16-652; Laws 1931, c. 29, § 1, p. 118; C.S.Supp.,1941, § 16-652; R.S.1943, § 16-674; Laws 1951, c. 101, § 53, p. 471; Laws 1982, LB 875, § 1; Laws 2002, LB 384, § 24; Laws 2019, LB194, § 65.

Cross References

Municipal Natural Gas System Condemnation Act, see section 19-4624.

Gas company's franchise authorizes it to substitute natural gas for artificial gas, as such substitution carries out the intention of the franchise to insure the best gas available to the users. Central Power Co. v. City of Hastings, 52 F.2d 487 (D. Neb. 1931).

16-675 Acquisition; operation; tax authorized.

The mayor and city council of a city of the first class may levy a tax, not exceeding seven cents on each one hundred dollars upon the taxable value of all the taxable property in such city, for the purpose of paying the cost of lighting the streets, lanes, alleys, and other public places or property of the city, for the purpose of furnishing water, heat, or power for the city, or for the purpose of buying, establishing, extending, or maintaining such waterworks, gas, electric, or other light works, or heating or power plant, not exceeding three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such city for any one of the respective purposes.

Source: Laws 1901, c. 18, § 54, p. 272; Laws 1905, c. 23, § 2, p. 244; Laws 1907, c. 14, § 1, p. 122; Laws 1909, c. 19, § 1, p. 184; R.S.1913, § 4954; Laws 1917, c. 97, § 1, p. 261; Laws 1919, c. 38, § 1, p. 121; Laws 1921, c. 169, § 1, p. 661; C.S.1922, § 4123; C.S.1929, § 16-652; Laws 1931, c. 29, § 1, p. 118; C.S.Supp.,1941, § 16-652; R.S.1943, § 16-675; Laws 1953, c. 287, § 8, p. 934; Laws 1979, LB 187, § 39; Laws 1992, LB 719A, § 43; Laws 2019, LB194, § 66.

Provision in prior act, limiting tax levy to five mills on a dollar valuation for purpose stated, repealed by implication, and reduced to one mill on a dollar valuation by reason of the amendment of the general revenue laws. Drew v. Mumford, 114 Neb. 100, 206 N.W. 159 (1925).

16-676 Acquisition; operation; bonds; issuance; amount; approval of electors required.

Where the amount of money which would be raised by the tax levy provided for in section 16-675 would be insufficient to establish or pay for a system of waterworks, gas, electric, or other light works, or heating or power system, the mayor and city council may borrow money and pledge the property and credit of the city upon its negotiable bonds or otherwise to an amount not exceeding two hundred and fifty thousand dollars for the purpose of establishing, constructing, extending, enlarging, or paying for, or maintaining the utilities named in this section. No such bonds shall be issued by the city council until the question of issuing the bonds shall have been submitted to the electors of the city at an election held for such purpose, notice of which shall have been given by publication once each week for three successive weeks prior thereto in a legal newspaper in or of general circulation in such city, and a majority of the electors voting upon the proposition shall have voted in favor of issuing such bonds. However, no election shall be called until a petition signed by at least fifty resident property owners shall be presented to the mayor and city council asking that an election be called for the purpose specified in this section.

Source: Laws 1901, c. 18, § 54, p. 272; Laws 1905, c. 23, § 2, p. 244; Laws 1907, c. 14, § 1, p. 122; Laws 1909, c. 19, § 1, p. 185; R.S.1913, § 4954; Laws 1917, c. 97, § 1, p. 261; Laws 1919, c. 38, § 1, p. 121; Laws 1921, c. 169, § 1, p. 662; C.S.1922, § 4123; C.S.1929, § 16-652; Laws 1931, c. 29, § 1, p. 118; C.S.Supp.,1941, § 16-652; R.S.1943, § 16-676; Laws 1951, c. 26, § 3, p. 118; Laws 2016, LB704, § 134.

16-677 Bonds; sinking funds; tax to provide.

When bonds shall have been issued by the city as provided under section 16-676, the mayor and city council shall have power to levy annually upon all taxable property of the city such tax as may be necessary for a sinking fund for the payment of accruing interest on such bonds and the principal thereof at maturity, and to provide for the office of water commissioner, power commissioner, light commissioner, or heat commissioner, and to prescribe the powers and duties of such officers.

Source: Laws 1901, c. 18, § 54, p. 273; Laws 1905, c. 23, § 2, p. 245; Laws 1907, c. 14, § 1, p. 122; Laws 1909, c. 19, § 1, p. 185; R.S.1913, § 4954; Laws 1917, c. 97, § 1, p. 261; Laws 1919, c. 38, § 1, p. 121; Laws 1921, c. 169, § 1, p. 662; C.S.1922, § 4123; C.S.1929, § 16-652; Laws 1931, c. 29, § 1, p. 119; C.S.Supp.,1941, § 16-652; R.S.1943, § 16-677; Laws 2016, LB704, § 135.

16-678 Existing franchises and contracts; rights preserved; tax authorized.

Nothing contained in sections 16-673 to 16-677 shall change or in any way affect existing franchises or existing contracts between any city and any company, corporation, or individual for furnishing the city or its inhabitants with light, power, heat, or water. The mayor and city council shall levy a sufficient tax to pay for such light, power, heat, or water supply in accordance with the terms of such existing contracts, not exceeding four and nine-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such city in any one year for any one of the purposes.

Source: Laws 1901, c. 18, § 54, p. 273; Laws 1905, c. 23, § 2, p. 245; Laws 1907, c. 14, § 1, p. 123; Laws 1909, c. 19, § 1, p. 185; R.S.1913, § 4954; Laws 1917, c. 97, § 1, p. 261; Laws 1919, c. 38, § 1, p. 121; Laws 1921, c. 169, § 1, p. 662; C.S.1922, § 4123; C.S.1929, § 16-652; Laws 1931, c. 29, § 1, p. 119; C.S.Supp.,1941, § 16-652; R.S.1943, § 16-678; Laws 1953, c. 287, § 9, p. 934; Laws 1979, LB 187, § 40; Laws 1992, LB 719A, § 44; Laws 2016, LB704, § 136.

16-679 Service; duty to provide; rates; regulation.

The mayor and city council of a city of the first class shall have power (1) to require every individual or private corporation operating such works or plants, subject to reasonable rules and regulations, to furnish any person applying therefor, along the line of its pipes, mains, wires, or other conduits, with gas, water, power, light, or heat, and to supply such city with water for fire protection, and with gas, water, power, light, or heat, for other necessary public or private purposes, (2) to regulate and fix the rents or rates of water, power, gas, electric light, or heat, and (3) to regulate and fix the charges for water meters, power meters, gas meters, electric light, or heat meters, or other device or means necessary for determining the consumption of water, power, gas, electric light, or heat. These powers shall not be abridged by ordinance, resolution, or contract.

Source: Laws 1901, c. 18, § 55, p. 273; R.S.1913, § 4955; C.S.1922, § 4124; C.S.1929, § 16-653; R.S.1943, § 16-679; Laws 2016, LB704, § 137; Laws 2019, LB194, § 67.

Under facts in this case, ordinance fixing rates for electrical energy supplied by city-owned plant was not subject to referendum. Hoover v. Carpenter, 188 Neb. 405, 197 N.W.2d 11 (1972).

A city fixing rates acts in a legislative, rather than a judicial capacity. A utility is entitled to a fair return. Rates fixed by city are presumed to be correct and reasonable and burden is on party attacking them to show they are unreasonable. A litigant who invokes the provisions of this statute may not challenge its constitutionality. Kansas-Nebraska Nat. Gas Co., Inc. v. City of Sidney, 186 Neb. 168, 181 N.W.2d 682 (1970).

Cities of the first class may regulate rates to be charged for gas. Nebraska Natural Gas Co. v. City of Lexington, 167 Neb. 413, 93 N.W.2d 179 (1958).

City's authority to erect, extend or to improve and to maintain a sewer system and to issue bonds payable from taxes is independent and complete. State ex rel. City of Columbus v. Price, 127 Neb. 132, 254 N.W. 889 (1934).

City cannot make contract for light and power with provision that precludes it from changing the rates during the life thereof, and a contract so doing is void. Central Power Co. v. City of Kearney, 274 F. 253 (8th Cir. 1921).

16-680 Sewerage system; drainage; waterworks; bonds authorized; amount; approval of electors; sewer or water commissioner; authorized.

The mayor and city council of a city of the first class shall have power to borrow money and pledge the property and credit of the city upon its negotiable bonds or otherwise in an amount not exceeding in the aggregate four hundred thousand dollars for the purpose of constructing or aiding in the construction of a system of sewerage. The city may borrow money and pledge the property and credit of the city upon its negotiable bonds or otherwise in any amount, not exceeding in the aggregate seven hundred fifty thousand dollars, for the purpose of constructing culverts and drains for the purpose of deepening, widening, straightening, walling, filling, covering, altering, or changing the channel of any watercourse or any natural or artificial surface waterway or any creek, branch, ravine, ditch, draw, basin, or part thereof flowing or extending through or being within the limits of the city and for the purpose of constructing artificial channels or covered drains sufficient to carry the water theretofore flowing in such watercourse and divert it from the natural channel and conduct the water through such artificial channel or covered drain and fill the old channel. The city may borrow money and pledge the property and credit of the city upon its negotiable bonds or otherwise in an amount not exceeding in the aggregate two hundred fifty thousand dollars for the purpose of constructing, maintaining, and operating a system of waterworks for the city. No such bonds shall be issued by the city council until the question of issuing the bonds has been submitted to the electors of the city at an election called and held for that purpose, notice of which shall be given by publication in a legal newspaper in or of general circulation in the city at least thirty days before the date of the election, and a majority of the electors voting upon the proposition have voted in favor of issuing such bonds. When any such bonds have been issued by the city, the city may levy annually upon all taxable property of the city such tax as may be necessary for a sinking fund for the payment of the accruing interest upon the bonds and the principal thereof at maturity. The city may provide for the office of sewer commissioner or water commissioner and prescribe the duties and powers of such offices.

Source: Laws 1901, c. 18, § 56, p. 274; Laws 1909, c. 20, § 1, p. 188; Laws 1913, c. 35, § 1, p. 112; R.S.1913, § 4956; Laws 1917, c. 98, § 1, p. 262; C.S.1922, § 4125; Laws 1927, c. 41, § 1, p. 175; C.S.1929, § 16-654; R.S.1943, § 16-680; Laws 1965, c. 59, § 1, p. 273; Laws 1971, LB 534, § 13; Laws 1992, LB 719A, § 45; Laws 2016, LB704, § 138; Laws 2019, LB194, § 68.

City's authority to erect, extend or to improve and to maintain a sewer system and to issue bonds payable from taxes is independent and complete. State ex rel. City of Columbus v. Price, 127 Neb. 132, 254 N.W. 889 (1934).

City had authority, by ordinance, to contract with others, to operate and construct water system, partly within and partly without city limits for twenty years, and to provide therein that it should have right to purchase the same at a valuation deter-

mined by appraisers. Omaha Water Co. v. City of Omaha, 162 F. 225 (8th Cir. 1908).

Authority granted city to contract to build and operate a waterworks ''on such terms and under such regulations as may be agreed on'' constitutes authority to agree with water company on water rates for twenty-five years, and city's attempt to alter such rates may be enjoined. Omaha Water Co. v. City of Omaha, 147 F. 1 (8th Cir. 1906).

16-681 Municipal utilities; service; rates; regulation.

Any city of the first class owning, operating or maintaining its own gas, water, power, light, or heat system shall furnish any person applying therefor, along the line of its pipes, mains, wires, or other conduits, subject to reasonable rules and regulations, with gas, water, power, light, or heat. Such city shall regulate and fix the rental or rate for gas, water, power, light, or heat and regulate and fix the charges for water meters, power meters, gas meters, light meters, or heat meters or other device or means necessary for determining the consumption of gas, water, power, light, or heat. Such city shall require water meters, gas meters, light meters, power meters, or heat meters to be used, or other device or means necessary for determining the consumption of gas, water, power, light, or heat.

Source: Laws 1901, c. 18, § 57, p. 275; R.S.1913, § 4957; C.S.1922, § 4126; C.S.1929, § 16-655; Laws 1937, c. 23, § 1, p. 146; C.S.Supp.,1941, § 16-655; R.S.1943, § 16-681; Laws 2016, LB704, § 139.

Water service to persons outside the corporate limits of the city is contractual and permissive. Burger v. City of Beatrice, 181 Neb. 213, 147 N.W.2d 784 (1967).

16-682 Municipal utilities; service; delinquent rents; lien; collection.

Any city of the first class operating a municipal utility under section 16-681 shall have the right and power to tax, assess, and collect from the inhabitants of the city such rent or rents for the use and benefit of water, gas, power, light, or heat used or supplied to them by such waterworks, mains, pump, or extension of any system of waterworks, or water supply, or by such gas, light, or heat system, as the city council shall by ordinance deem just or expedient. With respect to water rates, taxes, or rents only, such water rates, taxes, or rents, when delinquent, shall be a lien upon the premises or real estate upon or for which the water is used or supplied, and such water taxes, rents, or rates shall be paid and collected and such lien enforced in such manner as the city council shall by ordinance direct and provide. Any delinquent water rentals which remain unpaid for a period of three months after they become due may be, by resolution of the city council, assessed against such real estate as a special assessment, which special assessment shall be certified by the city clerk to the county clerk of the county in which the city is situated. The county clerk shall place such special assessments on the tax rolls for collection, subject to the same penalties and to be collected in like manner as other city taxes. The city council shall notify in writing nonoccupying owners of premises or their agents whenever their tenants or lessees are sixty days delinquent in the payment of water rent. Thereafter, if the owner of such real estate or his or her agent within the city shall notify the city council in writing to discontinue water service to the real estate or the occupants thereof, it shall be the duty of the officer in charge of the water department promptly to discontinue such service, and rentals for any water furnished to the occupants of such real estate in violation of such notice shall not be a lien thereon.

Source: Laws 1937, c. 26, § 1, p. 147; C.S.Supp.,1941, § 16-655; R.S. 1943, § 16-682; Laws 2016, LB704, § 140.

16-683 Construction; bonds; plan and estimate required; extensions, additions, and enlargements.

Before submitting any proposition for borrowing money for any of the purposes mentioned in sections 16-673, 16-674, and 16-680, the mayor and city council shall determine upon and adopt a system of sewerage, waterworks, heating, lighting, or power, as the case may be, and shall determine upon and adopt a plan for constructing drains or culverts, or for doing other work upon or in connection with watercourses or waterways as authorized in section 16-680. The mayor and city council shall procure from the city engineer an estimate of the actual cost of such system, an estimate of the cost of so much thereof as the mayor and city council may propose to construct with the amount proposed to be borrowed, and plans of such system. The estimate shall be placed and remain in the hands of the city clerk, subject to public inspection during all the times such proposition to borrow money shall be pending. After a system shall have been adopted, no other system or plan shall be adopted in lieu thereof unless authorized by a vote of the people. After construction of any such systems, works, or improvements as are authorized in sections 16-673, 16-674, and 16-680, the city may by vote of the people issue bonds to construct extensions, additions, or enlargements thereof, but not to exceed one hundred twenty-five thousand dollars in any one year, and the total amount of outstanding bonded indebtedness of any such city for the initial construction of any such systems, works, or improvements and for the construction of extensions, additions, and enlargements thereof shall not exceed the respective aggregate limitations of amount imposed under section 16-680.

Source: Laws 1901, c. 18, § 58, p. 275; Laws 1913, c. 35, § 2, p. 113; R.S.1913, § 4958; C.S.1922, § 4127; C.S.1929, § 16-656; R.S.1943, § 16-683; Laws 1947, c. 27, § 1, p. 132; Laws 2016, LB704, § 141.

16-684 Construction; operation; location; eminent domain; procedure.

When a system of waterworks or sewerage, power, heating, lighting, or drainage shall have been adopted as provided under sections 16-680 to 16-683, the mayor and city council may erect and construct and maintain such system of waterworks or sewerage or power plant, lighting, heating, or drainage, either within or without the corporate limits of the city, make all needful rules and regulations concerning their use, and do all acts necessary for their construction, completion, management, and control not inconsistent with law, including the taking of private property for the public use for their construction and operation. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724, except as to property specifically excluded by section 76-703 and as to which sections 19-701 to 19-707 are applicable.

Source: Laws 1901, c. 18, § 59, p. 275; Laws 1909, c. 19, § 1, p. 186; Laws 1913, c. 35, § 3, p. 114; R.S.1913, § 4959; C.S.1922, § 4128; Laws 1929, c. 43, § 1, p. 187; C.S.1929, § 16-657; R.S.1943, § 16-684; Laws 1951, c. 101, § 54, p. 472; Laws 2016, LB704, § 142.

A city may acquire existing electric and waterworks systems by eminent domain, but such power cannot extend so as to acquire a utilities property which furnishes several kinds of utility service, and is operated as a unit. Central Power Co. v. Nebraska City, 112 F.2d 471 (8th Cir. 1940).

16-684.01 Reserve funds; water mains and equipment; when authorized; labor.

After the establishment of a system of waterworks in any city of the first class, the mayor and city council may expend any accumulated reserve funds in its water department for the purpose of laying and relaying water mains and the installation of water equipment for fire protection. The city shall have the power and authority to employ the necessary labor therefor without the necessity of advertising for bids or of letting a contract or contracts therefor.

Source: Laws 1945, c. 24, § 1, p. 133; Laws 2016, LB704, § 143.

16-685 Transferred to section 19-2701.

16-686 Rural lines; when authorized; rates.

Any city of the first class is hereby authorized and empowered, for the purpose of carrying out the provisions of sections 16-684 and 19-2701, to construct, maintain, and operate the necessary rural transmission and distribution lines for a distance of eighteen miles from the corporate limits of such city upon, along, and across any of the public highways of this state under the conditions and provisions prescribed by law for the construction of electric transmission and distribution lines to persons, firms, associations, or corporations. Before the construction of any such rural electric transmission or distribution lines shall be undertaken, such city shall enter into contracts for electric service with persons, firms, associations, or corporations to be served at rates which will produce an annual gross revenue to such city equal to not less than fifteen percent of the cost of such construction. Such city shall thereafter adjust such rates when necessary to produce such gross revenue.

Source: Laws 1929, c. 43, § 1, p. 188; C.S.1929, § 16-657; R.S.1943, § 16-686; Laws 1945, c. 22, § 1, p. 130; Laws 2016, LB704, § 144.

16-686.01 Natural gas distribution system; service to cities of the second class and villages; when authorized.

Any city of the first class owning and operating a natural gas distribution system within such city, and owning and operating its own lateral supply line from its distribution system to a natural gas pipeline source of supply, may by ordinance, where such lateral supply line is so located with reference to any cities of the second class or villages within twenty miles of such city not then being supplied with natural gas and having no other source of gas supply available, make gas service available at retail to such municipalities and for that purpose construct, operate, and maintain connecting lines to and natural gas distribution systems in the municipalities. Such city prior to the construction of such facilities and the rendering of such service shall secure from the respective municipalities to be served a natural gas franchise as provided by law.

Source: Laws 1951, c. 24, § 1, p. 114; Laws 2016, LB704, § 145.

16-687 Contracts; terms; special election.

If bonds to finance the construction or acquisition of waterworks, gas, electric, or other light works, or heating or power system, by the city are not

approved under section 16-676 or sections 16-680 to 16-683, or if the city fails to obtain an adequate supply of good water, then the mayor and city council may contract with and procure individuals or corporations to construct and maintain a system of waterworks, power, heating, or lighting plant in such city for any time not exceeding twenty years from the date of the contract, with a reservation to the city of the right to purchase such waterworks, lighting, heating, or power plant at any time after the lapse of ten years from the date of the contract upon payment to such individuals or corporations of any amount to be determined from the contract, not exceeding the cost of the construction of such waterworks, power, lighting, or heating plant. In other respects such contract may be on such terms as may be agreed upon by a two-thirds vote of the city council. No such contract shall be made unless authorized by a majority vote of the legal voters of such city at a special election called for that purpose, notice of which shall be given by publication once each week for three successive weeks prior thereto in a legal newspaper in or of general circulation in such city.

Source: Laws 1901, c. 18, § 60, p. 276; Laws 1907, c. 13, § 1, p. 120; R.S.1913, § 4961; C.S.1922, § 4130; C.S.1929, § 16-659; R.S.1943, § 16-687; Laws 1951, c. 26, § 4, p. 119; Laws 2016, LB704, § 146.

After having voted bonds and constructed a waterworks system, and having failed to obtain adequate supply of water, city may contract with private company for supplemental water supply. Hevelone v. City of Beatrice, 120 Neb. 648, 234 N.W. 791 (1931).

16-688 Water; unwholesome supply; purification system; authority to install; election; tax authorized.

When any city of the first class has approved bonds and constructed a system of waterworks and obtained an adequate supply of water but the water is turbid or unwholesome during the whole or a portion of the year, the mayor and city council may without having previously made an appropriation therefor, when authorized by a majority vote of the electors voting on the question, which may be submitted at either a special or a general city election, construct, purchase, or enter into a contract for the construction or purchase of and install, establish, operate, and maintain a system of settling reservoirs, a system of filters, or both, for the purpose of clarifying and purifying such water. Notice of such election shall be given by publication once each week three successive weeks prior thereto in a legal newspaper in or of general circulation in such city. The city may levy taxes on all taxable property of such city, not to exceed three and five-tenths cents on each one hundred dollars upon the taxable value thereof in any one year for the payment of the cost thereof.

Source: Laws 1907, c. 13, § 1, p. 120; R.S.1913, § 4961; C.S.1922, § 4130; C.S.1929, § 16-659; R.S.1943, § 16-688; Laws 1951, c. 26, § 5, p. 120; Laws 1953, c. 287, § 10, p. 934; Laws 1979, LB 187, § 41; Laws 1992, LB 719A, § 46; Laws 2016, LB704, § 147.

16-689 Repealed. Laws 1976, LB 688, § 2.

16-690 Repealed. Laws 1976, LB 688, § 2.

16-691 Board of public works; powers and duties; employees authorized; approval of budget; powers of city council; signing of payroll checks.

The mayor and city council of a city of the first class may by ordinance confer upon the board of public works the active direction and supervision of the city's system of waterworks, power plant, or sewerage, heating, or lighting plant and the erection and construction of such system or plant. The board may provide that such duties be performed by such employee or employees as it may direct. The city council shall approve the budget of each proprietary function as provided in the Municipal Proprietary Function Act. The board shall make reports to the mayor and city council as often as the mayor and city council may require. In like manner the mayor and city council may confer upon such board the active direction and supervision of the system of streets and alleys.

The mayor and city council may, by ordinance, authorize and empower the board of public works to employ necessary laborers and clerks, to purchase material for the operation and maintenance of the systems, and to draw its orders on the several funds in the hands of the city treasurer to the credit of the various systems in payment of salaries, labor, and material. The mayor and city council shall establish the dollar amount for all extensions and projects above which the board of public works must obtain the approval of the mayor and city council before expending funds. The mayor and city council may, by ordinance, authorize and empower the board of public works to cooperate and participate in a plan of insurance designed and intended for the benefit of the employees of any public utility operated by the city. For that purpose the board of public works may make contributions to pay premiums or dues under such plan, authorize deductions from salaries of employees, and take such other steps as may be necessary to effectuate such plan of insurance. All orders for the disbursement of funds shall be signed by the chairperson and secretary of the board or by any two members of the board who have previously been designated for that purpose by a resolution duly adopted by such board and shall be paid by the city treasurer, except that payroll checks only may be signed by any one member of the board who has previously been designated for that purpose by a resolution duly adopted by the board. Facsimile signatures of board members may be used to sign such orders and checks.

Source: Laws 1913, c. 191, § 1, p. 568; R.S.1913, § 4963; Laws 1917, c. 95, § 1, p. 256; C.S.1922, § 4132; Laws 1923, c. 150, § 1, p. 366; Laws 1925, c. 44, § 3, p. 177; C.S.1929, § 16-661; Laws 1931, c. 30, § 1, p. 120; C.S.Supp.,1941, § 16-661; R.S.1943, § 16-691; Laws 1947, c. 26, § 5, p. 130; Laws 1949, c. 29, § 1(1), p. 111; Laws 1953, c. 30, § 1, p. 117; Laws 1963, c. 66, § 1, p. 265; Laws 1978, LB 558, § 1; Laws 1981, LB 171, § 1; Laws 1983, LB 304, § 2; Laws 1993, LB 734, § 24; Laws 2016, LB704, § 148; Laws 2019, LB194, § 69.

Cross References

Municipal Proprietary Function Act, see section 18-2801.

16-691.01 Board of public works; surplus funds; investment; securities; purchase; sale.

Any surplus funds remaining in the hands of the city treasurer of a city of the first class, to the credit of such various funds, may be invested by the board of public works, with the approval of the mayor and city council, in accordance with the provisions of sections 16-712, 16-713, and 16-715, in interest-bearing securities of the State of Nebraska or any political subdivision thereof, in

certificates of deposit of banks which are members of the Federal Deposit Insurance Corporation, or in interest-bearing securities of the United States upon an order for that purpose drawn by the board of public works upon the city treasurer. Such securities may be purchased, sold, or hypothecated by the board of public works with the approval of the mayor and city council, at their fair market value, and the interest earned by such securities shall be credited to the account of the utility from which the funds paid for the securities were originally drawn. In cities which have not conferred upon any board of public works the active direction and supervision of the city's system of waterworks, power plant, sewerage, and heating or lighting plant, the powers and duties conferred upon the board of public works as to the purchase, sale, and hypothecation of such securities shall be exercised by the city treasurer. Securities so purchased shall be held by the city treasurer who shall provide adequate bond for their safekeeping. When sold, the treasurer shall deliver such securities to the purchaser and collect the sale price.

Source: Laws 1947, c. 26, § 5, p. 130; Laws 1949, c. 29, § 1(2), p. 112; Laws 1969, c. 84, § 2, p. 424; Laws 1972, LB 1213, § 2; Laws 2016, LB704, § 149; Laws 2019, LB194, § 70.

16-691.02 Board of public works; surplus funds; disposition; transfer.

The mayor and city council of any city of the first class may, by resolution, direct and authorize the city treasurer to dispose of the surplus electric light, water, or natural gas distribution system funds, or the funds arising from the sale of electric light and water properties, by the payment of outstanding electric light, water, or natural gas distribution system warrants or bonds then due and by the payment of all current amounts required in any revenue bond ordinance in which any part of the earnings of the electric light or water utility or natural gas distribution system are pledged. The excess, if any, after such payments, may be transferred to the general fund of such city at the conclusion of the fiscal year.

Source: Laws 1965, c. 60, § 1, p. 275; Laws 2016, LB704, § 150.

16-692 Water commissioner; city council member and mayor ineligible.

No member of the city council or the mayor of a city of the first class shall be eligible to the office of water commissioner during the term for which he or she shall be elected.

Source: Laws 1901, c. 18, § 64, p. 278; R.S.1913, § 4964; C.S.1922, § 4133; C.S.1929, § 16-662; R.S.1943, § 16-692; Laws 2016, LB704, § 151; Laws 2019, LB194, § 71.

16-693 Bonds; tax authorized; how used.

When any bonds shall have been issued by a city of the first class for the purpose of constructing or aiding in the construction of a system of waterworks, power plant, sewerage, heating, lighting, or drainage, there shall thereafter be levied annually upon all taxable property of such city a tax not exceeding seven cents on each one hundred dollars for every twenty thousand dollars of bonds so issued, which shall be known as the waterworks tax, power tax, sewerage tax, heat tax, light tax, or drainage tax, as the case may be, and shall be payable only in money. The proceeds of such tax, together with all income received by the city from the payment and collection of water, power,

heat, or light, rent, taxes, and rates of assessments, shall first be applied to the payment of the current expenses of waterworks, power plant, heating, or lighting, to improvements, extensions, and additions thereto, and interest on money borrowed and bonds issued for their construction. The surplus, if any, shall be retained for a sinking fund for the payment of such loan or bonds at maturity.

Source: Laws 1901, c. 18, § 65, p. 278; Laws 1913, c. 35, § 4, p. 115; R.S.1913, § 4965; Laws 1917, c. 95, § 1, p. 257; C.S.1922, § 4134; C.S.1929, § 16-663; R.S.1943, § 16-693; Laws 1965, c. 60, § 2, p. 275; Laws 1979, LB 187, § 42; Laws 2016, LB704, § 152; Laws 2019, LB194, § 72.

16-694 Sewers; maintenance and repairs; annual tax; service rate in lieu of tax; lien.

After the establishment of a system of sewerage in any city of the first class, the mayor and city council may, at the time of levying other taxes for city purposes, levy an annual tax of not more than three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such city for the purpose of creating a fund to be used exclusively for the maintenance and repairing of any sewers in such city. In lieu of the levy of a tax, the mayor and city council may establish, by ordinance, such rates for such sewer service as may be deemed by them to be fair and reasonable, to be collected from either the owner or the person, firm, or corporation requesting the service at such times, either monthly, quarterly, or otherwise, as may be specified in the ordinance. All such sewer charges shall be a lien upon the premises or real estate for which the sewer service is used or supplied. Such lien shall be enforced in such manner as the city council provides by ordinance. The charges thus made, when collected, shall be placed in a separate fund and used exclusively for the purpose of maintenance and repairs of any sewers in such city.

Source: Laws 1925, c. 46, § 1, p. 186; C.S.1929, § 16-664; Laws 1943, c. 33, § 1, p. 151; R.S.1943, § 16-694; Laws 1947, c. 51, § 1, p. 172; Laws 1951, c. 27, § 1, p. 122; Laws 1953, c. 287, § 11, p. 935; Laws 1979, LB 187, § 43; Laws 1992, LB 719A, § 47; Laws 2016, LB704, § 153.

(h) PARKS

16-695 Parks; swimming pool; stadium; other facilities; acquisition of land; bonds; election; issuance; interest; term.

The mayor and city council of any city of the first class are hereby authorized to acquire by purchase or otherwise and hold in the name of the city, lands, lots, or grounds within or without the limits of the city to be used and improved for parks, parkways, or boulevards. To pay for and improve such lands, lots, or grounds, the mayor and city council are authorized to issue bonds for such purposes, except that no such bonds shall be issued until the question of issuing such bonds shall have been submitted to the electors of the city, at a general election therein, or at a special election appointed and called by the mayor and city council for such purposes, and a majority of electors voting at such election shall have voted in favor of issuing the bonds. Notice of such election shall be

given by publication once each week for three successive weeks prior thereto in a legal newspaper in or of general circulation in such city. Such bonds shall be payable in not to exceed twenty years from the date of issuance thereof, and shall bear interest payable annually or semiannually, with interest coupons attached to the bonds. The mayor and city council may at their discretion construct in any park a swimming pool, stadium, or other facilities for public use and recreation and pay for such facilities out of the proceeds of such bonds.

Source: Laws 1901, c. 18, § 80, p. 289; R.S.1913, § 4966; C.S.1922, § 4135; C.S.1929, § 16-665; R.S.1943, § 16-695; Laws 1947, c. 28, § 1, p. 134; Laws 1951, c. 26, § 6, p. 120; Laws 1965, c. 61, § 1, p. 276; Laws 1969, c. 51, § 38, p. 295; Laws 1982, LB 692, § 1; Laws 2016, LB704, § 154.

16-696 Board of park commissioners; appointment; number; qualifications; powers and duties; recreation board; board of park and recreation commissioners.

(1) In each city of the first class which acquires land for a park or parks, there may be a board of park commissioners, who shall have charge of all the parks belonging to the city, with power to establish rules for the management, care, and use of the same. The board of park commissioners shall be composed of not less than three members, but the total number shall be evenly divisible by three, who shall be residents of the city. In the event of a tie vote, the motion under consideration shall fail to be adopted. They shall be appointed by the mayor and city council at their first regular meeting in January each year except for the original board which may be appointed any time. At the time of the first appointment, one-third of the number to be appointed shall be appointed for a term of one year, one-third for a term of two years, and the rest shall be appointed for a term of three years, which term shall be computed from the first meeting in the preceding January. After the appointment of the original board it shall be the duty of the mayor and city council to appoint or reappoint one-third of the board each year for a term of three years to commence at the time of appointment at the first meeting in January. Each member shall serve until his or her successor is appointed and qualified. A vacancy occurring on such board by death, resignation, or disqualification of a member shall be filled for the remainder of such term at the next regular meeting of the city council. A majority of all the members of the board of park commissioners shall constitute a quorum. It shall be the duty of the board of park commissioners to lay out, improve, and beautify all grounds owned or acquired for public parks, and employ helpers and laborers as may be necessary for the proper care and maintenance of such parks, and the improvement and beautification thereof, to the extent that funds may be provided for such purposes. The members of the board, at its first meeting in each year, shall elect one of their own members as chairperson of such board. Before entering upon his or her duties each member of the board shall take an oath, to be filed with the city clerk, that he or she will faithfully perform the duties of the office and will not in any manner be actuated or influenced therein by personal or political motives.

(2) The board of park commissioners may also be constituted by the mayor and city council as an ex officio recreation board. When so constituted, such recreation board shall have the duty and authority to promote, manage,

supervise, and control all recreation activities supported financially by such city to the extent funds are available.

(3) The mayor and city council may abolish the board of park commissioners, if one has been appointed as provided in this section, and may establish a board of park and recreation commissioners, who shall have charge of all parks belonging to the city and all recreational activities supported financially by the city, with power to establish rules for the management, care, supervision, and use of such parks. The board of park and recreation commissioners shall be appointed to such terms of office and in such numbers as provided in this section for appointment of a board of park commissioners. It shall be the duty of the board of park and recreation commissioners to lay out, improve, beautify, and design all grounds, bodies of water, and buildings owned or acquired for public parks and recreational facilities, and employ such persons as may be necessary for the proper direction, care, maintenance, improvement, and beautification thereof, and for program planning and leadership of recreational activities, to the extent that funds may be provided for such purposes. The board shall also have the duty of continued study and promotion of the needs of such city for additional park and recreational facilities. Members of the board of park and recreation commissioners at its first meeting in each year shall elect one of its own members as chairperson of the board. Before entering upon his or her duties each member of the board shall take an oath, to be filed with the city clerk, that he or she will faithfully perform the duties of the office and will not in any manner be actuated or influenced therein by personal or political motives.

Source: Laws 1901, c. 18, § 81, p. 290; Laws 1901, c. 19, § 8, p. 318; R.S.1913, § 4967; C.S.1922, § 4136; C.S.1929, § 16-666; R.S. 1943, § 16-696; Laws 1969, c. 85, § 1, p. 427; Laws 1969, c. 86, § 1, p. 429; Laws 1971, LB 559, § 1; Laws 2004, LB 937, § 1; Laws 2005, LB 626, § 2; Laws 2016, LB704, § 155.

16-697 Park fund or park and recreation fund; annual levy; audit of accounts; warrants; contracts; reports.

(1) For the purpose of (a) providing funds for amusements and recreation, (b) providing funds for laying out, purchasing, improving, and beautifying parks and public grounds, and (c) providing for the payment of the salaries and wages of employees of the board of park commissioners or the board of park and recreation commissioners, the mayor and city council of a city of the first class shall, each year at the time of making the levy for general city purposes, make a levy upon the taxable value of all the taxable property in such city. Such levy shall be collected and paid into the city treasury and shall constitute the park fund or park and recreation fund as the case may be.

(2) All accounts against the park fund or park and recreation fund of such city, provided for by subsection (1) of this section, for salaries and wages of the employees and all other expenses of such parks or recreational facilities shall be audited and allowed by the park or park and recreation commissioners. All warrants thereon shall be drawn only by the chairperson of the commissioners. Warrants so drawn shall be paid by the city treasurer out of such fund.

(3) The park or park and recreation commissioners of such city, as the case may be, shall enter into any contracts of any nature involving an expenditure in accordance with the policies of the city council.

(4) The chairperson of the board of park or park and recreation commissioners shall, on January 1 and July 1 of each year, file with the city clerk an itemized statement of all the expenditures of the board.

Source: Laws 1901, c. 18, § 81, p. 290; Laws 1901, c. 19, § 8, p. 318; R.S.1913, § 4968; Laws 1915, c. 88, § 1, p. 228; C.S.1922, § 4137; Laws 1925, c. 52, § 1, p. 204; C.S.1929, § 16-667; Laws 1933, c. 26, § 1, p. 200; Laws 1935, c. 30, § 1, p. 134; C.S.Supp.,1941, § 16-667; R.S.1943, § 16-697; Laws 1953, c. 31, § 1, p. 119; Laws 1969, c. 86, § 2, p. 431; Laws 1979, LB 187, § 44; Laws 1992, LB 719A, § 48; Laws 2016, LB704, § 156; Laws 2019, LB194, § 73.

16-697.01 Parks, recreational facilities, and public grounds; acquisition; control.

Any city of the first class is hereby authorized and empowered to take land in fee, within or without its corporate limits, by donation, gift, devise, purchase, or appropriation, and to hold, improve and control such land for parks, recreational facilities, and public grounds. The jurisdiction and police power of the mayor and city council of any city that shall acquire any such real estate shall be at once extended over such real estate. The mayor and city council shall have power to enact bylaws, rules, and ordinances for the protection, preservation, and control of any real estate acquired under this section and provide suitable penalties for the violation of any such bylaws, rules, or ordinances.

Source: Laws 1899, c. 15, § 1, p. 80; R.S.1913, § 5271; C.S.1922, § 4490; C.S.1929, § 19-101; R.S.1943, § 19-101; Laws 1969, c. 86, § 6, p. 433; Laws 2016, LB704, § 157.

16-697.02 Borrowing; authorized; bonds; approval of electors; mayor and city council; duties; issuance of refunding bonds; approval of electors.

(1) The mayor and city council of any city of the first class shall have power to borrow money and pledge the property and credit of the city upon its negotiable bonds or otherwise, for the purpose of purchasing and improving land for parks, recreational facilities, and public grounds, authority therefor having first been obtained by a majority vote of the qualified electors of the city voting on such question at any general city election of such city or at an election called for that purpose, upon a proposition or propositions submitted in the manner provided by law for the submission of propositions to aid in the construction of railroads and other works of internal improvement.

(2) The mayor and city council shall identify the specific type of security pledge securing any financing or bond issue in the proposition to borrow money and pledge the property and credit of the city upon its negotiable bonds or otherwise for the purposes described in subsection (1) of this section. The proposition with language identifying the specific type of security pledged to be used shall be placed on the ballot to be voted on by the qualified electors of the city.

(3) If the mayor and city council decide to issue refunding bonds under section 10-142 for bonds issued pursuant to this section that change the specific type of security pledged from revenue bonds to general obligation bonds, authority therefor must first be obtained by a majority vote of the qualified

electors of the city voting on such refinancing proposition at any general city election of such city or at an election called for that purpose.

Source: Laws 1899, c. 15, § 2, p. 81; Laws 1913, c. 190, § 1, p. 567; R.S.1913, § 5272; C.S.1922, § 4491; C.S.1929, § 19-102; R.S.1943, § 19-102; Laws 1969, c. 86, § 7, p. 433; Laws 2016, LB378, § 1; Laws 2016, LB704, § 158.

(i) MARKETS

16-698 Markets; construction; operation; location; approval of electors; notice; when required.

Any city of the first class may, by ordinance, (1) purchase and hold grounds for and erect and establish market houses and market places, and regulate and govern such market houses and market places, (2) contract with any person or persons or companies or corporations for the erection and regulation of such market houses and market places on such terms and conditions and in such manner as the city council may prescribe, and (3) raise all necessary revenue for the purposes provided in this section. The city council may provide for the erection of all other useful and necessary buildings for the use of the city and for the protection and safety of all property owned by the city, in connection with such market houses and places. It may locate such market houses, market places, and buildings on any street, alley, or public grounds, or on any land purchased for such purposes, and establish, alter, and change the channel of streams and watercourses within the city, and bridge such streams and watercourses. Any such improvement costing in the aggregate a sum greater than two thousand dollars shall not be authorized until the ordinance providing for the improvement shall first be submitted to and ratified by a majority of the legal voters of such city voting thereon, notice of which shall be given by publication once each week for three successive weeks in a legal newspaper in or of general circulation in such city.

Source: Laws 1901, c. 18, § 48, XXVI, p. 251; R.S.1913, § 4969; C.S.1922, § 4138; C.S.1929, § 16-668; R.S.1943, § 16-698; Laws 1951, c. 26, § 7, p. 121; Laws 2016, LB704, § 159.

16-699 Regulation of markets.

No charge or assessment of any kind shall be made or levied on any vehicle or on the owner of any vehicle bringing produce or provisions to any market place in a city of the first class, or standing in or occupying a place in any of the market places of the city, or in the street contiguous to such market places on market days. The mayor and city council shall have full power to prescribe the kind and description of articles which may be sold and the stand or place to be occupied by the vendors and may authorize the immediate seizure and arrest and removal from the markets of any person violating the regulations as established by ordinance, together with any article of produce in his or her possession, and the immediate seizure and destruction of tainted or unsound meat, provisions, or other articles of food.

Source: Laws 1901, c. 18, § 36, p. 239; R.S.1913, § 4970; C.S.1922, § 4139; C.S.1929, § 16-669; R.S.1943, § 16-699; Laws 2016, LB704, § 160; Laws 2019, LB194, § 74.

(j) PUBLIC BUILDINGS

16-6,100 Public buildings; construction; bonds authorized; approval of electors required, when.

The mayor and city council of a city of the first class shall have the power to borrow money and pledge the property and credit of the city upon its negotiable bonds or otherwise for the purpose of acquiring, by purchasing or constructing, including site acquisition, or aiding in the acquiring of a city hall, jail, auditorium, buildings for the fire department, and other public buildings, including the acquisition of buildings authorized to be acquired by Chapter 72, article 14, and including acquisition of buildings to be leased in whole or in part by the city to any other political or governmental subdivision of the State of Nebraska authorized by law to lease such buildings. No such bonds shall be issued until after the same have been authorized by a majority vote of the electors of the city voting on the proposition of their issuance at an election called for the submission of such proposition and of which election notice of the time and place thereof shall have been given by publication in a legal newspaper in or of general circulation in the city three successive weeks prior thereto. If the buildings to be acquired are to be used by the State of Nebraska or its agency or agencies under a lease authorized by Chapter 72, article 14, or the buildings are to be leased by any other political or governmental subdivision of the State of Nebraska or other governmental agencies and if the combined area of the buildings to be leased by the state or its agency or agencies and the political or governmental subdivision of the State of Nebraska is more than fifty percent of the area of the buildings and if the cost of acquisition does not exceed five million dollars, no such vote of the electors will be required.

Source: Laws 1911, c. 15, § 1, p. 132; R.S.1913, § 4971; Laws 1915, c. 89, § 1, p. 229; Laws 1919, c. 39, § 1, p. 122; C.S.1922, § 4140; C.S.1929, § 16-670; Laws 1941, c. 23, § 1, p. 116; C.S.Supp.,1941, § 16-670; R.S.1943, § 16-6,100; Laws 1945, c. 23, § 1, p. 131; Laws 1947, c. 30, § 1, p. 138; Laws 1947, c. 28, § 2, p. 135; Laws 1969, c. 87, § 1, p. 436; Laws 1972, LB 876, § 1; Laws 2016, LB704, § 161; Laws 2019, LB194, § 75; Laws 2021, LB131, § 12.

16-6,100.01 Joint city-county building; authorized; acquisition of land; erect; equip, furnish, maintain, and operate.

Any county in this state may, together with any city of the first class of the county in which the county seat is located, jointly acquire land for, erect, equip, furnish, maintain, and operate a joint city-county building to be used jointly by such county and city.

Source: Laws 1953, c. 32, § 1, p. 120.

16-6,100.02 Joint city-county building; expense; bonds; election; approval by electors.

The cost and expense of acquiring land for, erecting, equipping, furnishing, and maintaining a joint city-county building shall be borne by such county and city in the proportion determined by the county board of the county and the city council of the city of the first class. The building shall not be erected or

contracted to be erected, no land shall be acquired therefor, and no bonds shall be issued or sold by the county or the city of the first class until the county and the city of the first class have each been authorized to issue bonds to defray its proportion of the cost of such land, building, equipment, and furnishings by the required number of electors of the county and the city of the first class in the manner provided by sections 16-6,100 and 23-3501.

Source: Laws 1953, c. 32, § 2, p. 121.

16-6,100.03 Joint city-county building; indebtedness; bonds; principal and interest; in addition to other limitations.

The amount of indebtedness authorized to be incurred by any county or city of the first class for the payment of principal and interest for the bonds authorized by the provisions of sections 16-6,100.01 to 16-6,100.07 shall be in addition to and over and above any limits provided by law.

Source: Laws 1953, c. 32, § 3, p. 121; Laws 2016, LB704, § 162.

16-6,100.04 Joint city-county building; county board and city council; building commission; powers; duties.

The members of the county board of the county and the city council of the city of the first class which agree to build a joint city-county building shall be the building commission to purchase the land for the building and to contract for the erection, equipment, and furnishings of the building and, after completion thereof, shall be in charge of its maintenance and repair.

Source: Laws 1953, c. 32, § 4, p. 121.

16-6,100.05 Joint city-county building; building commission; plans and specifications; personnel; compensation; contracts.

The building commission shall cause to be prepared building plans and specifications for the joint city-county building, and may employ architects, engineers, draftsmen, and such clerical help as may be deemed necessary for the purpose of preparing such plans and specifications. The compensation of such personnel shall be fixed by the commission and shall be paid in the same proportion as is determined for defraying the cost as set forth in section 16-6,100.02. The contract for erecting the building, for the equipment, and for furnishings shall be let by the commission in the same manner as for other public buildings. The members of the commission shall receive no compensation for their services as members of the commission.

Source: Laws 1953, c. 32, § 5, p. 121; Laws 2016, LB704, § 163.

16-6,100.06 Joint city-county building; annual budget of city and county.

The county and the city of the first class shall each provide in their annual budgets an item for their proportion of the expense of maintaining such joint city-county building.

Source: Laws 1953, c. 32, § 6, p. 122.

16-6,100.07 Joint city-county building; building commission; accept gifts.

The building commission shall have power to accept gifts, devises, and bequests of real and personal property to carry out the purposes of sections 16-6,100.01 to 16-6,100.07 and, to the extent of the powers conferred upon

such board by the provisions of sections 16-6,100.01 to 16-6,100.07, to execute and carry out such conditions as may be annexed to any gift, devises, or bequest.

Source: Laws 1953, c. 32, § 7, p. 122.

(k) WATERWORKS; GAS PLANT

16-6,101 Acquisition; revenue bonds; approval of electors required.

Supplemental to any existing law on the subject and in lieu of the issuance of general obligation bonds, or the levying of taxes upon property, as by law provided, any city of the first class may construct, purchase, or otherwise acquire a waterworks plant or a water system, or a gas plant or a gas system, including a natural or bottled gas plant, gas distribution system, or gas pipelines, either within or without the corporate limits of such city, and real and personal property needed or useful in connection therewith, and pay the cost thereof by pledging and hypothecating the revenue and earnings of any waterworks plant or water system, or a gas plant or a gas system, including a natural or bottled gas plant, gas distribution system, or gas pipelines, owned or to be owned by such city. In the exercise of the authority granted in this section, any city may issue and sell revenue bonds or debentures and enter into such contracts in connection therewith as may be proper and necessary. Such revenue bonds or debentures shall be a lien only upon the revenue and earnings of the waterworks plant or water system, or a gas plant or a gas system, including a natural or bottled gas plant, gas distribution system, or gas pipelines, owned or to be owned by such city. No such city shall pledge or hypothecate the revenue and earnings of any waterworks plant or water system, or a gas plant or a gas system, including a natural or bottled gas plant, gas distribution system, or gas pipelines, nor issue revenue bonds or debentures, as authorized in this section, until the proposition relating thereto has been submitted in the usual manner to the qualified voters of such city at a general or special election and approved by a majority of the electors voting on the proposition submitted. Such proposition shall be submitted whenever requested, within thirty days after a sufficient petition signed by the qualified voters of such city equal in number to twenty percent of the vote cast at the last general municipal election held therein, shall be filed with the city clerk. Three weeks' notice of the submission of the proposition shall be given by publication in a legal newspaper in or of general circulation in such city. The requirement for a vote of the electors, however, shall not apply when such city seeks to pledge or hypothecate such revenue or earnings or issues revenue bonds or debentures solely for the maintenance, extension, or enlargement of any waterworks plant or water system, or a gas plant or a gas system, including a natural or bottled gas plant, gas distribution system, or gas pipelines, owned by such city.

Source: Laws 1937, c. 29, § 1, p. 151; Laws 1941, c. 22, § 1, p. 113; C.S.Supp.,1941, § 16-671; R.S.1943, § 16-6,101; Laws 2016, LB704, § 164.

(l) SANITARY SEWER AND WATER MAIN CONNECTION DISTRICT

16-6,102 Districts; created.

In addition to any other provision of state law, whenever the mayor and city council of any city of the first class shall deem it necessary and advisable to

construct sanitary sewer mains or water mains, the mayor and city council may, by ordinance passed by not less than three-fourths of all members of the city council, create a district or districts to be known as sanitary sewer connection districts or water connection districts and such district or districts may include properties within the corporate limits of the city and within the city's extraterritorial zoning jurisdiction. Such ordinance shall state the size and kind of sewer mains or water mains proposed to be constructed in such district and shall designate the outer boundaries of the district or districts in which it is proposed to construct the sewer mains or water mains.

Source: Laws 1969, c. 73, § 1, p. 397; Laws 2016, LB704, § 165.

16-6,103 Districts; benefits; certification; connection fee.

After sanitary sewer mains or water mains have been constructed in the districts as provided under section 16-6,102, the cost thereof shall be reported to the city council and the city council, sitting as a board of equalization, shall determine benefits to abutting property. The special benefits as determined by the board of equalization shall not be levied as special assessments against the property within the district but shall be certified in a resolution of the city council to the register of deeds of the county in which the improvement district is constructed. A connection fee in the amount of the benefit accruing to the property in the district shall be paid to the city at the time such property becomes connected to the sewer main or water main. The city shall provide that no property thus benefited by sanitary sewer or water main improvements shall be connected to the sanitary sewer or water mains until the connection fee is paid.

Source: Laws 1969, c. 73, § 2, p. 397; Laws 2016, LB704, § 166.

16-6,104 Construction of sewer and water mains; cost; payment; connection fees; use.

For the purpose of paying the cost of any sanitary sewer mains or water mains constructed in a connection district created under section 16-6,102, the mayor and city council may spend funds accumulated in any sanitary sewer or water department surplus funds of the city. The connection fees collected by any such city for properties connecting to such sanitary sewer mains or water mains shall be paid into the sanitary sewer or water department surplus fund to replenish such funds for the construction costs.

Source: Laws 1969, c. 73, § 3, p. 398; Laws 2016, LB704, § 167.

16-6,105 Construction of sewer and water mains; cost; revenue bonds; issuance authorized.

As an alternative to spending surplus funds as provided in section 16-6,104, or to pay for part of the construction of sanitary sewer mains or water mains, the mayor and city council may issue revenue bonds. Such revenue bonds shall not impose any general liability upon the city but shall be secured by the revenue received by the city for the operation of the sanitary sewer system or waterworks system, and the amount of connection fees collected by the city for connections to such sanitary sewer mains or water mains. Such revenue bonds shall be sold for not less than par and bear interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature. The amount of such revenue bonds, either

issued or outstanding, shall not be included in computing the maximum amount of bonds which the city may be authorized to issue under its charter or any statute of this state.

Source: Laws 1969, c. 73, § 4, p. 398; Laws 1980, LB 933, § 17; Laws 1981, LB 167, § 18; Laws 2016, LB704, § 168.

(m) FLOOD CONTROL

16-6,106 Powers.

Cities of the first class are hereby authorized and empowered to develop and implement and from time to time amend, change, and modify a general plan or program of flood and storm water control, drainage, and disposal for such city. If the plan or program requires works of improvement outside of the city limits, it shall be submitted for review to the boards of the county or counties affected and to the Department of Natural Resources. To accomplish such purposes, or any of them, the city may to the extent deemed needful or useful in the judgment of the city council:

(1) Procure and contract for professional and technical assistance of all kinds;

(2) Build, construct, alter, modify, and improve, using either its own employees, equipment, and facilities or by contract with others, dams, dikes, levees, drainways, channels, structures, devices, storm water sewers and systems, and works of all kinds and appurtenances thereto all without any limitation whatsoever, including extensions, additions, and improvements and alterations of any such existing facilities, for the control, management, drainage, and disposal of flood, storm, or surface waters, both within and without the city as in the discretion of the city council may be required for the protection, benefit, and welfare of the city and its inhabitants and their property; and

(3) Acquire by purchase, lease, gift, and contract and through the exercise of the right of eminent domain all lands, structures, easements, rights-of-way, or other property real or personal both within and without the city as may in the discretion of the city council be required or useful in connection with any such plan or program and the implementation thereof.

Source: Laws 1971, LB 57, § 1; Laws 2000, LB 900, § 64.

Cross References

For additional flood control powers of cities of the first class, see section 23-320.07.

16-6,107 Costs; financing.

For carrying out the purposes and powers set forth in section 16-6,106, including payment of the cost thereof, the city may:

(1) Borrow money and issue its negotiable general obligation bonds upon such terms and conditions as the mayor and city council may determine, without a vote of the electors;

(2) Levy a tax upon all taxable property in the city to pay such bonds and interest thereon and establish a sinking fund for such payment;

(3) Issue warrants to contractors and others furnishing services or materials or in satisfaction of other obligations created under section 16-6,106, such warrants to be issued in such amounts and on such terms and conditions as the mayor and city council shall determine, which warrants shall be redeemed and

paid upon the sale of bonds or receipt of other funds available for such purpose;

(4) Receive gifts, grants, and funds from any source, including, but not limited to, state, federal, or private sources; and

(5) Cooperate and contract with any other government, governmental agency, or political subdivision, whether state or federal, and any person or organization providing funds for the purposes covered by sections 16-6,106 to 16-6,109.

Source: Laws 1971, LB 57, § 2; Laws 2016, LB704, § 169.

16-6,108 General obligation bonds; issuance; hearing.

The powers granted by sections 16-6,106 to 16-6,109 may be exercised in whole or in part and from time to time as the city council may in its discretion determine but before general obligation bonds are issued for the purposes of sections 16-6,106 to 16-6,109, the city council shall hold a public hearing after three weeks' notice published in a legal newspaper in or of general circulation in such city, and the referendum provisions of the Municipal Initiative and Referendum Act shall apply to any ordinance or resolution authorizing issuance of such bonds. The program for implementation of the plan may be adopted and carried out in parts, sections, or stages.

Source: Laws 1971, LB 57, § 3; Laws 1982, LB 807, § 42; Laws 2016, LB704, § 170; Laws 2021, LB163, § 1.

Cross References

Municipal Initiative and Referendum Act, see section 18-2501.

16-6,109 Sections; supplemental to other laws.

The powers granted by sections 16-6,106 to 16-6,109 are independent of and in addition to all other grants of powers on the same or related subjects but may be exercised jointly with or supplemented by the powers granted by existing state law, including, but not limited to, sections 16-667 to 16-672.11, 16-680, 16-683, 16-693, 18-401 to 18-411, 18-501 to 18-512, 19-1305, 23-320.07 to 23-320.13, and 31-501 to 31-553 and the Combined Improvement Act.

Source: Laws 1971, LB 57, § 4; Laws 2003, LB 52, § 1; Laws 2016, LB704, § 171; Laws 2022, LB800, § 326.
Operative date April 19, 2022.

Cross References

Combined Improvement Act, see section 19-2415.

(n) PUBLIC PASSENGER TRANSPORTATION SYSTEM

16-6,110 Acquisition of system; acceptance of funds; administration; powers.

A city of the first class shall have the power by ordinance to acquire, by the exercise of the power of eminent domain or otherwise, lease, purchase, construct, own, maintain, and operate, or contract for the operation of public passenger transportation systems, excluding railroad systems, including all property and facilities required therefor, within and without the limits of the city, to redeem such property from prior encumbrance in order to protect or preserve the interest of the city therein, to exercise all powers granted by the Constitution and laws of the State of Nebraska or exercised by or pursuant to a

home rule charter adopted pursuant thereto, including but not limited to receiving and accepting from the government of the United States or any agency thereof, from the State of Nebraska, or any subdivision thereof, and from any person or corporation, donations, devises, gifts, bequests, loans, or grants for or in aid of the acquisition, operation, and maintenance of such public passenger transportation systems, and to administer, hold, use, and apply the same for the purposes for which such donations, devises, gifts, bequests, loans, or grants may have been made, to negotiate with employees and enter into contracts of employment, to employ by contract or otherwise individuals singularly or collectively, to enter into agreements authorized under the Interlocal Cooperation Act or the Joint Public Agency Act, to contract with an operating and management company for the purpose of operating, servicing, and maintaining any public passenger transportation systems any such city shall acquire under the provisions of sections 16-6,110 and 75-303, and to exercise such other and further powers with respect thereto as may be necessary, incident, or appropriate to the powers of such city.

Source: Laws 1973, LB 345, § 1; Laws 1975, LB 395, § 1; Laws 1999, LB 87, § 61.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

(o) WATER SUPPLY OR DISTRIBUTION FACILITY PROJECTS

16-6,111 Repealed. Laws 1999, LB 640, § 1.

16-6,112 Repealed. Laws 1999, LB 640, § 1.

16-6,113 Repealed. Laws 1999, LB 640, § 1.

16-6,114 Repealed. Laws 1999, LB 640, § 1.

16-6,115 Repealed. Laws 1999, LB 640, § 1.

16-6,116 Repealed. Laws 1999, LB 640, § 1.

ARTICLE 7

FISCAL MANAGEMENT, REVENUE, AND FINANCES

Section
16-701. Fiscal year, commencement.
16-702. Property tax; general purposes; levy; collection; maximum authorized; specific purposes; additional levies.
16-703. Repealed. Laws 1963, c. 481, § 4.
16-704. Annual appropriation bill; contents.
16-705. Repealed. Laws 1976, LB 657, § 1.
16-706. Expenditures; how made; limitations; diversion of funds; violation; penalty; payment of judgments.
16-707. Board of equalization; meetings; notice; special assessments; grounds for review.
16-708. Special assessments; invalidity; reassessment.
16-708.01. Special assessments; illegal annexation; validation.
16-709. Special assessments; irregularities; correction.
16-710. Repealed. Laws 1967, c. 58, § 2.
16-711. Road tax; how expended.
16-712. City funds; depositories; payment; conflict of interest.

Section
16-713. City funds; certificates of deposit; time deposits; security required.
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16-701 Fiscal year, commencement.

The fiscal year of each city of the first class and of any public utility of a city of the first class commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act.

Source: Laws 1901, c. 18, § 40, p. 242; R.S.1913, § 4972; C.S.1922, § 4141; C.S.1929, § 16-701; R.S.1943, § 16-701; Laws 1963, c. 67, § 1, p. 267; Laws 1995, LB 194, § 1; Laws 2016, LB704, § 172.

Cross References

Municipal Proprietary Function Act, see section 18-2801.

16-702 Property tax; general purposes; levy; collection; maximum authorized; specific purposes; additional levies.

(1) Subject to the limits in section 77-3442, the mayor and city council of a city of the first class shall have power to levy and collect taxes for all municipal purposes on the taxable property within the corporate limits of the city. All city taxes, except special assessments otherwise provided for, shall become due on the first day of December of each year.

(2) At the time provided for by law, the city council shall cause to be certified to the county clerk the amount of tax to be levied for purposes of the adopted budget statement on the taxable property within the city for the year then ensuing, as shown by the assessment roll for such year, including all special assessments and taxes assessed as provided by law. The county clerk shall place the same on the proper tax list to be collected in the manner provided by law for the collection of county taxes in the county where such city is situated.

(3) In all sales for delinquent taxes for municipal purposes, if there are other delinquent taxes due from the same person or lien on the same property, the sales shall be for all the delinquent taxes. Such sales and all sales made under and by virtue of this section or the provisions of law referred to in this section

shall be of the same validity and, in all respects, shall be deemed and treated as though such sale had been made for the delinquent county taxes exclusively.

(4) The maximum amount of tax which may be certified, assessed, and collected for purposes of the adopted budget statement shall not require a tax levy in excess of eighty-seven and five-tenths cents on each one hundred dollars upon the taxable value of the taxable property within such city. Any special assessments, special taxes, amounts assessed as taxes, and such sums as may be authorized by law to be levied for the payment of outstanding bonds and debts may be made by the city council in addition to the levy of eighty-seven and five-tenths cents on each one hundred dollars upon the taxable value of the taxable property within such city. The city council may certify a further amount of tax to be levied which shall not require a tax levy in excess of seven cents on each one hundred dollars upon the taxable value of the taxable property within such city for the purpose of establishing the sinking fund or sinking funds authorized by sections 19-1301 to 19-1304, and in addition thereto, when required by section 18-501, a further levy of ten and five-tenths cents on each one hundred dollars upon the taxable value of the taxable property within such city may be imposed.

(5) Nothing in this section shall be construed to authorize an increase in the amounts of levies for any specific municipal purpose or purposes elsewhere limited by law, whether limited in specific sums or by tax levies.

Source: Laws 1901, c. 18, § 82, p. 291; Laws 1903, c. 19, § 16, p. 245; R.S.1913, § 4973; C.S.1922, § 4142; Laws 1925, c. 37, § 1, p. 145; C.S.1929, § 16-702; Laws 1937, c. 176, § 3, p. 694; Laws 1939, c. 12, § 5, p. 82; Laws 1941, c. 157, § 5, p. 610; C.S.Supp.,1941, § 16-702; R.S.1943, § 16-702; Laws 1947, c. 29, § 2, p. 136; Laws 1953, c. 287, § 12, p. 936; Laws 1957, c. 39, § 1, p. 210; Laws 1969, c. 145, § 16, p. 681; Laws 1979, LB 187, § 45; Laws 1987, LB 441, § 1; Laws 1992, LB 1063, § 8; Laws 1992, Second Spec. Sess., LB 1, § 8; Laws 1996, LB 1114, § 28; Laws 2016, LB704, § 173; Laws 2019, LB194, § 76.

16-703 Repealed. Laws 1963, c. 481, § 4.

16-704 Annual appropriation bill; contents.

Each city of the first class shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed ''The Annual Appropriation Bill'', in which the city may appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of such city.

Source: Laws 1901, c. 18, § 41, p. 242; R.S.1913, § 4974; Laws 1917, c. 95, § 1, p. 257; C.S.1922, § 4143; Laws 1925, c. 37, § 2, p. 146; C.S.1929, § 16-703; R.S.1943, § 16-704; Laws 1993, LB 734, § 25; Laws 1995, LB 194, § 2; Laws 2016, LB704, § 174.

Cross References

Nebraska Budget Act, see section 13-501.

Levy of taxes should be certified to the county clerk for levy by the county. McDonald v. Lincoln County, 141 Neb. 741, 4 N.W.2d 903 (1942).

The term ''government'' as used in the Constitution in relation to law governing cities of the first class is not limited to the administration of laws or regulation, but includes all activities engaged in lawfully by such city. Mutual Oil Co. v. Zehrung, 11 F.2d 887 (D. Neb. 1925).

16-705 Repealed. Laws 1976, LB 657, § 1.

16-706 Expenditures; how made; limitations; diversion of funds; violation; penalty; payment of judgments.

The mayor and city council of a city of the first class shall not have power to appropriate, issue, or draw any order or warrant on the city treasurer for money, unless the order or warrant has been appropriated or ordered by ordinance or the claim for the payment of which such order or warrant is issued has been allowed according to sections 16-726 to 16-729, and a fund has been provided in the adopted budget statement out of which such claim is payable. Any transfer or diversion of the money or credits from any of the funds to another fund or to a purpose other and different from that for which proposed, except as provided in section 16-721, shall render any city council member voting therefor or any officer of the city participating therein guilty of a misdemeanor, and any person shall, upon conviction thereof, be fined twenty-five dollars for each offense, together with costs of prosecution. Should any judgment be obtained against the city, the mayor and finance committee, with the sanction of the city council, may borrow a sufficient amount to pay the judgments, for a period of time not to extend beyond the close of the next fiscal year, which sum and interest thereon shall, in like manner, be added to the amount authorized to be raised in the general tax levy of the next year and embraced therein.

Source: Laws 1901, c. 18, § 43, p. 243; R.S.1913, § 4976; C.S.1922, § 4145; C.S.1929, § 16-705; Laws 1935, Spec. Sess., c. 10, § 11, p. 78; Laws 1941, c. 130, § 17, p. 501; C.S.Supp.,1941, § 16-705; R.S.1943, § 16-706; Laws 1959, c. 63, § 1, p. 282; Laws 1961, c. 40, § 2, p. 168; Laws 1969, c. 145, § 17, p. 682; Laws 1987, LB 652, § 3; Laws 2016, LB704, § 175; Laws 2019, LB194, § 77.

Where city has in its general funds sufficient unappropriated funds, it may use the same for the creation of a lighting system, if sanctioned by a majority of the electors, even where there was no provision therefor in the annual appropriation bill. Christensen v. City of Fremont, 45 Neb. 160, 63 N.W. 364 (1895).

16-707 Board of equalization; meetings; notice; special assessments; grounds for review.

The mayor and city council of a city of the first class shall meet as a board of equalization each year at such times as they shall determine to be necessary, giving notice of any such sitting at least ten days prior thereto by publication in a legal newspaper in or of general circulation in the city. When so assembled they shall have power to equalize all special assessments, not otherwise provided for, and to supply any omissions in the assessments and at such meeting the assessments shall be finally levied by them. A majority of all the members elected to the city council shall constitute a quorum for the transaction of any business properly brought before them, but a less number may adjourn from time to time and compel the attendance of absent members. When sitting as a board of equalization on special taxes, the city council may adopt such reasonable rules as to the manner of presenting complaints and applying for remedies and relief as shall seem just. It shall not invalidate or prejudice the proceedings of the board that a majority of the members thereof do not, after organization by a majority, continue present during the advertised hours of sitting so long as the city clerk or some member of the board shall be present to receive complaints and applications and give information. No final action shall

be taken by the board except by a majority of all the members elected to the city council comprising the same, and in open session. All the special taxes authorized shall be levied and assessed on all lots, parts of lots, lands, and real estate to the extent of the special benefit to such lots, parts of lots, lands, and real estate, by reason of such improvement, such benefits to be determined by the city council sitting as a board of equalization, or as otherwise provided, after publication and notice to property owners herein provided. In cases where the city council sitting as a board of equalization shall find such benefits to be equal and uniform, such assessments may be according to the feet frontage and may be prorated and scaled back from the line of such improvement according to such rules as the board of equalization may consider fair and equitable and all such assessments and findings of benefits shall not be subject to review in any equitable or legal action except for fraud, injustice, or mistake.

Source: Laws 1901, c. 18, § 83, p. 292; Laws 1903, c. 19, § 17, p. 246; Laws 1905, c. 23, § 3, p. 246; R.S.1913, § 4977; C.S.1922, § 4146; C.S.1929, § 16-706; R.S.1943, § 16-707; Laws 2010, LB848, § 1; Laws 2016, LB704, § 176; Laws 2019, LB194, § 78.

A city of the first class has statutory authority to create water district and to levy assessments for the payment of the cost thereof. Wiborg v. City of Norfolk, 176 Neb. 825, 127 N.W.2d 499 (1964).

A notice of time and place of meeting of council as a board of equalization, to equalize special assessments to pay for paving published in a newspaper of general circulation within the city from 17th to the 27th of the month inclusive, the last day being the date of hearing, is a substantial compliance with the section. Lanning v. City of Hastings, 93 Neb. 665, 141 N.W. 817 (1913).

Notice of hearing is jurisdictional. Cook v. Gage County, 65 Neb. 611, 91 N.W. 559 (1902).

16-708 Special assessments; invalidity; reassessment.

Whenever any special assessment upon any lot or lots or lands or parcels of land in a city of the first class is found to be invalid and uncollectible, shall be adjudged to be void by a court of competent jurisdiction, or is paid under protest and recovered by suit, because of any defect, irregularity, or invalidity in any of the proceedings or on account of the failure to observe and comply with any of the conditions, prerequisites, and requirements of any statute or ordinance, the mayor and city council may relevy or reassess the special assessment upon the lot or lots or lands or parcels of land in the same manner as other special assessments are levied, without regard to whether the formalities, prerequisites, or conditions prior to equalization have been had or not.

Source: Laws 1925, c. 47, § 1, p. 187; C.S.1929, § 16-707; R.S.1943, § 16-708; Laws 2015, LB361, § 27; Laws 2016, LB704, § 177.

Reassessment of benefits is provided for when original assessment is invalid. Shanahan v. Johnson, 170 Neb. 399, 102 N.W.2d 858 (1960).

16-708.01 Special assessments; illegal annexation; validation.

Whenever a city of the first class lawfully reannexes territory which it had formerly annexed but which annexation was illegal because the statutes under which such original annexation was made were unconstitutional and void, (1) all special assessments levied by such city of the first class with respect to such territory shall be validated, binding and legal upon such city of the first class and the inhabitants of such territory in the same manner as if the original annexation had been lawful, (2) all zoning, special use permits and contracts for municipal services made or entered into with respect to such territory by such city of the first class shall be validated, binding and legal upon such city of the first class and the inhabitants of such territory in the same manner as if the

original annexation had been lawful, (3) any prior actions by any officials of such city of the first class, including the election of council members from such territory or a part thereof shall be validated, binding and legal upon such city of the first class and the inhabitants of such territory in the same manner as if the original annexation had been lawful, and (4) such city of the first class shall have power to assess or reassess and levy or relevy new assessments equal to the special benefits and not exceeding the cost of improvements for which any assessment was originally made upon such territory to be made in substantially the manner provided for making original assessments of like nature and when so made, shall constitute a lien upon the property prior and superior to all other liens except liens for other special assessments, and taxes or special assessments so assessed or reassessed shall be enforced and collected as other special taxes, and in making such assessment or reassessment, the city council sitting as a board of equalization and assessment shall take into consideration payments, if any, made on behalf of the property reassessed under assessments made prior to the reannexation.

Source: Laws 1967, c. 62, § 1, p. 210.

16-709 Special assessments; irregularities; correction.

In cases of any omission, mistake, defect, or irregularity in the preliminary proceedings on any special assessment in a city of the first class, the city council shall have power to correct such mistake, omission, defect, or irregularity, and levy or relevy, as the case may be, a special assessment on any or all property in the district, in accordance with the special benefits received and damages sustained to the property on account of such improvement as found by the city council sitting as a board of equalization. The city council shall deduct from the benefits and allow as a credit, before such relevy, an amount equal to the sum of the installments paid in the original levy.

Source: Laws 1925, c. 47, § 2, p. 188; C.S.1929, § 16-708; R.S.1943, § 16-709; Laws 2016, LB704, § 178.

16-710 Repealed. Laws 1967, c. 58, § 2.

16-711 Road tax; how expended.

All money arising from the levying of a road tax against or upon property in a city of the first class shall belong to such city and shall be expended upon the streets and grades in such city.

Source: Laws 1901, c. 18, § 87, p. 294; Laws 1907, c. 13, § 1, p. 120; R.S.1913, § 4979; C.S.1922, § 4148; C.S.1929, § 16-710; Laws 1935, c. 31, § 1, p. 135; C.S.Supp.,1941, § 16-710; R.S.1943, § 16-711; Laws 2016, LB704, § 179.

The amendment of statute without saving clause, during course of city's litigation for transfer of road funds, is fatal to all rights based on original statute not retained in the amended statute. City of Beatrice v. Gage County, 130 Neb. 850, 266 N.W. 777 (1936).

16-712 City funds; depositories; payment; conflict of interest.

The city treasurer of a city of the first class shall deposit, and at all times keep on deposit, for safekeeping, in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing, all money collected, received, or held by him or her as city treasurer. Such

deposits shall be subject to all regulations imposed by law or adopted by the city council for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution shall also be serving as mayor, as a member of the city council, as a member of a board of public works, or as any other officer of such city shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such city funds. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1901, c. 18, § 84, p. 293; R.S.1913, § 4980; C.S.1922, § 4149; C.S.1929, § 16-711; Laws 1935, c. 140, § 3, p. 516; C.S.Supp.,1941, § 16-711; R.S.1943, § 16-712; Laws 1957, c. 54, § 2, p. 263; Laws 1959, c. 48, § 1, p. 235; Laws 1969, c. 84, § 3, p. 425; Laws 1989, LB 33, § 18; Laws 1996, LB 1274, § 18; Laws 2001, LB 362, § 19; Laws 2016, LB704, § 180; Laws 2019, LB194, § 79.

16-713 City funds; certificates of deposit; time deposits; security required.

The city treasurer of a city of the first class may, upon resolution of the mayor and city council authorizing the action, purchase certificates of deposit from and make time deposits in banks, capital stock financial institutions, or qualifying mutual financial institutions selected as depositories of city funds under the provisions of sections 16-712, 16-714, and 16-715. The certificates of deposit purchased and time deposits made shall bear interest and shall be secured as set forth in sections 16-714 and 16-715, except that the penal sum of such bond or the sum of such security shall be reduced in the amount of the time deposit or certificate of deposit insured or guaranteed by the Federal Deposit Insurance Corporation. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1901, c. 18, § 85, p. 293; R.S.1913, § 4981; C.S.1922, § 4150; C.S.1929, § 16-712; R.S.1943, § 16-713; Laws 1959, c. 48, § 2, p. 235; Laws 1969, c. 84, § 4, p. 425; Laws 1989, LB 33, § 19; Laws 1992, LB 757, § 17; Laws 1996, LB 1274, § 19; Laws 2001, LB 362, § 20; Laws 2009, LB259, § 7; Laws 2016, LB704, § 181; Laws 2019, LB194, § 80.

16-714 City funds; depository bond; conditions.

For the security of the fund so deposited, the city treasurer of a city of the first class shall require each depository to give bond for the safekeeping and payment of such deposits and the accretions thereof, which bond shall run to the city and be approved by the mayor. Such bond shall be conditioned that such a depository shall, at the end of every quarter, render to the city treasurer a statement in duplicate, showing the several daily balances, the amount of money of the city held by it during the quarter, the amount of the accretion thereto, and how credited. The bond shall also be conditioned that the depository shall generally do and perform whatever may be required by the provisions of sections 16-712 to 16-715 and faithfully discharge the trust reposed in such depository. Such bond shall be as nearly as practicable in the form provided in

section 77-2304. No person in any way connected with any depository as an officer or stockholder shall be accepted as a surety on any bond given by the depository of which he or she is an officer or stockholder. Such bond shall be deposited with the city clerk. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1901, c. 18, § 86, p. 294; R.S.1913, § 4982; C.S.1922, § 4151; C.S.1929, § 16-713; Laws 1931, c. 28, § 1, p. 115; Laws 1937, c. 22, § 1, p. 134; C.S.Supp.,1941, § 16-713; R.S.1943, § 16-714; Laws 1969, c. 84, § 5, p. 426; Laws 1989, LB 33, § 20; Laws 2001, LB 362, § 21; Laws 2016, LB704, § 182; Laws 2019, LB194, § 81.

16-715 City funds; depository; security in lieu of bond; authorized.

In lieu of the bond required by section 16-714, any bank, capital stock financial institution, or qualifying mutual financial institution making application to become a depository may give security as provided in the Public Funds Deposit Security Act to the city clerk. The penal sum of such bond shall be equal to or greater than the amount of the deposit in excess of that portion of such deposit insured or guaranteed by the Federal Deposit Insurance Corporation. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1931, c. 28, § 1, p. 116; Laws 1937, c. 22, § 1, p. 135; C.S.Supp.,1941, § 16-713; R.S.1943, § 16-715; Laws 1959, c. 263, § 5, p. 926; Laws 1969, c. 84, § 6, p. 426; Laws 1972, LB 1152, § 1; Laws 1977, LB 266, § 1; Laws 1987, LB 440, § 7; Laws 1989, LB 33, § 21; Laws 1989, LB 377, § 10; Laws 1992, LB 757, § 18; Laws 1996, LB 1274, § 20; Laws 2001, LB 362, § 22; Laws 2009, LB259, § 8.

Cross References

Public Funds Deposit Security Act, see section 77-2386.

This section permits banks to pledge certain securities to secure deposits of a city of the first class. Luikart v. City of Aurora, 125 Neb. 263, 249 N.W. 590 (1933).

16-716 City funds; depositories; maximum deposits; liability of treasurer.

The city treasurer of a city of the first class shall not have on deposit in any bank, capital stock financial institution, or qualifying mutual financial institution at any time more than the amount insured or guaranteed by the Federal Deposit Insurance Corporation plus the maximum amount of the bond given by the bank, capital stock financial institution, or qualifying mutual financial institution if the bank, capital stock financial institution, or qualifying mutual financial institution gives a surety bond, nor in any bank, capital stock financial institution, or qualifying mutual financial institution giving a personal bond, more than the amount insured or guaranteed by the Federal Deposit Insurance Corporation plus one-half of the amount of the bond of such bank, capital stock financial institution, or qualifying mutual financial institution, and the amount so on deposit any time with any such bank, capital stock financial institution, or qualifying mutual financial institution shall not in either case exceed the

amount insured or guaranteed by the Federal Deposit Insurance Corporation plus the paid-up capital stock and surplus of such bank, capital stock financial institution, or qualifying mutual financial institution.

The city treasurer shall not be liable for any loss sustained by reason of the failure of any such bonded depository whose bond has been duly approved by the mayor as provided in section 16-714 or which has, in lieu of a surety bond, given security as provided in section 16-715.

Source: Laws 1901, c. 18, § 86, p. 294; R.S.1913, § 4982; C.S.1922, § 4151; C.S.1929, § 16-713; Laws 1931, c. 28, § 1, p. 116; Laws 1937, c. 22, § 1, p. 135; C.S.Supp.,1941, § 16-713; R.S.1943, § 16-716; Laws 1981, LB 491, § 1; Laws 1993, LB 157, § 2; Laws 1996, LB 1274, § 21; Laws 2001, LB 362, § 23; Laws 2002, LB 860, § 1; Laws 2009, LB259, § 9; Laws 2016, LB704, § 183; Laws 2019, LB194, § 82.

16-717 City treasurer; books and accounts.

The city treasurer of a city of the first class shall receive all money belonging to the city, and the city clerk and city treasurer shall keep their books and accounts in such a manner as the mayor and city council shall prescribe. The city treasurer shall keep a daily cash book, which shall be footed and balanced daily, and such books and accounts shall always be subject to inspection of the mayor, members of the city council, and such other persons as they may designate.

Source: Laws 1901, c. 18, § 88, p. 295; R.S.1913, § 4983; C.S.1922, § 4152; C.S.1929, § 16-714; R.S.1943, § 16-717; Laws 2016, LB704, § 184; Laws 2019, LB194, § 83.

16-718 City treasurer; warrants; issuance; delivery.

Upon allowance of a claim by the city council of a city of the first class, the order for the payment thereof shall specify the particular fund out of which it is payable as specified in the adopted budget statement, and no order or warrant shall be drawn in excess of eighty-five percent of the current levy for the purpose for which it is drawn unless there shall be sufficient money in the treasury to the credit of the proper fund for its payment, and no claim shall be audited or allowed except an order or warrant for the payment thereof may legally be drawn. All warrants drawn upon the treasury must be signed by the mayor and countersigned by the city clerk and shall state the particular fund to which the same is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon such warrant so drawn. Such warrants may be delivered immediately when so drawn.

Source: Laws 1901, c. 18, § 89, p. 295; Laws 1909, c. 19, § 1, p. 186; R.S.1913, § 4984; C.S.1922, § 4153; C.S.1929, § 16-715; R.S. 1943, § 16-718; Laws 1963, c. 68, § 1, p. 268; Laws 1969, c. 145, § 18, p. 683; Laws 2016, LB704, § 185; Laws 2019, LB194, § 84.

16-719 City treasurer; conversion of funds; penalty.

The city treasurer of a city of the first class shall keep all money in his or her hands belonging to the city separate and distinct from his or her own money. He or she is expressly prohibited from using, either directly or indirectly, the city money or warrants in his or her custody and keeping for his or her own use

and benefit or that of any other person. Any violation of this section shall subject him or her to immediate removal from office by the city council, and the council may declare such office vacant. The mayor shall appoint a successor, who shall be confirmed by the city council, to hold office for the remainder of the term.

Source: Laws 1901, c. 18, § 90, p. 295; R.S.1913, § 4985; C.S.1922, § 4154; C.S.1929, § 16-716; R.S.1943, § 16-719; Laws 2016, LB704, § 186; Laws 2019, LB194, § 85.

16-720 City treasurer; report; warrant register.

The city treasurer of a city of the first class shall report to the mayor and city council annually, and more often if required, at such times as may be prescribed by ordinance, giving a full and detailed account of the receipts and expenditures during the preceding fiscal year, and the state of the treasury. He or she shall also keep a register of all warrants redeemed and paid during the year, describing such warrants, their date, amount, number, time of payment, the fund from which paid, and the person to whom paid. All such warrants shall be examined by the finance committee at the time of making such annual report.

Source: Laws 1901, c. 18, § 91, p. 296; R.S.1913, § 4986; C.S.1922, § 4155; C.S.1929, § 16-717; R.S.1943, § 16-720; Laws 2016, LB704, § 187; Laws 2019, LB194, § 86.

16-721 City funds; transfer; when authorized.

Each fund created under Chapter 16 shall be strictly devoted to the purpose for which it was created and shall not be diverted therefrom. When the city council by a three-fourths vote of the members thereof shall declare the expenditure of any fund for the purpose for which it was created to be unwise and impracticable or where the purpose thereof has been fully accomplished and the whole fund or an unexpired balance thereof remains, and no indebtedness has been incurred on account of such fund which has not been fully paid, such fund may be transferred to any other fund of the city by the affirmative vote of three-fourths of all the members of the city council.

Source: Laws 1901, c. 18, § 92, p. 296; Laws 1903, c. 19, § 18, p. 247; R.S.1913, § 4987; C.S.1922, § 4156; C.S.1929, § 16-718; R.S.1943, § 16-721; Laws 2016, LB704, § 188.

16-722 City receipts and expenditures; publication.

The mayor and city council of a city of the first class shall cause to be published semiannually a statement of the receipts of the city and an itemized account of the expenditures of the city.

Source: Laws 1901, c. 18, § 93, p. 296; R.S.1913, § 4988; C.S.1922, § 4157; C.S.1929, § 16-719; R.S.1943, § 16-722; Laws 1992, LB 415, § 1; Laws 2016, LB704, § 189; Laws 2019, LB194, § 87.

Cross References

Receipts and expenditures, publication requirements, village or city having population of not more than one hundred thousand, see section 19-1101.

16-723 Taxes; payable in cash; sinking fund; investment; matured bonds or coupons; payment.

All taxes levied for the purpose of raising money to pay the interest or to create a sinking fund for the payment of the principal of any funded or bonded debt of a city of the first class shall be payable in money only. Except as otherwise expressly provided, no money so obtained shall be used for any other purpose than the payment of the interest or debt for the payment of which it shall have been raised. Such sinking fund may, under the direction of the mayor and city council, be invested in any of the unmatured bonds issued by the city, if they can be procured by the city treasurer at such rate or premium as shall be prescribed by ordinance. Any due or overdue bond or coupon shall be a sufficient warrant or order for the payment of the same by the city treasurer out of any fund especially created for that purpose without any further order or allowance by the mayor or city council.

Source: Laws 1901, c. 18, § 96, p. 297; R.S.1913, § 4989; C.S.1922, § 4158; C.S.1929, § 16-720; R.S.1943, § 16-723; Laws 2016, LB704, § 190; Laws 2019, LB194, § 88.

16-724 Repealed. Laws 1983, LB 421, § 18.

16-725 Repealed. Laws 1955, c. 37, § 2.

16-726 Claims and accounts payable; filing; requirements; disallowance; notice; costs.

All liquidated and unliquidated claims and accounts payable against a city of the first class shall: (1) Be presented in writing; (2) state the name and address of the claimant and the amount of the claim; and (3) fully and accurately identify the items or services for which payment is claimed or the time, place, nature, and circumstances giving rise to the claim.

As a condition precedent to maintaining an action for a claim, other than a tort claim as defined in section 13-903, the claimant shall file such claim within ninety days of the accrual of the claim in the office of the city clerk.

The city clerk shall notify the claimant or his or her agent or attorney by letter mailed to the claimant's address within five days if the claim is disallowed by the city council.

No costs shall be recovered against such city in any action brought against it for any claim or for any claim allowed in part which has not been presented to the city council to be audited, unless the recovery is for a greater sum than the amount allowed with the interest due.

Source: Laws 1901, c. 18, § 38, p. 240; Laws 1903, c. 19, § 6, p. 236; Laws 1907, c. 13, § 1, p. 109; R.S.1913, § 4991; C.S.1922, § 4160; C.S.1929, § 16-722; R.S.1943, § 16-726; Laws 1955, c. 37, § 1, p. 150; Laws 1990, LB 1044, § 1.

Noncompliance with the filing requirement of this section may be asserted as a defense in an action to recover on a claim against a city of the first class. Niemoller v. City of Papillion, 276 Neb. 40, 752 N.W.2d 132 (2008).

Where a claim is not filed with the city clerk — the person designated by statute as the authorized recipient — a substantial compliance analysis is not applicable. Niemoller v. City of Papillion, 276 Neb. 40, 752 N.W.2d 132 (2008).

The 90-day ''condition precedent'' under this section is a procedural precedent to commencement of a claim, and noncompliance is an affirmative defense which must be raised before the first tribunal or agency charged with determining the cause of action or the defense is waived. Crown Products Co. v. City of Ralston, 253 Neb. 1, 567 N.W.2d 294 (1997).

16-727 Claims; disallowance; appeal to district court; procedure.

When the claim of any person against a city of the first class, except a tort claim as defined in section 13-903, is disallowed in whole or in part by the city council, such person may appeal from the decision of the city council to the district court of the same county by causing a written notice to be served on the city clerk within twenty days after making such decision and executing a bond to such city, with good and sufficient sureties to be approved by the city clerk, conditioned for the faithful prosecution of such appeal and the payment of all costs that may be adjudged against the appellant.

Source: Laws 1901, c. 18, § 38, p. 240; Laws 1903, c. 19, § 6, p. 236; Laws 1907, c. 13, § 1, p. 109; R.S.1913, § 4991; C.S.1922, § 4160; C.S.1929, § 16-722; R.S.1943, § 16-727; Laws 1969, c. 138, § 22, p. 635; Laws 2016, LB704, § 191; Laws 2019, LB194, § 89.

Plaintiff failed to file a petition in district court within 50 days of denial of his claim, and therefore, became nonsuited. Fisher v. City of Grand Island, 239 Neb. 929, 479 N.W.2d 772 (1992).

16-728 Claims; allowance; appeal by taxpayer.

Any taxpayer may appeal from the allowance of any claim against a city of the first class, except a tort claim as defined in section 13-903, by serving a written notice upon the city clerk within ten days from such allowance and giving bond as provided in section 16-727. When the city council, by ordinance, provides for the publication of the list of the claims allowed, giving the amounts allowed and the names of the persons to whom allowed, in a legal newspaper in or of general circulation in such city, such appeal may be taken by a taxpayer by serving a notice thereof within such time after such publication as may be fixed by such ordinance, and giving bond for such appeal within ten days after such allowance.

Source: Laws 1901, c. 18, § 38, p. 241; Laws 1903, c. 19, § 6, p. 236; Laws 1907, c. 13, § 1, p. 109; R.S.1913, § 4991; C.S.1922, § 4160; C.S.1929, § 16-722; R.S.1943, § 16-728; Laws 1969, c. 138, § 23, p. 635; Laws 2016, LB704, § 192; Laws 2019, LB194, § 90.

16-729 Claims; allowance or disallowance; appeal; transcript; trial.

The city clerk, upon an appeal being taken under section 16-727 or 16-728 and being paid the proper fees therefor, including fees for filing the same in the district court, shall make out a transcript of the proceedings of the city council, mayor, and other officers as relate to the presentation and allowance or disallowance of such claim and shall file it with the clerk of the district court within thirty days after the decision allowing or disallowing the claim and paying the proper commencement fees. Such appeal shall be entered on the record of the court, tried, and determined and costs awarded thereon in the manner provided in sections 25-1901 to 25-1937. No appeal bond shall be required of the city by any court in the case of an appeal by the city, and judgment shall be stayed pending such appeal.

Source: Laws 1901, c. 18, § 38, p. 241; Laws 1903, c. 19, § 6, p. 236; Laws 1907, c. 13, § 1, p. 110; R.S.1913, § 4991; C.S.1922, § 4160; C.S.1929, § 16-722; R.S.1943, § 16-729; Laws 1991, LB 1, § 1; Laws 2016, LB704, § 193; Laws 2018, LB193, § 3.

16-730 Repealed. Laws 1965, c. 77, § 2.

16-731 County treasurer; monthly payment of bond fund money; when.

Any city of the first class may request that bond fund money be included with payments distributed under subsection (4) of section 23-1601. Such bond fund money shall be included in the monthly payment until notified otherwise by the city.

Source: Laws 1978, LB 847, § 2; Laws 2012, LB823, § 1.

ARTICLE 8

OFFSTREET PARKING

Cross References

Offstreet Parking District Act, see section 19-3301.

Section
16-801. Offstreet parking; purpose.
16-802. Grant of power.
16-803. Acquisition of property and facilities; cost; revenue bonds; interest; issuance; revenue pledged.
16-804. Revenue bonds; plans and specifications; engineer.
16-805. City council; rules and regulations; rates and charges; adopt.
16-806. Ordinance; publication; objections; submission to electors; election; notice.
16-807. Lease of facilities; competitive bidding.
16-808. Property not subject to condemnation.
16-809. Revenue bonds; rights of holders.
16-810. Revenue bonds; onstreet parking meters; revenue; use; exception.
16-811. Sections; supplementary to existing law.
16-812. Transferred to section 19-3301.
16-813. Transferred to section 19-3302.
16-814. Transferred to section 19-3303.
16-815. Transferred to section 19-3304.
16-816. Transferred to section 19-3305.
16-817. Transferred to section 19-3306.
16-818. Transferred to section 19-3307.
16-819. Transferred to section 19-3308.
16-820. Transferred to section 19-3309.
16-821. Transferred to section 19-3310.
16-822. Transferred to section 19-3311.
16-823. Transferred to section 19-3312.
16-824. Transferred to section 19-3313.
16-825. Transferred to section 19-3314.
16-826. Transferred to section 19-3315.
16-827. Transferred to section 19-3316.
16-828. Transferred to section 19-3317.
16-829. Transferred to section 19-3318.
16-830. Transferred to section 19-3319.
16-831. Transferred to section 19-3320.
16-832. Transferred to section 19-3321.
16-833. Transferred to section 19-3322.
16-834. Transferred to section 19-3323.
16-835. Transferred to section 19-3324.
16-836. Transferred to section 19-3325.
16-837. Transferred to section 19-3326.

16-801 Offstreet parking; purpose.

The Legislature finds and declares that the great increase in the number of motor vehicles, buses, and trucks in Nebraska has created hazards to life and

property in cities of the first class in the state. In order to remove or reduce such hazards to life and property and the inconvenience of congested traffic on the streets in such cities in this state, it is hereby deemed necessary and of general benefit to the entire State of Nebraska to provide means for such cities in Nebraska to own offstreet vehicle parking facilities exclusively for the parking of motor vehicles.

Source: Laws 1955, c. 35, § 1, p. 143; Laws 2016, LB704, § 194.

16-802 Grant of power.

Any city of the first class is hereby authorized to own, purchase, construct, equip, lease, or operate within such city offstreet motor vehicle parking facilities for the use of the general public. This does not include the power to engage, directly or indirectly, in the sale of gasoline, oil, or other merchandise or in the furnishing of any service other than that of parking motor vehicles as provided in this section. Such city shall have the authority to acquire by grant, contract, or purchase or through the condemnation of property, as provided by law for such acquisition, all real or personal property, including a site or sites on which to construct the facilities necessary or convenient in the carrying out of this grant of power. Before any such city may commence a program to construct, purchase, or acquire by other means a proposed offstreet parking facility or facilities, notice shall be given, by publication in a legal newspaper in or of general circulation in the city once each week for not less than three weeks, inviting application for private ownership and operation of offstreet parking facilities. If no application or applications have been received or, if received, the application or applications have been disapproved by the city council within ninety days from the first date of publication, then such city may proceed in the exercise of the powers granted under this section.

Source: Laws 1955, c. 35, § 2, p. 144; Laws 1996, LB 299, § 13; Laws 2016, LB704, § 195.

16-803 Acquisition of property and facilities; cost; revenue bonds; interest; issuance; revenue pledged.

In order to pay the cost required by any purchase, construction, lease, or condemnation of property and equipping of facilities, or the enlargement of presently owned facilities, or to pay a portion of the cost of facilities purchased or constructed pursuant to the Offstreet Parking District Act, a city of the first class may issue revenue bonds to provide the funds for such improvements. Such revenue bonds shall not be payable from any general tax upon the issuing city, but shall be a lien only upon the revenue and earnings of the parking facilities. Such revenue bonds may be issued at an interest cost to maturity set by the city council and shall mature in not to exceed forty years but may be optional prior to maturity at a premium as provided in the authorizing resolution or ordinance. Any such revenue bonds which may be issued shall not be included in computing the maximum amount of bonds which the issuing city of the first class may be authorized to issue under its charter or any statute of this state. Such revenue bonds may be issued and sold or delivered to the contractor at par and accrued interest for the amount of work performed. If any city has installed or installs onstreet parking meters, it may pledge all or

any part of the revenue of such parking meters, not previously pledged, as security for the bonds authorized in this section.

Source: Laws 1955, c. 35, § 3, p. 144; Laws 1969, c. 88, § 27, p. 450; Laws 1969, c. 51, § 40, p. 296; Laws 2016, LB704, § 196.

Cross References

Offstreet Parking District Act, see section 19-3301.

16-804 Revenue bonds; plans and specifications; engineer.

Before the issuance of any revenue bonds as provided under section 16-803, the city of the first class shall have an independent and qualified firm of engineers prepare plans and specifications for such improvements. In the preparation of the plans and specifications, the independent engineer shall collaborate and counsel with any city engineering or traffic departments so as to coordinate the program with the program for the control of traffic within such city.

Source: Laws 1955, c. 35, § 4, p. 145; Laws 2016, LB704, § 197.

16-805 City council; rules and regulations; rates and charges; adopt.

The city council shall make all necessary rules and regulations governing the use, operation, and control of the improvements as provided in sections 16-801 to 16-811. In the exercise of the grant of power as provided in sections 16-801 to 16-811, the city of the first class may make contracts with departments of the city, or others, if such contracts are necessary and needed for the payment of the revenue bonds authorized in section 16-803 and for the successful operation of the parking facilities. The city council shall also establish and maintain equitable rates or charges for such services sufficient in amount to pay for the cost of operation, repair, and upkeep of the facilities to be purchased, acquired, or leased, and the principal of and interest on any revenue bonds issued pursuant to sections 16-801 to 16-811. The city council may also make any other agreements with the purchasers of the bonds for the security of the issuing city and the purchasers of such bonds not in contravention with sections 16-801 to 16-811.

Source: Laws 1955, c. 35, § 5, p. 145; Laws 2016, LB704, § 198.

16-806 Ordinance; publication; objections; submission to electors; election; notice.

The mayor and city council of a city of the first class may adopt by ordinance the proposition to make such purchase or to erect such facility or facilities as set forth in section 16-802, and before the purchase can be made or facility created, the city council shall publish in a legal newspaper in or of general circulation in the city the location of the proposed offstreet motor vehicle parking facility or facilities, the proposed cost, and the total amount of the bonds to be issued. If the electors of such city, equal in number to five percent of the electors of such city voting at the last preceding general municipal election, file a written objection or objections to the proposed issuance of revenue bonds within sixty days after the adoption of such ordinance, the city council must submit the question to the electors of such city at a general municipal election or at a special election called for that purpose and be approved by a majority of the electors voting on such question. If the question

is submitted at a special election, the vote for the purchase or acquisition of such real estate or the purchase or erection of such facility or facilities shall equal at least a majority of the votes cast at the last preceding general election. Notice of the time and place of the election shall be given by publication in a legal newspaper in or of general circulation in such city three successive weeks prior thereto.

Source: Laws 1955, c. 35, § 6, p. 146; Laws 1957, c. 27, § 1, p. 181; Laws 2016, LB704, § 199.

16-807 Lease of facilities; competitive bidding.

On the creation of a parking facility as provided under section 16-802 for the use of the general public, the city may lease such facility to one or more operators to provide for the efficient operation of the facility. Such lease shall be let on a competitive basis and no lease shall run for a period in excess of ten years. In granting any lease, the city shall retain such control of the facility as may be necessary to insure that the facility will be properly operated in the public interest and that the prices charged are reasonable. The provisions of sections 16-801 to 16-811 shall not be construed to authorize the city or the lessee of the facility to engage in the sale of any commodity, product, or service, or to engage in any business other than the purposes set forth in section 16-802.

Source: Laws 1955, c. 35, § 7, p. 146; Laws 2016, LB704, § 200.

16-808 Property not subject to condemnation.

Property now used or hereafter acquired for offstreet motor vehicle parking by a private operator within a city of the first class shall not be subject to condemnation.

Source: Laws 1955, c. 35, § 8, p. 146; Laws 2019, LB194, § 91.

16-809 Revenue bonds; rights of holders.

The provisions of sections 16-801 to 16-811 and of any ordinance authorizing the issuance of bonds under the provisions of sections 16-801 to 16-811 shall constitute a contract with the holders of such bonds, and any holder of a bond or bonds or any of the coupons of any bond or bonds of such city, issued under the provisions of sections 16-801 to 16-811, may either in law or in equity, by suit, action, mandamus, or other proceedings, enforce and compel the performance of all duties required by the provisions of sections 16-801 to 16-811 or by the ordinance authorizing the bonds, including the making and collection of sufficient charges and fees for service and the use thereof, and the application of income and revenue thereof.

Source: Laws 1955, c. 35, § 9, p. 146; Laws 2016, LB704, § 201.

16-810 Revenue bonds; onstreet parking meters; revenue; use; exception.

Any city of the first class is authorized to use any or all of the revenue from onstreet parking meters for the purpose set forth in section 16-802 if such revenue has not been pledged for the payment of revenue bonds authorized in section 16-803.

Source: Laws 1955, c. 35, § 10, p. 147; Laws 2016, LB704, § 202.

16-811 Sections; supplementary to existing law.

Sections 16-801 to 16-811 are supplementary to existing statutes relating to cities of the first class and confer upon such cities powers not heretofore granted.

Source: Laws 1955, c. 35, § 11, p. 147.

16-812 Transferred to section 19-3301.

16-813 Transferred to section 19-3302.

16-814 Transferred to section 19-3303.

16-815 Transferred to section 19-3304.

16-816 Transferred to section 19-3305.

16-817 Transferred to section 19-3306.

16-818 Transferred to section 19-3307.

16-819 Transferred to section 19-3308.

16-820 Transferred to section 19-3309.

16-821 Transferred to section 19-3310.

16-822 Transferred to section 19-3311.

16-823 Transferred to section 19-3312.

16-824 Transferred to section 19-3313.

16-825 Transferred to section 19-3314.

16-826 Transferred to section 19-3315.

16-827 Transferred to section 19-3316.

16-828 Transferred to section 19-3317.

16-829 Transferred to section 19-3318.

16-830 Transferred to section 19-3319.

16-831 Transferred to section 19-3320.

16-832 Transferred to section 19-3321.

16-833 Transferred to section 19-3322.

16-834 Transferred to section 19-3323.

16-835 Transferred to section 19-3324.

16-836 Transferred to section 19-3325.

16-837 Transferred to section 19-3326.

ARTICLE 9
SUBURBAN DEVELOPMENT

Section
16-901. Zoning regulations; building ordinances; public utility codes; extension; notice to county board.
16-902. Designation of jurisdiction; subdivision; platting; consent required; review by county planning commission; when required.
16-903. Platting; recording; city council; powers.
16-904. Conformity with ordinance; dedication of avenues, streets, and alleys.
16-905. Designation of jurisdiction; how described.

16-901 Zoning regulations; building ordinances; public utility codes; extension; notice to county board.

(1) Except as provided in section 13-327 and subsection (2) of this section, the extraterritorial zoning jurisdiction of a city of the first class shall consist of the unincorporated area two miles beyond and adjacent to its corporate boundaries.

(2) For purposes of sections 70-1001 to 70-1020, the extraterritorial zoning jurisdiction of a city of the first class shall consist of the unincorporated area one mile beyond and adjacent to its corporate boundaries.

(3) Any city of the first class may apply by ordinance any existing or future zoning regulations, property use regulations, building ordinances, electrical ordinances, plumbing ordinances, and ordinances authorized by section 16-240 within its extraterritorial zoning jurisdiction with the same force and effect as if such area were within the corporate limits of the city, except that 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. The fact that the extraterritorial zoning jurisdiction 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.

(4)(a) A city of the first class shall provide written notice to the county board of the county in which the city's extraterritorial zoning jurisdiction is located when proposing to adopt or amend a zoning ordinance which affects the city's extraterritorial zoning jurisdiction within such county. The written notice of the proposed change to the zoning ordinance shall be sent to the county board or its designee at least thirty days prior to the final decision by the city. The county board may submit comments or recommendations regarding the change in the zoning ordinance at the public hearings on the proposed change or directly to the city within thirty days after receiving such notice. The city may make its final decision (i) upon the expiration of the thirty days following the notice or (ii) when the county board submits comments or recommendations, if any, to the city prior to the expiration of the thirty days following the notice.

(b) Subdivision (4)(a) of this section does not apply to a city of the first class (i) located in a county with a population in excess of one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census or (ii) if the city and the county have a joint planning commission or joint planning department.

Source: Laws 1957, c. 28, § 1, p. 183; Laws 1967, c. 70, § 1, p. 232; Laws 1967, c. 75, § 1, p. 242; Laws 1988, LB 934, § 5; Laws 2002, LB 729, § 3; Laws 2016, LB295, § 1; Laws 2016, LB704, § 203; Laws 2017, LB113, § 11; Laws 2017, LB132, § 3.

A city is exercising control and county zoning regulations are superseded if the city adopts an ordinance with respect to territory within the extraterritorial jurisdiction, and it is not necessary that the city designate each particular piece of property within that jurisdiction. County of Dakota v. Worldwide Truck Parts & Metals, 245 Neb. 196, 511 N.W.2d 769 (1994).

16-902 Designation of jurisdiction; subdivision; platting; consent required; review by county planning commission; when required.

(1) Except as provided in subsection (4) of this section, a city of the first class may designate by ordinance the portion of the territory located within its extraterritorial zoning jurisdiction and outside of any other organized city or village within which the designating city will exercise the powers and duties granted by sections 16-902 to 16-904 or section 19-2402.

(2) No owner of any real property located within the area designated by a city pursuant to subsection (1) or (4) of this section may subdivide, plat, or lay out such real property in building lots, streets, or other portions of the same intended to be dedicated for public use or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto without first having obtained the approval of the city council of such city or its agent designated pursuant to section 19-916 and, when applicable, having complied with sections 39-1311 to 39-1311.05. The fact that such real property is located in a different county or counties than some or all portions of the city shall not be construed as affecting the necessity of obtaining the approval of the city council of such city or its designated agent.

(3) In counties that (a) have adopted a comprehensive development plan which meets the requirements of section 23-114.02 and (b) are enforcing subdivision regulations, the county planning commission shall be provided with all available materials on any proposed subdivision plat, contemplating public streets or improvements, which is filed with a city of the first class in that county, when such proposed plat lies partially or totally within the portion of that city's extraterritorial zoning jurisdiction where the powers and duties granted by sections 16-902 to 16-904 are being exercised by that city in such county. The commission shall be given four weeks to officially comment on the appropriateness of the design and improvements proposed in the plat. The review period for the commission shall run concurrently with subdivision review activities of the city after the commission receives all available material for a proposed subdivision plat.

(4) If a city of the first class receives approval for the cession and transfer of additional extraterritorial zoning jurisdiction under section 13-327, such city may designate by ordinance the portion of the territory located within its extraterritorial zoning jurisdiction and outside of any other organized city or village within which the designating city will exercise the powers and duties granted by sections 16-902 to 16-904 or section 19-2402 and shall include territory ceded under section 13-327 within such designation.

Source: Laws 1957, c. 28, § 2(1), p. 183; Laws 1967, c. 70, § 2, p. 232; Laws 1967, c. 75, § 2, p. 243; Laws 1978, LB 186, § 1; Laws 1983, LB 71, § 2; Laws 1993, LB 208, § 1; Laws 2001, LB 222, § 1; Laws 2002, LB 729, § 4; Laws 2003, LB 187, § 4; Laws 2016, LB704, § 204; Laws 2016, LB864, § 2; Laws 2017, LB132, § 4.

Act, of which this section was a part, sustained as constitutional. Schlientz v. City of North Platte, 172 Neb. 477, 110 N.W.2d 58 (1961).

16-903 Platting; recording; city council; powers.

No plat or instruments effecting the subdivision of real property, described in section 16-902, shall be recorded or have any force and effect unless the same be approved by the city council of such city or by its agent designated pursuant to section 19-916. The city council of such city shall have power, by ordinance, to provide the manner, plan, or method by which real property in any such area may be subdivided, platted, or laid out, including a plan or system for the avenues, streets, or alleys to be laid out within or across the same; and to prohibit the sale or offering for sale of, and the construction of buildings and other improvements on, any lots or parts of real property not subdivided, platted, or laid out as required in sections 16-902 to 16-904, 19-916, 19-918, and 19-920.

Source: Laws 1957, c. 28, § 2(2), p. 183; Laws 1967, c. 66, § 5, p. 217; Laws 1983, LB 71, § 3.

Act, of which this section was a part, sustained as constitutional. Schlientz v. City of North Platte, 172 Neb. 477, 110 N.W.2d 58 (1961).

16-904 Conformity with ordinance; dedication of avenues, streets, and alleys.

The city council, described in section 16-902, shall have power to compel the owner of any real property in such area in subdividing, platting, or laying out the same to conform to the requirements of the ordinance and to lay out and dedicate the avenues, streets, and alleys in accordance therewith.

Source: Laws 1957, c. 28, § 2(3), p. 184.

Act, of which this section was a part, sustained as constitutional. Schlientz v. City of North Platte, 172 Neb. 477, 110 N.W.2d 58 (1961).

16-905 Designation of jurisdiction; how described.

An ordinance of any city of the first class designating the extraterritorial zoning jurisdiction of the city under section 16-901 or 16-902 shall describe such territory by metes and bounds or by reference to an official map.

Source: Laws 1993, LB 208, § 2; Laws 2016, LB704, § 205.

ARTICLE 10

RETIREMENT SYSTEMS

(a) POLICE OFFICERS RETIREMENT ACT

Section

16-1001. Act, how cited; applicability.
16-1002. Terms, defined.
16-1003. Police officer; prior service; how treated.
16-1004. Police Officers Retirement System Fund; administration; system funding; separate investment accounts.
16-1005. Contribution by police officer; amount; city; pick up officers' contributions; voluntary contributions.
16-1006. Contributions by city; amount; how credited; interest; when.
16-1007. Retiring officer; annuity options; how determined; lump-sum payment option.
16-1008. Retirement options; retirement date.
16-1009. Police officer; death other than in the line of duty; pension benefit payable.
16-1010. Police officer; death in the line of duty; beneficiaries; retirement benefits.
16-1011. Police officer; disability in the line of duty; benefit; requirements.

Section
16-1012. Police officer; temporary disability; workers' compensation benefits; how treated.
16-1013. Police officer; termination of employment; benefits; how treated; vesting schedule.
16-1014. Retirement committee; established; city council; responsibilities.
16-1015. Retirement committee; members; terms; vacancy.
16-1016. Retirement system funds; contracts for investments.
16-1017. Retirement committee; duties.
16-1018. Termination of employment; transfer of benefits; when.
16-1019. Exemption from legal process; administration; requirements; retirement committee; powers and duties; review of adjustment; tax levy authorized.

(b) FIREFIGHTERS RETIREMENT

16-1020. Applicability of sections.
16-1021. Terms, defined.
16-1022. Firefighter; prior service; how treated.
16-1023. Firefighters Retirement System Fund; city maintain; transfer of contributions; funding of system.
16-1024. Contribution by firefighter; amount; interest; city; pick up firefighters' contributions; voluntary contribution.
16-1025. Contributions by city; amount; how credited; interest.
16-1026. Repealed. Laws 1998, LB 1191, § 85.
16-1027. Retiring firefighter; annuity options; how determined; lump-sum payment.
16-1028. Retirement options; retirement date.
16-1029. Firefighter; death other than in the line of duty; pension benefit payable.
16-1030. Firefighter; death in the line of duty; retirement benefits.
16-1031. Firefighter; disability in the line of duty; disability benefit; return to duty; conditions.
16-1032. Firefighter; temporary disability; workers' compensation benefits; how treated.
16-1033. Firefighter; termination of employment; benefits; how treated; vesting schedule.
16-1034. Retirement committee; established; city council; responsibilities; powers and duties; allocation.
16-1035. Retirement committee; members; terms; vacancy; expenses.
16-1036. Firefighters Retirement System Fund; authorized investments; retirement committee; powers and duties.
16-1036.01. Firefighters Retirement System Fund; schedule of investment costs; allocation.
16-1037. Retirement committee; officers; duties.
16-1038. Retirement benefits; exemption from legal process; exception; tax-qualification requirements; benefit error; correction; appeal; tax levy authorized.
16-1039. Firefighter serving on August 7, 1965; pension benefits.
16-1040. Firefighter subject to prior law; contributions; reimbursement.
16-1041. Benefits under prior law, how construed.
16-1042. Termination of employment; transfer of benefits; when.

(a) POLICE OFFICERS RETIREMENT ACT

16-1001 Act, how cited; applicability.

Sections 16-1001 to 16-1019 shall be known and may be cited as the Police Officers Retirement Act and shall apply to all police officers of a city of the first class.

Source: Laws 1983, LB 237, § 1; Laws 2012, LB1082, § 1.

16-1002 Terms, defined.

For purposes of the Police Officers Retirement Act, unless the context otherwise requires:

(1) Actuarial equivalent means equality in value of the aggregate amount of benefit expected to be received under different forms of benefit or at different times determined as of a given date as adopted by the city or the retirement committee for use by the retirement system. Actuarial equivalencies shall be specified in the funding medium established for the retirement system, except that if benefits under the retirement system are obtained through the purchase of an annuity contract, the actuarial equivalent of any such form of benefit shall be the amount of pension benefit which can be purchased or otherwise provided by the police officer's retirement value. All actuarial and mortality assumptions adopted by the city or retirement committee shall be on a sex-neutral basis;

(2) Annuity contract means the contract or contracts issued by one or more life insurance companies and purchased by the retirement system in order to provide any of the benefits described in the act. Annuity conversion rates contained in any such contract shall be specified on a sex-neutral basis;

(3) Beneficiary means the person or persons designated by a police officer, pursuant to a written instrument filed with the retirement committee before the police officer's death, to receive death benefits which may be payable under the retirement system;

(4) Funding agent means any bank, trust company, life insurance company, thrift institution, credit union, or investment management firm selected by the city or retirement committee to hold or invest the funds of the retirement system;

(5) Regular interest means the rate of interest earned each calendar year equal to the rate of net earnings realized for the calendar year from investments of the retirement fund. Net earnings means the amount by which income or gain realized from investments of the retirement fund exceeds the amount of any realized losses from such investments during the calendar year;

(6) Regular pay means the average salary of the police officer for the period of five consecutive years preceding elective retirement, death, or date of disability which produces the highest average;

(7) Retirement committee means the retirement committee created pursuant to section 16-1014;

(8) Retirement system means a retirement system established pursuant to the act;

(9) Retirement value means the accumulated value of the police officer's employee account and employer account. The retirement value consists of the sum of the contributions made or transferred to such accounts by the police officer and by the city on the police officer's behalf and the regular interest credited to the accounts as of the date of computation, reduced by any realized losses which were not taken into account in determining regular interest in any year, and further adjusted each year to reflect the pro rata share for the accounts of the appreciation or depreciation of the fair market value of the assets of the retirement system as determined by the retirement committee. The retirement value shall be reduced by the amount of all distributions made to or on the behalf of the police officer from the retirement system. Such valuation shall be computed annually as of December 31. If separate investment accounts

are established pursuant to subsection (3) of section 16-1004, a police officer's retirement value with respect to such accounts shall be equal to the value of his or her separate investment accounts as determined under such subsection;

(10) Salary means all amounts paid to a participating police officer by the employing city for personal services as reported on the participant's federal income tax withholding statement, including the police officer's contributions picked up by the city as provided in subsection (2) of section 16-1005 and any salary reduction contributions which are excludable from income for federal income tax purposes pursuant to section 125 or 457 of the Internal Revenue Code;

(11) Sex-neutral basis means the benefit calculation provided to the city of the first class by a licensed domestic or foreign insurance or annuity company with a product available for purchase in Nebraska that utilizes a blended, non-gender-specific rate for actuarial assumptions, mortality assumptions, and annuity conversion rates for a particular participant, except that if a blended, non-gender-specific rate is not available for purchase in Nebraska, the benefit calculation shall be performed using the arithmetic mean of the male-specific actuarial assumptions, mortality assumptions, or annuity conversion rates and the female-specific actuarial assumptions, mortality assumptions, or annuity conversion rates, as applicable, for a particular participant, and the arithmetic mean shall be determined by adding the male-specific actuarial assumptions, mortality assumptions, or annuity conversion rates to the female-specific actuarial assumptions, mortality assumptions, or annuity conversion rates applicable to a particular participant and dividing the sum by two; and

(12) Straight life annuity means an ordinary annuity payable for the life of the primary annuitant only and terminating at his or her death without refund or death benefit of any kind.

Source: Laws 1983, LB 237, § 2; Laws 1992, LB 672, § 7; Laws 1995, LB 574, § 17; Laws 2012, LB1082, § 2; Laws 2014, LB759, § 8; Laws 2016, LB790, § 1.

16-1003 Police officer; prior service; how treated.

A police officer shall be credited with all years of his or her service after the year 1965 for the purpose of determining vested retirement benefits under the Police Officers Retirement Act.

Source: Laws 1983, LB 237, § 3; Laws 2012, LB1082, § 3.

16-1004 Police Officers Retirement System Fund; administration; system funding; separate investment accounts.

(1) Each city of the first class shall keep and maintain a Police Officers Retirement System Fund for the purpose of investing payroll deductions and city contributions to the retirement system. The fund shall be maintained separate and apart from all city money and funds. The fund shall be administered under the direction of the city and the retirement committee exclusively for the purposes of the retirement system and for the benefit of participating police officers and their beneficiaries. The fund shall be established as a trust under the laws of this state for all purposes of section 401(a) of the Internal Revenue Code. Regular interest shall accrue on any contributions transferred into the fund. Such funds shall be invested in the manner prescribed in section 16-1016.

(2) The city shall establish a medium for funding of the retirement system, which may be a pension trust fund, custodial account, group annuity contract, or combination thereof, for the purpose of investing money for the retirement system in the manner prescribed by section 16-1016 and to provide the retirement, death, and disability benefits for police officers pursuant to the Police Officers Retirement Act. The trustee or custodian of any trust fund may be a designated funding agent which is qualified to act as a fiduciary or custodian in this state, the city treasurer, a city officer authorized to administer funds of the city, or a combination thereof.

(3) Upon direction of the city, there may be established separate investment accounts for each participating police officer for the purpose of allowing each police officer to direct the investment of all or a portion of his or her employee account or employer account subject to the requirements of section 16-1016 and any other rules or limitations that may be established by the city or the retirement committee. If separate investment accounts are established, each account shall be separately invested and reinvested, separately credited with all earnings and gains with respect to the investment of the assets of the investment account, and separately debited with the losses of the account. Each investment account shall be adjusted each year to reflect the appreciation or depreciation of the fair market value of the assets held in such account as determined by the retirement committee. The expenses incurred by the retirement system when a police officer directs the investment of all or a portion of his or her individual investment account shall be charged against the police officer's investment account and shall reduce the police officer's retirement value.

Source: Laws 1983, LB 237, § 4; Laws 1992, LB 672, § 8; Laws 1995, LB 574, § 18; Laws 2012, LB1082, § 4.

16-1005 Contribution by police officer; amount; city; pick up officers' contributions; voluntary contributions.

(1) Until October 1, 2013, each police officer shall contribute to the retirement system a sum equal to six percent of his or her salary. Beginning October 1, 2013, until October 1, 2015, each police officer shall contribute to the retirement system a sum equal to six and one-half percent of his or her salary. Beginning October 1, 2015, each police officer shall contribute to the retirement system a sum equal to seven percent of his or her salary. Such payment shall be made by regular payroll deductions from the police officer's periodic salary and shall be credited to his or her employee account on a monthly basis. Each such account shall also be credited with regular interest.

(2) Each city of the first class shall pick up the police officers' contributions required by subsection (1) of this section, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the city shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the employee until such time as they are distributed from the retirement system. The city shall pay these employee contributions from the same source of funds which is used in paying earnings to the employee. The city shall pick up these contributions by a salary deduction either through a

reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. A police officer shall not be given an option to choose to receive the amount of the required contribution in lieu of having such contribution paid directly to the retirement system.

(3) Each police officer shall be entitled to make voluntary cash contributions to the retirement system in an amount not to exceed the contribution limitations established by the Internal Revenue Code. Voluntary contributions shall be credited to the police officer's employee account and shall thereafter be credited with regular interest. A police officer's voluntary contribution shall become a part of the Police Officers Retirement System Fund and shall be held, administered, invested, and distributed in the same manner as any other employee contribution to the retirement system.

Source: Laws 1983, LB 237, § 5; Laws 1992, LB 672, § 9; Laws 1995, LB 574, § 19; Laws 2012, LB1082, § 5.

16-1006 Contributions by city; amount; how credited; interest; when.

Each city of the first class shall contribute to the retirement system a sum equal to one hundred percent of the amounts deducted, in accordance with subsection (1) of section 16-1005, from each such police officer's periodic salary. Such payment shall be contributed as provided in subsection (1) of section 16-1005 for employee contributions and shall be credited to the police officer's employer account on a monthly basis. Each such account shall also be credited with regular interest. The city shall also contribute to the employer account of any police officer employed by the city on January 1, 1984, an amount equal to the employee contributions of such police officer that were made to the city prior to January 1, 1984, without interest, with such contribution to be made at the time the police officer retires or terminates employment with the city. The city may contribute such amount before the police officer's retirement or termination of employment or credit interest on such contribution.

Source: Laws 1983, LB 237, § 6; Laws 1992, LB 672, § 10; Laws 2012, LB1082, § 6.

16-1007 Retiring officer; annuity options; how determined; lump-sum payment option.

(1) At any time before the retirement date, the retiring police officer may elect to receive at his or her retirement date a pension benefit either in the form of a straight life annuity or any optional form of annuity benefit established by the retirement committee and provided under a purchased annuity contract. The optional annuity benefit shall be specified in the funding medium for the retirement system and shall include a straight life annuity with a guarantee of at least sixty monthly payments or an annuity payable for the life of the retiring police officer and, after the death of the retiree, monthly payments, as elected by the retiring police officer, of either one hundred percent, seventy-five percent, or fifty percent of the amount of annuity payable to the retiring police officer during his or her life, to the beneficiary selected by the retiring police officer at the time of the original application for an annuity. The optional benefit forms for the retirement system shall include a single lump-sum payment of the police officer's retirement value. The retiring police officer may further elect to defer the date of the first annuity payment or lump-sum

payment to the first day of any specified month prior to age seventy. If the retiring police officer elects to receive his or her pension benefit in the form of an annuity, the amount of annuity benefit shall be the amount paid by the annuity contract purchased or otherwise provided by his or her retirement value as of the date of the first payment. Any such annuity contract purchased by the retirement system may be distributed to the police officer and, upon such distribution, all obligations of the retirement system to pay retirement, death, or disability benefits to the police officer and his or her beneficiaries shall terminate, without exception.

(2)(a) For all officers employed on January 1, 1984, and continuously employed by the city from such date through the date of their retirement, the amount of the pension benefit, when determined on the straight life annuity basis, shall not be less than the following amounts:

(i) If retirement occurs following age sixty and with twenty-five years of service with the city, fifty percent of regular pay; or

(ii) If retirement occurs following age fifty-five but before age sixty and with twenty-five years of service with the city, forty percent of regular pay.

(b) A police officer entitled to a minimum pension benefit under this subsection may elect to receive such pension benefit in any form permitted by subsection (1) of this section, including a single lump-sum payment. If the minimum pension benefit is paid in a form other than a straight life annuity, such benefit shall be the actuarial equivalent of the straight life annuity that would otherwise be paid to the officer pursuant to this subsection.

(c) If the police officer chooses the single lump-sum payment option, the officer can request that the actuarial equivalent be equal to the average of the cost of three annuity contracts based on products available for purchase in Nebraska. Of the three annuity contracts used for comparison, one shall be chosen by the police officer, one shall be chosen by the retirement committee, and one shall be chosen by the city. The annuity contracts used for comparison shall all use the same type of sex-neutral basis benefit calculation.

(3) If the retirement value of an officer entitled to a minimum pension benefit under subsection (2) of this section is not sufficient at the time of the first payment to purchase or provide the required pension benefit, the city shall transfer such funds as may be necessary to the employer account of the police officer so that the retirement value of such officer is sufficient to purchase or provide for the required pension benefit.

(4) Any retiring police officer whose pension benefit is less than twenty-five dollars per month on the straight life annuity option shall be paid a lump-sum settlement equal to the retirement value and shall not be entitled to elect to receive annuity benefits.

Source: Laws 1983, LB 237, § 7; Laws 1992, LB 672, § 11; Laws 2012, LB1082, § 7; Laws 2014, LB759, § 9.

16-1008 Retirement options; retirement date.

(1) A police officer of a city of the first class may:

(a) Elect to retire and receive the applicable pension benefit provided in section 16-1007 based on his or her full retirement value upon the attainment of age sixty;

(b) Elect to take early retirement and receive the applicable pension benefit provided in section 16-1007 if he or she has attained the age of fifty-five and has completed twenty-five years of service with the city; or

(c) Retire as a result of disability while in the line of duty, as determined under section 16-1011, at any age, and receive the applicable pension benefit provided in section 16-1011.

(2) A police officer who is eligible to retire pursuant to subsection (1) of this section but does not, shall continue to contribute to his or her employee account, and the city shall continue to contribute to his or her employee account and to his or her employer account.

(3) The first of the month immediately following the last day of work shall be the retirement date.

Source: Laws 1983, LB 237, § 8; Laws 1992, LB 672, § 12.

16-1009 Police officer; death other than in the line of duty; pension benefit payable.

(1) When prior to retirement any police officer dies other than in the line of duty and except as provided in subsection (2) of this section, the entire retirement value shall be payable to the beneficiary or beneficiaries specified by the deceased police officer prior to his or her death or to the deceased police officer's estate if no beneficiary was specified. The retirement value or portion thereof to be received by the beneficiary may be paid in the form of a single lump-sum payment, straight life annuity, or other optional form of benefit specified in the retirement system's funding medium. If benefits are paid in the form of an annuity, the annuity shall be the amount paid by the annuity contract purchased or otherwise provided by the amount of the beneficiary's share of the retirement value as of the date of the first payment. Upon the purchase and distribution of such annuity contract to the beneficiary, all obligations of the retirement system to the beneficiary shall terminate, without exception.

(2) If any police officer employed by such city as a member of its paid police department on January 1, 1984, except those who were formerly employed in such department who are now in military service, dies while employed by the city as a police officer, other than in the line of duty, after becoming fifty-five years of age and before electing to retire, and after serving in the paid police department of such city for at least twenty-one years, then a pension of at least twenty-five percent of his or her regular pay in the form of a straight life annuity shall be paid to the surviving spouse of such deceased police officer. If the deceased police officer is not survived by a spouse or if the surviving spouse dies before the children of the police officer attain the age of majority, the pension benefit shall be paid to the police officer's minor children until they attain the age of majority. Each such child shall share equally in the total pension benefit to the age of his or her majority, except that as soon as a child attains the age of majority, such pension as to such child shall cease. To the extent that the retirement value at the date of death exceeds the amount required to purchase the specified pension, the excess shall be paid in the manner provided in subsection (1) of this section. If the actuarial equivalent of the pension benefit payable under this subsection exceeds the retirement value at the time of the first payment, the city shall contribute such additional amounts as may be necessary to purchase or provide for the required pension

benefit. If a deceased police officer described in this subsection is not survived by a spouse or minor children, his or her death benefits shall be provided under subsection (1) of this section as if such officer was not employed by the city on January 1, 1984.

(3) Any payments for the benefit of a minor child shall be made on behalf of the child to the surviving parent or, if there is no surviving parent, to the legal guardian of the child.

Source: Laws 1983, LB 237, § 9; Laws 1992, LB 672, § 13; Laws 2012, LB1082, § 8.

16-1010 Police officer; death in the line of duty; beneficiaries; retirement benefits.

When prior to retirement any police officer dies in the line of duty or his or her death is caused by or is the result of injuries received while in the line of duty and if such police officer is not survived by a spouse or by minor children, the entire retirement value shall be payable to the beneficiary specified by the deceased police officer prior to his or her death or to the deceased police officer's estate if no beneficiary was specified. The retirement value or portion thereof to be received by the beneficiary may be paid in the form of a single lump-sum payment, straight life annuity, or other optional form of benefit specified in the retirement system's funding medium. For a police officer who is survived by a spouse or minor children, a retirement pension of fifty percent of regular pay shall be paid to the surviving spouse or, upon his or her remarriage or death, to the minor children during each child's minority subject to deduction of the amounts paid as workers' compensation benefits on account of death as provided in section 16-1012. Each such child shall share equally in the total pension benefit to the age of his or her majority, except that as soon as a child attains the age of majority, such pension as to such child shall cease. Any payments for the benefit of a minor child shall be made on behalf of such child to the surviving parent or, if there is no surviving parent, to the legal guardian of the child. To the extent that the retirement value at the date of death exceeds the amount required to purchase or provide the specified retirement pension, as reduced by any amounts paid as workers' compensation benefits, the excess shall be paid in the manner provided in subsection (1) of section 16-1009. If the actuarial equivalent of the pension benefit payable to a surviving spouse or minor children under this section exceeds the retirement value at the time of the first payment, the city shall contribute such additional amount as may be necessary to purchase or provide for the required pension benefit.

Source: Laws 1983, LB 237, § 10; Laws 1986, LB 811, § 3; Laws 1992, LB 672, § 14; Laws 2012, LB1082, § 9.

16-1011 Police officer; disability in the line of duty; benefit; requirements.

(1) If any police officer becomes disabled, such police officer shall be placed upon the roll of pensioned police officers at the regular retirement pension of fifty percent of regular pay for the period of such disability. For purposes of this section, disability shall mean the complete inability of the police officer, for reasons of accident or other cause while in the line of duty, to perform the duties of a police officer.

(2) No disability benefit payment shall be made except upon adequate proof furnished to the city, such proof to consist of a medical examination conducted

by a competent, disinterested physician who is duly licensed to practice medicine and surgery in this state and who certifies to the city that the police officer is unable to perform the duties of a police officer. The city, during the first three years of the payment of such benefits, shall have the right, at reasonable times, to require the disabled police officer to undergo a medical examination at the city's expense to determine the continuance of the disability claimed. After such three-year period, the city may request the district court to order the police officer to submit proof of the continuance of the disability claimed if the city has reasonable grounds to believe the police officer is fraudulently receiving disability payments. The city shall have the right to demand a physical examination of the police officer by a competent, disinterested physician who is duly licensed to practice medicine and surgery in this state, and who is chosen by the city. The expense of such examination shall be borne by the city.

(3) In case of temporary disability of a police officer received while in the line of duty, he or she shall receive his or her salary during the continuance of such disability for a period not to exceed twelve months, except that if it is ascertained by the city council or other proper municipal authorities within twelve months that such temporary disability has become a disability as defined in this section, then the salary shall cease and he or she shall be entitled to the benefits for pensions in case of disability as provided in this section.

(4) All payments of pension or salary provided by this section shall be subject to deduction of amounts paid under the Nebraska Workers' Compensation Act. In case of a permanent disability of a police officer, such payments shall not commence until all credit for unused annual or sick leave and other similar credits have been fully utilized by the disabled police officer if there will be no impairment to his or her salary during the period of disability. Total payments to a disabled police officer, in excess of amounts paid as workers' compensation benefits, shall not be less than the retirement value at the date of disability. If the actuarial equivalent of the disability pension payable under this section exceeds the police officer's retirement value at the time of the first payment, the city shall contribute such additional amounts as may be necessary, from time to time, to provide for the required disability pension.

(5) If a police officer who was pensioned under this section is later determined to be no longer disabled, the pension provided for under this section shall terminate and the police officer's vested retirement value, as reduced by any disability payments made from the retirement system, shall thereafter be held and administered in the same manner as for any nondisabled police officer or former police officer.

(6) If a police officer who has pensioned under this section is later determined to be no longer disabled during the first three years when disability benefit payments are being paid the police officer may return to duty with the police force under the following conditions:

(a) If a vacancy exists on the police force for which the police officer is qualified and the police officer wishes to return to the police force, the city shall hire the police officer to fill the vacancy at a pay grade of not less than his or her previous pay grade; or

(b) If no vacancy exists on the police force and the police officer wishes to return to the police force, the city may create a vacancy under the city's

reduction in force policy adopted under the Civil Service Act and rehire the officer at a pay grade of not less than his or her previous pay grade.

The provisions of this subsection shall not apply to a police officer whose disability benefit payments are terminated because of fraud on the part of the police officer.

Source: Laws 1983, LB 237, § 11; Laws 1986, LB 811, § 4; Laws 1992, LB 672, § 15; Laws 2013, LB263, § 1.

Cross References

Civil Service Act, see section 19-1825.
Nebraska Workers' Compensation Act, see section 48-1,110.

16-1012 Police officer; temporary disability; workers' compensation benefits; how treated.

No police officer shall be entitled during any period of temporary disability to receive in full both his or her salary and his or her benefits under the Nebraska Workers' Compensation Act. All Nebraska workers' compensation benefits shall be payable in full to such police officer as provided in the Nebraska Workers' Compensation Act, but all amounts paid by the city or its insurer under the Nebraska Workers' Compensation Act to any disabled police officer entitled to receive a salary during such disability shall be considered as payments on account of such salary and shall be credited thereon. The remaining balance of such salary, if any, shall be payable as otherwise provided in the Police Officers Retirement Act.

Source: Laws 1983, LB 237, § 12; Laws 1985, LB 3, § 1; Laws 1986, LB 811, § 5; Laws 2012, LB1082, § 10.

Cross References

Nebraska Workers' Compensation Act, see section 48-1,110.

16-1013 Police officer; termination of employment; benefits; how treated; vesting schedule.

(1) If a police officer quits or is discharged before his or her normal or early retirement date, the officer may request and receive as a lump-sum payment an amount equal to the retirement value of his or her employee account as determined at the valuation date preceding his or her termination of employment. Such police officer, if vested, shall also receive a deferred pension benefit in an amount purchased or provided by the retirement value at the date of retirement. The retirement value at such retirement date shall consist of the accumulated value of the police officer's employee account, as reduced by any lump-sum distributions received prior to retirement, together with a vested percentage of the accumulated value of the police officer's employer account at the date of retirement.

(2) Until July 1, 2012, the vesting schedule shall be as follows:

(a) If the terminated police officer has been a member of the retirement system for less than four years, such vesting shall be nil;

(b) If the terminating officer has been a member of the paid department of the city of the first class for at least four years, such vesting percentage shall be forty percent. Such vesting percentage shall be fifty percent after five years, sixty percent after six years, seventy percent after seven years, eighty percent

after eight years, ninety percent after nine years, and one hundred percent after ten years; and

(c) All police officers shall be one hundred percent vested upon attainment of age sixty while employed by the city as a police officer.

(3) Beginning July 1, 2012, the vesting schedule shall be as follows:

(a) If the terminated police officer has been a member of the retirement system for less than two years, such vesting shall be nil;

(b) If the terminating officer has been a member of the paid department of the city of the first class for at least two years, such vesting percentage shall be forty percent. Such vesting percentage shall be sixty percent after four years, eighty percent after five years, and one hundred percent after seven years; and

(c) All police officers shall be one hundred percent vested upon attainment of age sixty while employed by the city as a police officer.

(4) The deferred pension benefit shall be payable on the first of the month immediately following the police officer's sixtieth birthday. At the option of the terminating police officer, such pension benefit may be paid as of the first of the month after such police officer attains the age of fifty-five. Such election may be made by the police officer any time prior to the payment of the pension benefits. The deferred pension benefit shall be paid in the form of the benefit options specified in subsection (1) of section 16-1007 as elected by the police officer. If the police officer's vested retirement value at the date of his or her termination of employment is less than three thousand five hundred dollars, the city may elect to pay such police officer his or her vested retirement value in the form of a single lump-sum payment.

(5) A police officer may elect upon his or her termination of employment to receive his or her vested retirement value in the form of a single lump-sum payment.

(6) Upon any lump-sum payment of a terminating police officer's retirement value under this section, such police officer will not be entitled to any deferred pension benefit and the city and the retirement system shall have no further obligation to pay such police officer or his or her beneficiaries any benefits under the Police Officers Retirement Act.

(7) If the terminating police officer is not credited with one hundred percent of his or her employer account, the nonvested portion of the account shall be forfeited and first used to meet the expense charges incurred by the city in connection with administering the retirement system and the remainder shall then be used to reduce the city contribution which would otherwise be required to fund pension benefits.

Source: Laws 1983, LB 237, § 13; Laws 1992, LB 672, § 16; Laws 2012, LB1082, § 11.

16-1014 Retirement committee; established; city council; responsibilities.

A retirement committee shall be established to supervise the general operation of the retirement system established pursuant to the Police Officers Retirement Act. The city council shall continue to be responsible for the general administration of such retirement system unless specific functions or all functions with regard to the administration of the retirement system are delegated, by ordinance, to the retirement committee. Whenever duties or powers are vested in the city or the retirement committee under the act or whenever the

act fails to specifically allocate the duties or powers of administration of the retirement system, such powers or duties shall be vested in the city unless such powers or duties have been delegated by ordinance to the retirement committee. The city and the retirement committee shall have all powers which are necessary for or appropriate to establishing, maintaining, managing, and administering the retirement system.

Source: Laws 1983, LB 237, § 14; Laws 1992, LB 672, § 17; Laws 2012, LB1082, § 12; Laws 2016, LB704, § 206.

16-1015 Retirement committee; members; terms; vacancy.

Each retirement committee established pursuant to section 16-1014 shall consist of members from both the police force and designees of the city council. The committee shall consist of six members of which four members shall be selected by the officers from the police force of the city. Two members shall be designated by the city council. The members who are not participants in such retirement system shall have a general knowledge of retirement plans. Members of the governing body of such city may serve on the retirement committee. The committee members shall be appointed to four-year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the retirement committee shall receive no salary and shall not be compensated for expenses.

Source: Laws 1983, LB 237, § 15.

16-1016 Retirement system funds; contracts for investments.

The funds of the retirement system shall be invested under the general direction of the retirement committee. The city or the retirement committee if delegated such function by the city shall select and contract with a funding agent or agents to hold or invest the assets of the retirement system and to provide for the benefits provided by the Police Officers Retirement Act. The city or committee may select and contract with investment managers registered under the federal Investment Advisers Act of 1940 to invest, reinvest, and otherwise manage such portion of the assets of the retirement system as may be assigned by the city or committee. All funds of the retirement system shall be invested pursuant to the policies established by the Nebraska Investment Council.

Source: Laws 1983, LB 237, § 16; Laws 1991, LB 2, § 2; Laws 1992, LB 672, § 18; Laws 2012, LB1082, § 13.

16-1017 Retirement committee; duties.

(1) It shall be the duty of the retirement committee to:

(a) Provide each employee a summary of plan eligibility requirements and benefit provisions;

(b) Provide, within thirty days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive; and

(c) Make available for review an annual report of the retirement system's operations describing both (i) the amount of contributions to the retirement system from both employee and employer sources and (ii) an identification of the total assets of the retirement system.

(2) Beginning December 31, 1998, through December 31, 2017:

(a) The chairperson of the retirement committee shall file with the Public Employees Retirement Board a report on each retirement plan established pursuant to section 401(a) of the Internal Revenue Code and administered by a retirement system established pursuant to the Police Officers Retirement Act and shall submit copies of such report to the Auditor of Public Accounts. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

(i) The number of persons participating in the retirement plan;

(ii) The contribution rates of participants in the plan;

(iii) Plan assets and liabilities;

(iv) The names and positions of persons administering the plan;

(v) The names and positions of persons investing plan assets;

(vi) The form and nature of investments;

(vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and

(viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits and the sources and amount of funding for such benefits; and

(b) If such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, in addition to the reports required by section 13-2402, the retirement committee shall cause to be prepared an annual report and the chairperson shall file the same with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee of the Legislature and submit to the Auditor of Public Accounts a copy of such report. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the retirement committee does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the city. All costs of the audit shall be paid by the city. The report shall consist of a full actuarial analysis of each such retirement plan administered by a retirement system established pursuant to the act. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan. The report to the Nebraska Retirement Systems Committee shall be submitted electronically.

(3)(a) Beginning December 31, 2018, and each December 31 thereafter, for a defined benefit plan the chairperson of the retirement committee or his or her designee shall prepare and electronically file an annual report with the Auditor

of Public Accounts and the Nebraska Retirement Systems Committee of the Legislature. If such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, the report shall be in addition to the reports required by section 13-2402. The report shall be on a form prescribed by the Auditor of Public Accounts and shall include, but not be limited to, the following information:

(i) The levels of benefits of participants in the plan, the number of members who are eligible for a benefit, the total present value of such members' benefits, and the funding sources which will pay for such benefits; and

(ii) A copy of a full actuarial analysis of each such defined benefit plan. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization which offers investment advice or provides investment management services to the retirement plan.

(b) The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the retirement committee does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the retirement committee. All costs of the audit shall be paid by the retirement committee.

Source: Laws 1983, LB 237, § 17; Laws 1998, LB 1191, § 18; Laws 1999, LB 795, § 7; Laws 2011, LB474, § 7; Laws 2012, LB1082, § 14; Laws 2014, LB759, § 10; Laws 2017, LB415, § 7.

16-1018 Termination of employment; transfer of benefits; when.

If a police officer terminates his or her employment for the purpose of becoming a police officer employed by another city of the first class in Nebraska and such new employment commences within one hundred twenty days of such termination, such police officer shall be entitled to transfer to the Police Officers Retirement System Fund of the city by which he or she is newly employed, the full amount of his or her employee account and the vested portion of the value of his or her employer account at the time of termination. The transferred funds shall be directly transferred to the police officer's employee account in the retirement system of the city to which transferred and administered by the retirement committee of the city to which transferred. Upon such transfer, the city and the retirement system shall have no further obligation to such police officer or his or her beneficiary. Following the commencement of new employment, the transferring police officer shall be deemed a new employee for all purposes of the retirement system of the city to which he or she transferred.

Source: Laws 1983, LB 237, § 18; Laws 1992, LB 672, § 19.

16-1019 Exemption from legal process; administration; requirements; retirement committee; powers and duties; review of adjustment; tax levy authorized.

(1) The right to any benefits under the retirement system and the assets of any fund of the retirement system shall not be assignable or subject to execution, garnishment, attachment, or the operation of any bankruptcy or insolvency laws, except that the retirement system may comply with the directions set

forth in a qualified domestic relations order meeting the requirements of section 414(p) of the Internal Revenue Code. The city or retirement committee may require appropriate releases from any person as a condition to complying with any such order. The retirement system shall not recognize any domestic relations order which alters or changes benefits, provides for a form of benefit not otherwise provided for by the retirement system, increases benefits not otherwise provided by the retirement system, or accelerates or defers the time of payment of benefits. No participant or beneficiary shall have any right to any specific portion of the assets of the retirement system.

(2) The retirement system shall be administered in a manner necessary to comply with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, including section 401(a)(9) relating to the time and manner in which benefits are required to be distributed and section 401(a)(9)(G) relating to incidental death benefit requirements, section 401(a)(16) relating to compliance with the maximum limitation on the plan benefits or contributions under section 415, section 401(a)(17) which limits the amount of compensation which can be taken into account under a retirement plan, section 401(a)(25) relating to the specification of actuarial assumptions, section 401(a)(31) relating to direct rollover distributions from eligible retirement plans, and section 401(a)(37) relating to the death benefit of a police officer who dies while performing qualified military service. Any requirements for compliance with section 401(a) of the Internal Revenue Code may be set forth in any trust or funding medium for the retirement system. This subsection shall be in full force and effect only so long as conformity with section 401(a) of the Internal Revenue Code is required for public retirement systems in order to secure the favorable income tax treatment extended to sponsors and beneficiaries of tax-qualified retirement plans.

(3) If the retirement committee determines that the retirement system has previously overpaid or underpaid a benefit payable under the Police Officers Retirement Act, it shall have the power to correct such error. In the event of an overpayment, the retirement system may, in addition to any other remedy that the retirement system may possess, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon.

(4) A police officer whose benefit payment is adjusted by the retirement committee pursuant to subsection (3) of this section may request a review by the city council of the adjustment made by the retirement committee.

(5) In order to provide the necessary amounts to pay for or fund a pension plan established under the act, the mayor and council may make a levy which is within the levy restrictions of section 77-3442.

Source: Laws 1983, LB 237, § 19; Laws 1992, LB 672, § 20; Laws 1995, LB 574, § 20; Laws 1996, LB 1114, § 29; Laws 2012, LB916, § 2; Laws 2012, LB1082, § 15; Laws 2015, LB40, § 2.

(b) FIREFIGHTERS RETIREMENT

16-1020 Applicability of sections.

Except as provided in section 16-1039, sections 16-1020 to 16-1038 shall apply to all firefighters of a city of the first class.

Source: Laws 1983, LB 531, § 1.

16-1021 Terms, defined.

For the purposes of sections 16-1020 to 16-1042, unless the context otherwise requires:

(1) Actuarial equivalent means equality in value of the aggregate amount of benefit expected to be received under different forms or at different times determined as of a given date as adopted by the city or the retirement committee for use by the retirement system. Actuarial equivalencies shall be specified in the funding medium established for the retirement system, except that if benefits under the retirement system are obtained through the purchase of an annuity contract, the actuarial equivalency of any such form of benefit shall be the amount of pension benefit which can be purchased or otherwise provided by such contract. All actuarial and mortality assumptions adopted by the city or retirement committee shall be on a sex-neutral basis;

(2) Annuity contract means the contract or contracts issued by one or more life insurance companies or designated trusts and purchased by the retirement system in order to provide any of the benefits described in such sections. Annuity conversion rates contained in any such contract shall be specified on a sex-neutral basis;

(3) Beneficiary means the person or persons designated by a firefighter, pursuant to a written instrument filed with the retirement committee before the firefighter's death, to receive death benefits which may be payable under the retirement system;

(4) Funding agent means any bank, trust company, life insurance company, thrift institution, credit union, or investment management firm selected by the retirement committee, subject to the approval of the city, to hold or invest the funds of the retirement system;

(5) Regular interest means the rate of interest earned each calendar year commencing January 1, 1984, equal to the rate of net earnings realized for the calendar year from investments of the retirement fund. Net earnings means the amount by which income or gain realized from investments of the retirement fund exceeds the amount of any realized losses from such investments during the calendar year. The retirement committee shall annually report the amount of regular interest earned for such year;

(6) Regular pay means the salary of a firefighter at the date such firefighter elects to retire or terminate employment with the city;

(7) Retirement committee means the retirement committee created pursuant to section 16-1034;

(8) Retirement system means a retirement system established pursuant to sections 16-1020 to 16-1042;

(9) Retirement value means the accumulated value of the firefighter's employee account and employer account. The retirement value at any time shall consist of the sum of the contributions made or transferred to such accounts by the firefighter and by the city on the firefighter's behalf and the regular interest credited to the accounts through such date, reduced by any realized losses which were not taken into account in determining regular interest in any year, and as further adjusted each year to reflect the accounts' pro rata share of the appreciation or depreciation of the assets of the retirement system as determined by the retirement committee at their fair market values, including any account under subsection (2) of section 16-1036. Such valuation shall be

undertaken at least annually as of December 31 of each year and at such other times as may be directed by the retirement committee. The value of each account shall be reduced each year by the appropriate share of the investment costs as provided in section 16-1036.01. The retirement value shall be further reduced by the amount of all distributions made to or on the behalf of the firefighter from the retirement system;

(10) Salary means the base rate of pay, excluding overtime, callback pay, clothing allowances, and other such benefits as reported on the participant's federal income tax withholding statement including the firefighters' contributions picked up by the city as provided in subsection (2) of section 16-1024 and any salary reduction contributions which are excludable from income for federal income tax purposes pursuant to section 125 or 457 of the Internal Revenue Code;

(11) Sex-neutral basis means the benefit calculation provided to the city of the first class by a licensed domestic or foreign insurance or annuity company with a product available for purchase in Nebraska that utilizes a blended, non-gender-specific rate for actuarial assumptions, mortality assumptions, and annuity conversion rates for a particular participant, except that if a blended, non-gender-specific rate is not available for purchase in Nebraska, the benefit calculation shall be performed using the arithmetic mean of the male-specific actuarial assumptions, mortality assumptions, or annuity conversion rates and the female-specific actuarial assumptions, mortality assumptions, or annuity conversion rates, as applicable, for a particular participant, and the arithmetic mean shall be determined by adding the male-specific actuarial assumptions, mortality assumptions, or annuity conversion rates to the female-specific actuarial assumptions, mortality assumptions, or annuity conversion rates applicable to a particular participant and dividing the sum by two; and

(12) Straight life annuity means an ordinary annuity payable for the life of the primary annuitant only, and terminating at his or her death without refund or death benefit of any kind.

Source: Laws 1983, LB 531, § 2; Laws 1993, LB 724, § 1; Laws 1995, LB 574, § 21; Laws 2014, LB759, § 11.

16-1022 Firefighter; prior service; how treated.

A firefighter shall be credited with all years of his or her service after August 7, 1965, for the purpose of determining vested retirement benefits under sections 16-1020 to 16-1038.

Source: Laws 1983, LB 531, § 3.

16-1023 Firefighters Retirement System Fund; city maintain; transfer of contributions; funding of system.

(1) Commencing on January 1, 1984, each city of the first class having a paid fire department shall keep and maintain a Firefighters Retirement System Fund for the purpose of investing payroll deductions and city contributions to the retirement system. The fund shall be maintained separate and apart from all city money and funds. The fund shall be administered exclusively for the purposes of the retirement system and for the benefit of participating firefighters and their beneficiaries and so as to establish the fund as a trust under the law of this state for all purposes of section 401(a) of the Internal Revenue Code. Upon the passage of sections 16-1020 to 16-1038 all of the contributions made

by a firefighter under section 35-203.01 as it formerly existed and interest accrued at five percent per annum on such contributions prior to January 1, 1984, shall be transferred to the firefighter's employee account. Regular interest shall begin to accrue on the contributions transferred into the fund. Such funds shall be invested in the manner prescribed in section 16-1036.

(2) The city shall establish a medium for funding the retirement system which, with the approval of the retirement committee, may be a pension trust fund, custodial account, group annuity contract, or combination thereof, for the purpose of investing money for the retirement system in the manner prescribed by section 16-1036 and to provide the retirement, death, and disability benefits for firefighters granted by sections 16-1020 to 16-1042. The trustee or custodian of any trust fund shall be a designated funding agent which is qualified to act as a fiduciary or custodian in this state, the city treasurer, an appropriate city officer authorized to administer funds of the city, or a combination thereof.

Source: Laws 1983, LB 531, § 4; Laws 1993, LB 724, § 2; Laws 1995, LB 574, § 22.

16-1024 Contribution by firefighter; amount; interest; city; pick up firefighters' contributions; voluntary contribution.

(1) Each firefighter participating in the retirement system shall contribute to the retirement system a sum equal to six and one-half percent of his or her salary. Such payment shall be made by regular payroll deductions from his or her periodic salary and shall be credited to his or her employee account on a monthly basis. Each such account shall also be credited with regular interest.

(2) Each city of the first class with firefighters participating in a retirement system shall pick up the firefighters' contributions required by subsection (1) of this section for all compensation paid on or after January 1, 1984, and the contributions so picked up shall be treated as employer contributions in determining federal income tax treatment under the Internal Revenue Code, except that the city shall continue to withhold federal income taxes based upon such contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, such contributions shall not be included as gross income of the employee until such time as they are distributed from the retirement system. The city shall pay the employee contributions from the same source of funds which is used in paying compensation to the employee. The city shall pick up the employee contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. In no event shall a firefighter be given an option to choose to receive the amount of the required contribution in lieu of having such contribution paid directly to the retirement system.

(3) Each firefighter participating in the retirement system shall be entitled to make voluntary cash contributions to the retirement system in an amount not to exceed the contribution limitations established by the Internal Revenue Code. Voluntary contributions shall be credited to the employee account and shall thereafter be credited with regular interest. A voluntary contribution shall become a part of the Firefighters Retirement System Fund and shall be held,

administered, invested, and distributed in the same manner as any other employee contribution to the retirement system.

Source: Laws 1983, LB 531, § 5; Laws 1993, LB 724, § 3; Laws 1995, LB 574, § 23.

16-1025 Contributions by city; amount; how credited; interest.

(1) Beginning January 1, 1984, each city of the first class with firefighters participating in a retirement system shall contribute to the retirement system a sum equal to thirteen percent of each such participating firefighter's periodic salary. Such payment shall be credited to his or her employer account on a monthly basis. Each such account shall also be credited with regular interest. The city shall also contribute to the employer account of any firefighter employed by the city on January 1, 1984, an amount equal to the employee's contributions, without interest, that were made to the city prior to January 1, 1984, with such contribution to be made at the time the firefighter retires or terminates employment with the city. The city may contribute such amount before the firefighter's retirement or termination of employment or credit interest on such contribution.

(2) Each such city shall contribute any additional amounts necessary to fund retirement or other retirement plan benefits not provided by employee contributions or city contributions to the employer account required by subsection (1) of this section. Such additional contributions shall be accumulated in an unallocated employer account of the Firefighters Retirement System Fund and used to provide the benefits, if any, specified in sections 16-1027 and 16-1029 to 16-1031 which are not otherwise funded by the firefighter's retirement value. Funds needed to provide for a firefighter's benefits shall be transferred from the unallocated employer account when and as such funds are needed. All funds committed by the city to the funding of a firefighter pension system on January 1, 1984, that are not transferred to the firefighters employee accounts shall be transferred to the unallocated employer account.

Source: Laws 1983, LB 531, § 6; Laws 1993, LB 724, § 4.

16-1026 Repealed. Laws 1998, LB 1191, § 85.

16-1027 Retiring firefighter; annuity options; how determined; lump-sum payment.

(1) At any time before the retirement date, the retiring firefighter may elect to receive his or her pension benefit at retirement either in the form of a straight life annuity or any optional form of annuity benefit established by the retirement committee and provided under a purchased annuity contract. Such optional annuity benefit shall be specified in the funding medium for the retirement system and shall include a straight life annuity with a guarantee of at least sixty monthly payments or an annuity payable for the life of the retiring firefighter and, after the death of the retiree, monthly payments, as elected by the retiring firefighter, of one hundred percent, seventy-five percent, or fifty percent of the amount of annuity payable to the retiring firefighter during his or her life, to the beneficiary selected by the retiring firefighter at the time of the original application for an annuity. For any firefighter whose retirement date is on or after January 1, 1997, the optional benefit forms for the retirement system shall include a single lump-sum payment of the firefighter's retirement

value. For firefighters whose retirement date is prior to January 1, 1997, a single lump-sum payment shall be available only if the city has adopted such distribution option in the funding medium established for the retirement system. The retiring firefighter may further elect to defer the date of the first payment or lump-sum distribution to the first day of any specified month prior to age seventy. In the event the retiring firefighter elects to receive his or her pension benefit in the form of an annuity, the amount of such annuity benefit shall be the amount provided by the annuity contract purchased or otherwise provided by the firefighter's retirement value as of the date of the first payment. Any such annuity contract purchased by the retirement system may be distributed to the retiring firefighter. Upon the payment of a lump sum or the distribution of a paid-up annuity contract, all obligations of the retirement system to pay retirement benefits to the firefighter and his or her beneficiaries shall terminate, without exception.

(2) For all firefighters employed on January 1, 1984, the amount of the pension benefit at the retirement date shall not be less than the following amounts:

(a) If retirement from the city occurs following age fifty-five with twenty-one years of service with the city, fifty percent of regular pay;

(b) If retirement from the city occurs following age fifty but before age fifty-five with at least twenty-one years of service with the city, such firefighter shall receive the actuarial equivalent of the benefit which would otherwise be provided at age fifty-five;

(c) If retirement from the city occurs on or after age fifty-five with less than twenty-one years of service with the city, such firefighter shall receive a pension of at least fifty percent of the salary he or she was receiving at the time of retirement multiplied by the ratio of the years of service to twenty-one;

(d) For terminations of employment from the city on or after September 9, 1993, if such termination of employment as a firefighter occurs before age fifty-five but after completion of twenty-one years of service with the city, such firefighter shall receive upon the attainment of age fifty-five a pension benefit of fifty percent of regular pay;

(e) Unless an optional annuity benefit is selected by the retired firefighter, at the death of any such retired firefighter the same rate of pension as is provided for in this section shall be paid to the surviving spouse of such deceased firefighter during such time as the surviving spouse remains unmarried and, in case there is no surviving spouse, then the minor children, if any, of such deceased firefighter shall equally share such pension benefit during their minority, except that as soon as a child of such deceased firefighter ceases to be a minor, such pension as to such child shall cease; or

(f) In the event a retired firefighter or his or her surviving beneficiaries die before the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, equals the total amount in the firefighter's employee account, at the time of the first benefit payment the difference between the total amount in the employee's account and the aggregate amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the firefighter's estate.

A firefighter entitled to a minimum pension benefit under this subsection may elect to receive such pension benefit in any form permitted by subsection (1) of

this section, including a single lump-sum payment, if the firefighter retires on or after January 1, 1997, or if the city has adopted a lump-sum distribution option for firefighters retiring before January 1, 1997, in the funding medium for the retirement system. If the minimum pension benefit is paid in the form of an optional annuity benefit or a single lump-sum payment, such benefit or payment shall be the actuarial equivalent of the annuity that would otherwise be paid to the firefighter pursuant to this subsection.

If the firefighter chooses the single lump-sum payment option, the firefighter may request that the actuarial equivalent be equal to the average of the cost of two annuity contracts based on products available for purchase in Nebraska, if the difference between the cost of the two annuity contracts does not exceed five percent. Of the two annuity contracts used for comparison, one shall be chosen by the firefighter and one shall be chosen by the city. If the difference between the two annuity contracts exceeds five percent, the retirement committee shall review the costs of the two annuity contracts and make a recommendation to the city council as to the amount of the lump-sum payment to be made to the firefighter. The city council shall, after a hearing, determine the amount of the single lump-sum payment due the firefighter. The annuity contracts used for comparison shall all use the same type of sex-neutral basis benefit calculation.

(3) If the retirement value of a firefighter entitled to a minimum pension benefit under subsection (2) of this section is not sufficient at the time of the first payment to purchase or provide the required pension benefit, the city shall utilize such funds as may be necessary from the unallocated employer account of the retirement system to purchase or provide for the required pension benefit.

(4) Any retiring firefighter whose pension benefit is less than twenty-five dollars per month on the straight life annuity option shall be paid a lump-sum settlement equal to the retirement value in lieu of annuity and shall not be entitled to elect to receive annuity benefits.

Source: Laws 1983, LB 531, § 8; Laws 1992, LB 672, § 22; Laws 1993, LB 724, § 5; Laws 1994, LB 1068, § 1; Laws 2014, LB759, § 12.

16-1028 Retirement options; retirement date.

(1) A firefighter of a city of the first class may:

(a) Retire or be retired and receive the applicable retirement pension benefit upon the attainment of age fifty-five while employed by the city as a firefighter;

(b) Elect to retire after he or she has attained the age of fifty and has completed at least twenty-one years of service with the city and receive the actuarial equivalent of the pension benefit he or she would otherwise receive upon the attainment of age fifty-five;

(c) After twenty-one years of service with the city, terminate employment with the city and, upon the attainment of age fifty-five, receive the applicable retirement pension benefit; or

(d) Retire or be retired as a result of disability while in the line of duty, as determined under section 16-1031, at any age and receive the applicable pension benefit provided in such section.

(2) A firefighter who is eligible to retire pursuant to subdivision (1)(a) of this section but does not shall continue to contribute to his or her employee account and the city shall continue to contribute to its employer account.

(3) For purposes of subdivisions (1)(a), (b), and (d) of this section, the first of the month immediately following the last day of work shall be the retirement date. For purposes of subdivision (1)(c) of this section, the first of the month immediately following the attainment of age fifty-five shall be the retirement date.

Source: Laws 1983, LB 531, § 9; Laws 1993, LB 724, § 6; Laws 1994, LB 1068, § 2.

16-1029 Firefighter; death other than in the line of duty; pension benefit payable.

(1) When prior to the commencement of retirement benefits any firefighter participating in the retirement system dies other than in the line of duty, and except as provided in subsection (2) of this section, the entire retirement value shall be payable to the beneficiary or beneficiaries specified by the deceased firefighter prior to his or her death or to the deceased firefighter's estate in the event that no beneficiary was specified. The retirement value or portion thereof may be received by the beneficiary in the form of a single lump-sum payment, a straight life annuity, or any other optional form of benefit specified in the retirement system's funding medium. In the event benefits are paid in the form of an annuity, such annuity shall be the amount provided by the annuity contract purchased or otherwise provided by the amount of retirement value to be paid to the beneficiary as of the date of the first payment. Upon the payment of a lump-sum distribution or the purchase and distribution of such annuity contract to the beneficiary, all obligations of the retirement system to the beneficiary shall terminate, without exception.

(2) If any firefighter employed by such city as a member of its paid fire department on January 1, 1984, and any firefighter reemployed thereafter who, while employed in such department entered military service and is still in military service, dies while employed by the city as a firefighter other than in the line of duty after becoming fifty years of age and before electing to retire, and after serving in the paid fire department of such city for at least twenty-one years, then a pension of at least twenty-five percent of his or her regular pay as defined in section 16-1021, in the form of a straight life annuity, shall be paid to the surviving spouse or minor children of such deceased firefighter. If the deceased firefighter is not survived by a spouse or in the event such surviving spouse dies before the minor children of such firefighter attain the age of majority, such pension benefit shall be paid to the firefighter's minor children until they have attained the age of majority. Each such child shall share equally in the total pension benefit to the age of majority, except that as soon as a child attains the age of majority, such pension benefit to such child shall cease and be reallocated among the remaining minor children until the last remaining child dies or reaches the age of majority.

In the event that the actuarial equivalent of the pension benefit payable under this subsection exceeds the retirement value at the time of the first payment, the city shall utilize such funds as may be necessary from the unallocated employer account of the retirement system to purchase or provide for the required pension benefit. In the event a deceased firefighter described in this subsection

is not survived by a spouse or minor children, his or her death benefits shall be provided under the provisions of subsection (1) of this section as if such firefighter were not employed by the city on January 1, 1984.

(3) In the event the surviving spouse or minor children of such deceased firefighter die before the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, equals the total amount in the firefighter's employee account at the time of the first benefit payment, the difference between such total amount in the employee's account and the aggregate amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the firefighter's beneficiary, or in the absence of a surviving beneficiary, his or her estate.

(4) To the extent that the retirement value at the date of death exceeds the amount required to purchase or provide the specified pension under subsection (2) of this section, the excess shall be paid in the manner provided in subsection (1) of this section.

(5) Any payments for the benefit of a minor child shall be made on behalf of such child to the surviving spouse or, if there is none, to the legal guardian of the child.

Source: Laws 1983, LB 531, § 10; Laws 1992, LB 672, § 23; Laws 1993, LB 724, § 7.

16-1030 Firefighter; death in the line of duty; retirement benefits.

When prior to commencement of retirement benefits any firefighter participating in the retirement system dies in the line of duty or in case death is caused by or is the result of injuries received while in the line of duty and such firefighter is not survived by a spouse or minor children, the entire retirement value shall be payable to the beneficiary or beneficiaries specified by the deceased firefighter prior to his or her death or to the deceased firefighter's estate in the event that no beneficiary was specified. The retirement value or portion thereof may be paid in the form of a single lump-sum payment, a straight life annuity, or any other optional form of benefit specified in the retirement system's funding medium. For a firefighter who is survived by a spouse or minor children, a retirement pension of fifty percent of regular pay shall be paid to the surviving spouse or, upon his or her remarriage or death, to the minor child or children during such child's or children's minority subject to deduction of the amounts paid as workers' compensation benefits on account of death as provided in section 16-1032. Each such child shall share equally in the total pension benefit to the age of majority, except that as soon as a child attains the age of majority, such pension benefit to such child shall cease and be reallocated among the remaining minor children until the last remaining child dies or reaches the age of majority.

Any payments for the benefit of a minor child shall be made on behalf of such child to the surviving spouse or, if there is none, to the legal guardian of the child.

In the event the surviving spouse or minor children of such deceased firefighter die before the aggregate amount of pension payments received by the firefighter and his or her survivor beneficiaries, if any, equals the total amount in the firefighter's employee account at the time of the first benefit payment, the difference between the total amount in the employee account and the aggregate

amount of pension payments received by the retired firefighter and his or her surviving beneficiaries, if any, shall be paid in a single sum to the firefighter's beneficiary or, in the absence of a surviving beneficiary, his or her estate.

To the extent that the retirement value at the date of death exceeds the amount required to purchase the specified retirement pension, reduced by any amounts paid as workers' compensation benefits, the excess shall be paid in the manner provided in subsection (1) of section 16-1029.

Source: Laws 1983, LB 531, § 11; Laws 1986, LB 811, § 6; Laws 1992, LB 672, § 24; Laws 1993, LB 724, § 8.

16-1031 Firefighter; disability in the line of duty; disability benefit; return to duty; conditions.

(1) Except as provided in subsection (3) of this section for temporary disability, if any firefighter becomes disabled, such firefighter shall be placed upon the roll of pensioned firefighters at the regular retirement pension of fifty percent of regular pay for the period of such disability. For purposes of this section, disability shall mean the complete inability of the firefighter, for reasons of accident or other cause while in the line of duty, to perform the duties of a firefighter as defined by fire department job descriptions or ordinance.

(2) No disability benefit payment shall be made except upon adequate proof furnished to the city, consisting of a medical examination conducted by a competent, disinterested physician who is duly licensed to practice medicine and surgery in this state and who certifies to the city that the firefighter is unable to perform the duties of a firefighter. The city, during the first three years of the payment of such benefits, shall have the right, at reasonable times, to require the disabled firefighter to undergo a medical examination at the city's expense to determine the continuance of the disability claimed. After such three-year period, the city may request the district court to order the firefighter to submit proof of the continuance of the disability claimed if the city has reasonable grounds to believe the firefighter is fraudulently receiving disability payments. The city shall have the right to demand a physical examination of the firefighter by a competent, disinterested physician who is duly licensed to practice medicine and surgery in this state and who is chosen by the city. The expense of such examination shall be borne by the city.

(3) In case of temporary disability of a firefighter received while in the line of duty, he or she shall receive his or her salary during the continuance of such disability for a period not to exceed twelve months, except that if it is ascertained by the city within twelve months that such temporary disability has become a disability as defined in this section, then the salary shall cease and he or she shall be entitled to the benefits for pensions in case of disability as provided in this section.

(4) All payments of pension or salary provided by this section shall be subject to deduction of amounts paid under the Nebraska Workers' Compensation Act. Total payments to a disabled firefighter, in excess of amounts paid as workers' compensation benefits, shall not be less than the retirement value at the date of disability. If the actuarial equivalent of the disability pension payable under this section exceeds the firefighter's retirement value at the time of the first payment, the city shall contribute such additional amounts as may be necessary, from time to time, to provide for the required disability pension.

(5) If a firefighter who was receiving a pension under this section is later determined to be no longer disabled, the pension provided for under this section shall terminate and the firefighter's vested retirement value, as reduced by any disability payments made from the retirement system, shall thereafter be held and administered in the same manner as for any nondisabled firefighter or former firefighter.

(6) If a firefighter who was receiving a pension under this section is later determined to be no longer disabled during the first three years when disability benefit payments are being paid, the firefighter may return to duty with the fire department under the following conditions:

(a) If a vacancy exists on the fire department for which the firefighter is qualified and the firefighter wishes to return to the fire department, the city shall hire the firefighter to fill the vacancy at a pay grade of not less than his or her previous pay grade; or

(b) If no vacancy exists in the fire department and the firefighter wishes to return to the fire department, the city shall place the firefighter on a waiting list and rehire the firefighter at a pay grade of not less than his or her previous pay grade when a vacancy occurs for which the firefighter is qualified.

The provisions of this subsection shall not apply to a firefighter whose disability benefit payments are terminated because of fraud on the part of the firefighter.

Source: Laws 1983, LB 531, § 12; Laws 1986, LB 811, § 7; Laws 1993, LB 724, § 9.

Cross References

Nebraska Workers' Compensation Act, see section 48-1,110.

16-1032 Firefighter; temporary disability; workers' compensation benefits; how treated.

No firefighter shall be entitled during any period of temporary disability to receive in full both his or her salary and his or her benefits under the Nebraska Workers' Compensation Act. All Nebraska workers' compensation benefits shall be payable in full to such firefighter as provided in the Nebraska Workers' Compensation Act, but all amounts paid by the city or its insurer under the Nebraska Workers' Compensation Act to any disabled firefighter entitled to receive a salary during such disability shall be considered as payments on account of such salary and shall be credited thereon. The remaining balance of such salary, if any, shall be payable as otherwise provided in sections 16-1020 to 16-1038.

Source: Laws 1983, LB 531, § 13; Laws 1985, LB 3, § 2; Laws 1986, LB 811, § 8.

Cross References

Nebraska Workers' Compensation Act, see section 48-1,110.

16-1033 Firefighter; termination of employment; benefits; how treated; vesting schedule.

In the event a firefighter quits or is discharged before his or her retirement date as defined in subsection (3) of section 16-1028, the firefighter may request and receive, as a lump-sum payment, an amount equal to the value of his or her employee account as determined at the valuation date preceding his or her

termination of employment pursuant to subdivision (9) of section 16-1021. Such firefighter, if vested, may, in lieu thereof, receive a deferred pension benefit or lump-sum benefit in an amount purchased or provided by the vested retirement value at the date of retirement. The retirement value at such retirement date shall consist of the then accumulated value of the firefighter's employee account at the date of the retirement as reduced by any lump-sum distributions received prior to retirement, together with a vested percentage of the accumulated value of the firefighter's employer account at the date of retirement. The vesting schedule shall be as follows:

(1) If the terminating firefighter has been a member of the system for less than four years, the vesting percentage shall be zero; and

(2) If the terminating firefighter has been a member of the paid department of the city for at least four years, the vesting percentage shall be forty percent. The vesting percentage shall be sixty percent after five years, eighty percent after six years, and one hundred percent after seven years.

The deferred pension benefit shall be payable on the first of the month immediately following the terminating firefighter's fifty-fifth birthday. At the option of the firefighter, such pension benefit may be paid as of the first of the month after he or she attains the age of fifty. Such election may be made by the firefighter any time prior to the payment of the pension benefits.

The deferred pension benefit shall be paid in the optional benefit forms specified at subsection (1) of section 16-1027 as elected by the firefighter. Notwithstanding anything in sections 16-1020 to 16-1042 to the contrary, if the firefighter's vested retirement value at the date of his or her termination of employment is less than three thousand five hundred dollars, such firefighter shall, upon request within one year of such termination, be paid his or her vested retirement value in the form of a single lump-sum payment.

Effective January 1, 1997, a firefighter may elect, upon his or her termination of employment, to receive his or her vested retirement value in the form of a single lump-sum payment. For a firefighter whose termination of employment is prior to January 1, 1997, this election shall be available only if the city has adopted a lump-sum distribution option for terminating firefighters in the funding medium established for the retirement system.

Upon any lump-sum payment of a terminating firefighter's retirement value under this section, such firefighter will not be entitled to any deferred pension benefit and the city and the retirement system shall have no further obligation to pay such firefighter or his or her beneficiaries any benefits under sections 16-1020 to 16-1042.

In the event that the terminating firefighter is not credited with one hundred percent of his or her employer account, the remaining nonvested portion of the account shall be forfeited and shall be deposited in the unallocated employer account. If the actuarial analysis required by section 16-1037 shows that the assets of the unallocated employer account are sufficient to provide for the projected plan liabilities, such forfeitures shall instead be used to meet the expenses incurred by the city in connection with administering the retirement system, and the remainder shall then be used to reduce the city contribution which would otherwise be required to fund pension benefits.

Source: Laws 1983, LB 531, § 14; Laws 1993, LB 724, § 10; Laws 1994, LB 1068, § 3; Laws 1998, LB 1191, § 19.

16-1034 Retirement committee; established; city council; responsibilities; powers and duties; allocation.

A retirement committee shall be established to supervise the general operation of the retirement system. The city council shall be responsible for the general administration of such retirement system unless specific functions or all functions with regard to the administration of the retirement system are delegated, by ordinance, to the retirement committee. All costs incurred with regard to the administration of the retirement system shall be paid by the city from the unallocated employer account as provided in section 16-1036.01.

The city and retirement committee shall have all powers which are necessary for or appropriate to establishing, maintaining, managing, and administering the retirement system. Whenever sections 16-1020 to 16-1042 fail to address the allocation of duties or powers in the administration of the retirement system, such powers or duties shall be vested in the city unless such powers or duties have been delegated by ordinance to the retirement committee.

Source: Laws 1983, LB 531, § 15; Laws 1992, LB 672, § 25; Laws 1993, LB 724, § 11; Laws 2016, LB704, § 207.

16-1035 Retirement committee; members; terms; vacancy; expenses.

Each retirement committee established pursuant to section 16-1034 shall consist of six members of which four members shall be selected by the active paid firefighters excluding firefighters identified in section 16-1039. Two members shall be designated by the city council. The members who are not participants in such retirement system shall have a general knowledge of retirement plans. Members of the city council, active members of the fire department, and members of the general public may serve on the retirement committee. The committee members shall be appointed to four-year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the retirement committee shall, subject to approval by the city council, be reimbursed for their actual and necessary expenses incurred in carrying out their duties.

Source: Laws 1983, LB 531, § 16; Laws 1992, LB 672, § 26; Laws 2016, LB704, § 208.

16-1036 Firefighters Retirement System Fund; authorized investments; retirement committee; powers and duties.

(1) The funds in the Firefighters Retirement System Fund shall be invested by the retirement committee. The city, subject to the approval of the retirement committee, shall contract with a funding agent or agents to hold or invest the assets of the retirement system and to provide for the benefits provided by sections 16-1020 to 16-1042. The retirement committee, subject to the approval of the city, may also select an investment manager. The city, subject to approval of the retirement committee, may contract with investment managers registered under the Investment Advisers Act of 1940 to invest, reinvest, and otherwise manage such portion of the assets of the retirement system as may be assigned by the city or retirement committee.

(2) The retirement committee shall establish an investment plan which allows each member of the retirement system to allocate all contributions to his or her employee account and, if he or she commenced his or her employment after January 1, 1984, his or her employer account to the various investment options

or combinations of investment options described in such plan. Each firefighter shall have the option of investing his or her employee account and, if he or she commenced his or her employment after January 1, 1984, his or her employer account in any proportion, including full allocation, in any investment option offered by the plan. Upon the direction of the city, firefighters employed on January 1, 1984, may have the option to allocate their employer account to various investment options or combinations of investment options in any proportion, including full allocation, in any investment option offered by the plan. Each firefighter shall be given a summary of the investment plan and a detailed current description of each investment option prior to making or revising his or her allocation.

(3) The funds in the Firefighters Retirement System Fund shall be invested pursuant to the policies established by the Nebraska Investment Council.

Source: Laws 1983, LB 531, § 17; Laws 1991, LB 2, § 3; Laws 1992, LB 672, § 27; Laws 1993, LB 724, § 12; Laws 2004, LB 1097, § 1.

16-1036.01 Firefighters Retirement System Fund; schedule of investment costs; allocation.

The city and the retirement committee shall develop a schedule of investment costs relating to the investment of the funds in each of the accounts in the Firefighters Retirement System Fund, which costs shall be paid out of the funds in such accounts or assessed to the firefighters as provided in such schedule. The schedule of investment costs shall provide for the allocation of the administrative or record-keeping costs of the various investment options available to the members of the retirement system and shall assess such costs so that each member pays a fair proportion of the costs based upon his or her choice of options and number of transfers among options. All other costs related to the general operation of the retirement system established pursuant to sections 16-1020 to 16-1038 and not allocated or assessed pursuant to the schedule of investment costs shall be considered administrative costs and shall be paid by the city from the unallocated employer account.

Source: Laws 1992, LB 672, § 29.

16-1037 Retirement committee; officers; duties.

(1) It shall be the duty of the retirement committee to:

(a) Elect a chairperson, a vice-chairperson, and such other officers as the committee deems appropriate;

(b) Hold regular quarterly meetings and special meetings upon the call of the chairperson;

(c) Conduct meetings pursuant to the Open Meetings Act;

(d) Provide each employee a summary of plan eligibility requirements, benefit provisions, and investment options available to such employee;

(e) Provide, within thirty days after a request is made by a participant, a statement describing the amount of benefits such participant is eligible to receive; and

(f) Make available for review an annual report of the system's operations describing both (i) the amount of contributions to the system from both employee and employer sources and (ii) an identification of the total assets of the retirement system.

(2) Beginning December 31, 1998, through December 31, 2017:

(a) The chairperson of the retirement committee shall file with the Public Employees Retirement Board an annual report on each retirement plan established pursuant to section 401(a) of the Internal Revenue Code and administered by a retirement system established pursuant to sections 16-1020 to 16-1042 and shall submit copies of such report to the Auditor of Public Accounts. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

(i) The number of persons participating in the retirement plan;

(ii) The contribution rates of participants in the plan;

(iii) Plan assets and liabilities;

(iv) The names and positions of persons administering the plan;

(v) The names and positions of persons investing plan assets;

(vi) The form and nature of investments;

(vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and

(viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits; and

(b) If such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, in addition to the reports required by section 13-2402, the retirement committee shall cause to be prepared an annual report and the chairperson shall file the same with the Public Employees Retirement Board and the Nebraska Retirement Systems Committee of the Legislature and submit to the Auditor of Public Accounts a copy of such report. The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the retirement committee does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the city. All costs of the audit shall be paid by the city. The report shall consist of a full actuarial analysis of each such retirement plan administered by a system established pursuant to sections 16-1020 to 16-1042. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan. The report to the Nebraska Retirement Systems Committee shall be submitted electronically.

(3)(a) Beginning December 31, 2018, and each December 31 thereafter, for a defined benefit plan the chairperson of the retirement committee or his or her designee shall prepare and electronically file an annual report with the Auditor

of Public Accounts and the Nebraska Retirement Systems Committee of the Legislature. If such retirement plan is a defined benefit plan which was open to new members on January 1, 2004, the report shall be in addition to the reports required by section 13-2402. The report shall be on a form prescribed by the Auditor of Public Accounts and shall include, but not be limited to, the following information:

(i) The levels of benefits of participants in the plan, the number of members who are eligible for a benefit, the total present value of such members' benefits, and the funding sources which will pay for such benefits; and

(ii) A copy of a full actuarial analysis of each such defined benefit plan. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization which offers investment advice or provides investment management services to the retirement plan.

(b) The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the retirement committee does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the retirement committee. All costs of the audit shall be paid by the retirement committee.

Source: Laws 1983, LB 531, § 18; Laws 1992, LB 672, § 28; Laws 1998, LB 1191, § 20; Laws 1999, LB 795, § 8; Laws 2004, LB 821, § 8; Laws 2011, LB474, § 8; Laws 2014, LB759, § 13; Laws 2017, LB415, § 8.

Cross References

Open Meetings Act, see section 84-1407.

16-1038 Retirement benefits; exemption from legal process; exception; tax-qualification requirements; benefit error; correction; appeal; tax levy authorized.

(1) The right to any benefits under the retirement system and the assets of any fund of the retirement system shall not be assignable or subject to execution, garnishment, attachment, or the operation of any bankruptcy or insolvency laws, except that the retirement system may comply with the directions set forth in a qualified domestic relations order meeting the requirements of section 414(p) of the Internal Revenue Code. The city or retirement committee may require appropriate releases from any person as a condition to complying with any such order. The retirement system shall not recognize any domestic relations order which alters or changes benefits, provides for a form of benefit not otherwise provided for by the retirement system, increases benefits not otherwise provided by the retirement system, or accelerates or defers the time of payment of benefits. No participant or beneficiary shall have any right to any specific portion of the assets of the retirement system.

(2) The retirement system shall be administered in a manner necessary to comply with the tax-qualification requirements applicable to government retirement plans under section 401(a) of the Internal Revenue Code, including section 401(a)(9) relating to the time and manner in which benefits are required to be distributed and section 401(a)(9)(G) relating to incidental death benefit

requirements, section 401(a)(16) relating to compliance with the maximum limitation on the plan benefits or contributions under section 415, section 401(a)(17) which limits the amount of compensation which can be taken into account under a retirement plan, section 401(a)(25) relating to the specification of actuarial assumptions, section 401(a)(31) relating to direct rollover distribution from eligible retirement plans, and section 401(a)(37) relating to the death benefit of a firefighter who dies while performing qualified military service. Any requirements for compliance with section 401(a) of the Internal Revenue Code may be set forth in any trust or funding medium for the retirement system. This subsection shall be in full force and effect only so long as conformity with section 401(a) of the Internal Revenue Code is required for public retirement systems in order to secure the favorable income tax treatment extended to sponsors and beneficiaries of tax-qualified retirement plans.

(3) If the retirement committee determines that the retirement system has previously overpaid or underpaid a benefit payable under sections 16-1020 to 16-1042, it shall have the power to correct such error. In the event of an overpayment, the retirement system may, in addition to any other remedy that the retirement system may possess, offset future benefit payments by the amount of the prior overpayment, together with regular interest thereon.

(4) A firefighter whose benefit payment is adjusted by the retirement committee pursuant to subsection (3) of this section may request a review by the city council of the adjustment made by the retirement committee.

(5) In order to provide the necessary amounts to pay for or fund a pension plan established under sections 16-1020 to 16-1042, the mayor and council may make a levy which is within the levy restrictions of section 77-3442.

Source: Laws 1983, LB 531, § 19; Laws 1993, LB 724, § 13; Laws 1995, LB 574, § 24; Laws 1996, LB 1114, § 30; Laws 2012, LB916, § 3; Laws 2012, LB1082, § 16; Laws 2015, LB40, § 3.

16-1039 Firefighter serving on August 7, 1965; pension benefits.

(1) All cities of the first class having a paid fire department shall pension all firefighters of the paid fire department who were serving as such on August 7, 1965, and who did not elect coverage under the provisions of sections 35-204 to 35-215 as they existed prior to January 1, 1984, whenever such firefighters shall have first served in such fire department for the period of twenty-one years and shall elect to retire from active service and go upon the retired list.

(2) Such pension shall be paid by the city in the same manner as firefighters upon the active list are paid. Such pension shall be at least fifty percent of the amount of salary such retiring firefighter is receiving at the time he or she goes upon such pension list.

(3) Any such firefighter who retires on or after age fifty-five with less than twenty-one years of service shall receive a pension of at least fifty percent of the salary he or she was receiving at the time of his or her retirement multiplied by the ratio of the years of service to twenty-one.

(4) At the death of any such retired firefighter, the same rate of pension, as is herein provided for, shall be paid to the surviving spouse of such deceased firefighter during such time as the surviving spouse shall remain unmarried and, in case there be no surviving spouse, then the minor children, if any, of such deceased firefighter, shall be paid such pension during their minority to

the age of eighteen years, except that as soon as a child of such deceased firefighter shall become eighteen years of age, such pension as to such child shall cease.

(5) Firefighters subject to subsection (1) of this section shall be subject to sections 16-1029 to 16-1032 but shall be exempt from sections 16-1024, 16-1025, 16-1027, 16-1028, and 16-1033.

Source: Laws 1983, LB 531, § 20.

16-1040 Firefighter subject to prior law; contributions; reimbursement.

After August 7, 1965, every firefighter subject to the provisions of sections 35-201 to 35-203 as they existed prior to January 1, 1984, shall contribute to the city an amount equal to five percent of his or her salary until he or she shall be entitled to retire or otherwise become eligible for a pension. No such firefighter continuing in the employment of the city as a member of such department after becoming eligible to retire shall be required to make any further contribution. Any such firefighter whose employment shall terminate, whether by discharge or otherwise, prior to the time he or she shall become entitled to a pension, and who shall have made contributions from his or her salary as provided in this section shall, upon demand, be reimbursed by the city for the amount of such contributions plus interest at five percent per annum.

Source: Laws 1983, LB 531, § 21.

16-1041 Benefits under prior law, how construed.

Nothing in sections 16-1020 to 16-1042 shall in any manner affect the right of any person now receiving or entitled to receive, now or in the future, pension or other benefits provided for in sections 35-201 to 35-216, as they exist immediately prior to January 1, 1984, to receive such pension or other benefits in all respects the same as if such sections remained in full force and effect.

Source: Laws 1983, LB 531, § 22; Laws 1985, LB 6, § 1.

16-1042 Termination of employment; transfer of benefits; when.

In the event that after four or more years of employment a firefighter terminates his or her employment for the purpose of becoming a firefighter employed by another city of the first class in Nebraska and such new employment commences within ninety days of such termination, such firefighter shall be entitled to transfer to the Firefighters Retirement System Fund of the city by which he or she is newly employed the full amount of his or her contribution and his or her vested portion of the value of his or her employer account at the time of termination. The transferred funds shall be administered by the retirement committee of the city to which transferred. Upon such transfer, the city and the retirement system from which the firefighter transferred shall have no further obligation to such firefighter or his or her beneficiary. Following the commencement of new employment, the transferring firefighter shall be deemed a new employee for all purposes of the retirement system of the city to which he or she transferred.

Beginning January 1, 1993, a firefighter who is to receive an eligible rollover distribution, within the meaning of section 401(a)(31) of the Internal Revenue Code, from the retirement system may choose to have such distribution made in the form of a direct transfer to the trustee or custodian of a retirement plan

eligible to receive the transfer under the code if the election is made in the form and within the time period required by the retirement committee and the plan to which such transfer is to be made will accept such transfer.

Source: Laws 1983, LB 531, § 23; Laws 1993, LB 724, § 14; Laws 1995, LB 574, § 25.

ARTICLE 11

FIRST-CLASS CITY MERGER ACT

Section
16-1101. Act, how cited.
16-1102. Terms, defined.
16-1103. Merger authorized.
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16-1105. Merger plan; contents; advisory committee.
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16-1114. Merger; deemed permanent.
16-1115. Joint sessions of city councils; authorized.

16-1101 Act, how cited.

Sections 16-1101 to 16-1115 shall be known and may be cited as the First-Class City Merger Act.

Source: Laws 2008, LB1056, § 1.

16-1102 Terms, defined.

For purposes of the First-Class City Merger Act:

(1) City means a city of the first class; and

(2) Merger means a full and permanent union of two or more cities of the first class, resulting in one city.

Source: Laws 2008, LB1056, § 2.

16-1103 Merger authorized.

Any two or more contiguous and adjacent cities of the first class in the state may merge by complying with the requirements and procedures specified in the First-Class City Merger Act. Merger shall not be allowed across county lines.

Source: Laws 2008, LB1056, § 3.

16-1104 Merger plan; city council; adopt resolution; advisory vote; notice.

(1) To enter into a merger plan, each city council of any two or more contiguous and adjacent cities shall adopt an initial joint concurrent resolution of intent to pursue such plan.

(2) If a resolution is adopted pursuant to subsection (1) of this section, the city councils of each city involved may hold an advisory vote at any general, primary, or special election if the advisory vote is presented to voters of all

cities involved on the same day. Notice of the advisory vote to be voted on at a special election shall be given in the manner of notice for special elections in accordance with the Election Act. The result of the vote cast on a question submitted under this subsection shall not be binding upon such city councils.

Source: Laws 2008, LB1056, § 4.

Cross References

Election Act, see section 32-101.

16-1105 Merger plan; contents; advisory committee.

(1) After adoption of a resolution pursuant to section 16-1104 by the city councils of any two or more cities, such city councils may propose a merger plan subject to the First-Class City Merger Act.

(2) A merger plan shall include, but not be limited to, (a) the names of the cities which propose to merge, (b) the name under which the cities would merge, (c) the manner of financing and allocating all costs associated with the plan, (d) the property, real and personal, belonging to each city and the fair value thereof in current money of the United States, (e) the indebtedness, bonded and otherwise, of each city and the plan for repayment of the indebtedness after merger, (f) how the local ballot initiatives enacted in either city, if any, will be reconciled or terminated after merger, (g) if the cities have different forms of organization and government, the proposed form of organization and government of the merged city, (h) the redistricting of the newly merged city, including the number of wards and elected representatives from each ward, (i) the pay and perquisites of the mayor and city council, (j) the treatment of related city entities such as the housing authority, airport authority, or other city authority, and (k) any other terms of the agreement. A merger plan shall not be considered an interlocal cooperation agreement pursuant to the Interlocal Cooperation Act.

(3) Each city council may appoint an advisory committee to assist the council in the preparation of the merger plan.

Source: Laws 2008, LB1056, § 5.

Cross References

Interlocal Cooperation Act, see section 13-801.

16-1106 Public hearing; notice.

After adoption of a resolution pursuant to section 16-1104 and preparation of the required merger plan pursuant to section 16-1105, the city council of each city proposing to enter into such plan shall hold a public hearing on the plan and shall give notice of the hearing by publication in a newspaper of general circulation in the city once each week for three consecutive weeks prior to the hearing. Final publication shall be within seven calendar days prior to the hearing. The notice shall describe the contents of the plan and specify that a copy of the plan may be obtained at no charge at the city clerk's office.

Source: Laws 2008, LB1056, § 6.

16-1107 Adoption of joint merger plan.

After a public hearing held pursuant to section 16-1106, the city council of each city shall adopt the joint merger plan by a majority vote of the council.

Source: Laws 2008, LB1056, § 7.

16-1108 Submission of joint merger plan to voters.

If a merger plan is adopted pursuant to section 16-1107, the city council of each city adopting such plan shall submit the plan for approval by the registered voters at a primary or special election held on the same day in each of the cities which are parties to the plan, not less than one hundred eighty days prior to the next statewide general election. An election held pursuant to this section shall be conducted in accordance with the Election Act.

Source: Laws 2008, LB1056, § 8.

Cross References

Election Act, see section 32-101.

16-1109 Submission of plan to voters; notice; publication; contents.

When a merger plan is submitted to the voters for approval pursuant to section 16-1108, the city council of each city adopting the plan shall publish a notice at least once each week for three consecutive weeks prior to the election in one or more newspapers of general circulation in the city. Final publication in each city shall be within seven calendar days prior to the election pursuant to section 16-1110. The notice shall describe the contents of the plan and specify that a copy of the plan may be obtained at no charge at the city clerk's office.

Source: Laws 2008, LB1056, § 9.

16-1110 Question submitted to voters; form; effective date of plan.

(1) After publication pursuant to section 16-1109, each city council shall submit the question as proposed in the merger plan to the registered voters of the city as provided in section 16-1108.

(2) The question shall be submitted to the voters in substantially the following form:

''Shall (name of city in which ballot will be voted) merge with (name of other city or cities) according to the merger plan previously adopted by the city councils in such cities? Yes No''.

(3) The election shall be conducted in accordance with the Election Act. The election commissioner or county clerk shall certify the results to each city council involved in the plan.

(4) If a majority of the voters of each city voting on the question vote in favor of the merger plan, the plan shall become effective at the first regular meeting of the city council in December following the election, and the terms of the incumbents in the offices involved in the plan shall be deemed to end on that day.

Source: Laws 2008, LB1056, § 10.

Cross References

Election Act, see section 32-101.

16-1111 Nominations for merged city offices; special election.

Candidates for merged city offices shall be nominated at a special election to be held no less than thirty days after the election at which the merger is approved by the voters and no less than sixty days prior to the next statewide general election. The election shall be held in accordance with the Election Act.

Source: Laws 2008, LB1056, § 11.

Cross References

Election Act, see section 32-101.

16-1112 Election of merged city officers; terms; appointive city officers; terms.

(1) At the next statewide general election held after the election at which the merger is approved by the voters, the merged city officers shall be elected. Their terms shall begin at the first regular meeting of the city council in December following their election, and the terms of the incumbents in the offices involved in the plan shall be deemed to end on that day. The initial term of a merged officer shall be set forth in the merger plan.

(2) All appointive city officers shall be appointed by the person, council, or authority upon whom the power is conferred to appoint such officers in other cities of the first class. The terms of such officers shall begin at the first regular meeting of the city council in December following the first election of officers for the merged city and shall continue, unless otherwise removed, until their successors have been appointed and qualified.

Source: Laws 2008, LB1056, § 12.

16-1113 Merged cities; name; rights, privileges, franchises, property, and suits; how treated.

(1) Upon the effective date of a merger plan, the cities involved in the plan shall be treated under the name and upon the terms and conditions set forth in the plan. Except as provided in subsections (6) and (7) of this section, statutory references to the names of the cities as they existed prior to the merger plan shall be deemed to reference the name of the merged city as set forth in the plan.

(2) All rights, privileges, and franchises of each of the several cities, all real and personal property, all rights-of-way, all other interests, and all debts due on whatever account, as well as other things in action, belonging to each of such cities, shall be deemed as transferred to and vested in the merged city without further act or deed. All records, books, and documents shall be transferred to and vested in the merged city. All money on hand and accounts receivable shall be distributed pursuant to the merger plan.

(3) The title to real property, either by deed or otherwise, under the laws of this state vested in any of the cities, shall not be deemed to revert or be in any way impaired by reason of merger, but the rights of creditors and all liens upon the property of any of the cities shall be preserved unimpaired.

(4) Suits may be brought and maintained against such merged city in any of the courts of this state in the same manner as against any other city of the first class. Pursuant to the merger plan, any action or proceeding pending by or against any of the cities may be prosecuted to judgment and the merged city may be substituted in its place.

(5) The boundaries for school districts and election districts for offices other than the merged offices shall continue as prior to merger unless and until changed in accordance with law.

(6) For purposes of political representation, the existing boundaries for such districts shall continue until changed in accordance with law.

(7) Such merged city shall in all respects, except as provided in the First-Class City Merger Act, be subject to all the obligations and liabilities imposed and shall possess all the rights, powers, and privileges vested by law in other cities of the first class.

Source: Laws 2008, LB1056, § 13.

16-1114 Merger; deemed permanent.

Merger according to the First-Class City Merger Act is deemed permanent, and no withdrawal or dissolution shall be permitted.

Source: Laws 2008, LB1056, § 14.

16-1115 Joint sessions of city councils; authorized.

The city councils of two or more cities of the first class may meet and hold joint sessions for purposes of the First-Class City Merger Act.

Source: Laws 2008, LB1056, § 15.

CHAPTER 17
CITIES OF THE SECOND CLASS AND VILLAGES

Article.
1. Laws Applicable Only to Cities of the Second Class. 17-101 to 17-174.
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ARTICLE 1

LAWS APPLICABLE ONLY TO CITIES OF THE SECOND CLASS

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17-101 City of the second class, defined; population; exception.

Each municipality containing more than eight hundred and not more than five thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census shall be a city of the second class unless it adopts or retains a village form of government as provided in sections 17-306 to 17-312. The population of a city of the second class shall consist of the people residing within the territorial boundaries of such city and the residents of any territory duly and properly annexed to such city.

Source: Laws 1879, § 1, p. 193; Laws 1885, c. 16, § 1, p. 156; R.S.1913, § 4993; C.S.1922, § 4162; C.S.1929, § 17-101; R.S.1943, § 17-101; Laws 1971, LB 62, § 1; Laws 1993, LB 726, § 6; Laws 2014, LB702, § 1; Laws 2017, LB113, § 12; Laws 2017, LB133, § 1.

A village, containing the required population, becomes a city of the second class without action being taken on its part, and the fact that at the time statutory resolution was adopted to provide for election of city officers, it had less than the requisite number of inhabitants to make it such city, is immaterial. State ex rel. Einstein v. Northup, 79 Neb. 822, 113 N.W. 540 (1907).

Quo warranto, and not bill for injunction, is appropriate remedy to test the legal existence of a city of second class where the question turns on whether the municipality contains the statutory number of inhabitants sufficient to change a village to a city of the second class. Osborn v. Village of Oakland, 49 Neb. 340, 68 N.W. 506 (1896).

Under former act, all towns and cities containing in excess of fifteen hundred and less than fifteen thousand inhabitants were created into cities of the second class without any acceptance or other act of such town, city or its inhabitants. State ex rel. Fremont, E. & M. V. R. Co. v. Babcock and Laws, 25 Neb. 709, 41 N.W. 654 (1889).

This section operates to create cities of the second class upon municipality reaching stated number of inhabitants without necessity of the acceptance thereof by municipal act. State ex rel. Hostetter v. Holden, 19 Neb. 249, 27 N.W. 120 (1886); State ex rel. Mayor of David City v. Palmer, 10 Neb. 203, 4 N.W. 965 (1880).

Though Legislature changes classification of municipality from village to city of second class, its original officers hold over until new officers are elected under amended act. State ex rel. Mayor of David City v. Palmer, 10 Neb. 203, 4 N.W. 965 (1880).

17-102 Wards; number; how determined.

Unless the city elects council members at large as provided in section 32-554, each city of the second class shall be divided into not less than two nor more than six wards, as provided by ordinance of the city council. Each ward shall contain, as nearly as practicable, an equal portion of the population.

Source: Laws 1879, § 2, p. 193; R.S.1913, § 4994; C.S.1922, § 4163; C.S.1929, § 17-102; Laws 1935, c. 32, § 1, p. 137; C.S.Supp.,1941, § 17-102; R.S.1943, § 17-102; Laws 1969, c. 257, § 5, p. 934; Laws 2016, LB702, § 1.

The mayor and council of city of second class may change the number and boundaries of wards subject to the limitations that there shall be not less than two, nor more than six wards. Tattersall v. Nevels, 77 Neb. 843, 110 N.W. 708 (1906).

While there is no express authority conferred upon village trustees to divide the city into wards and call an election, such power is clearly implied. State ex rel. Hostetter v. Holden, 19 Neb. 249, 27 N.W. 120 (1886).

17-103 City council; members; number; qualifications.

The city council of a city of the second class shall consist of not less than four nor more than twelve residents of the city who are registered voters.

Source: Laws 1879, § 3, p. 194; R.S.1913, § 4995; C.S.1922, § 4164; C.S.1929, § 17-103; R.S.1943, § 17-103; Laws 1973, LB 559, § 1; Laws 1994, LB 76, § 489.

17-104 City council members; election; term; qualifications.

Unless the city elects city council members at large as provided in section 32-554, each ward of each city of the second class shall have at least two city council members elected in the manner provided in the Election Act. The term of office shall begin on the first regular meeting of the city council in December following the statewide general election. No person shall be eligible to the office of city council member who is not at the time of the election an actual resident of the ward for which he or she is elected and a registered voter.

Source: Laws 1879, § 4, p. 194; R.S.1913, § 4996; C.S.1922, § 4165; C.S.1929, § 17-104; R.S.1943, § 17-104; Laws 1969, c. 257, § 6, p. 934; Laws 1973, LB 559, § 2; Laws 1979, LB 253, § 1; Laws 1981, LB 446, § 2; Laws 1994, LB 76, § 490; Laws 2016, LB702, § 2; Laws 2017, LB133, § 2.

Cross References

City council, election, see section 32-533.
Election Act, see section 32-101.
Vacancies, see sections 32-568 and 32-569.

Each ward in each city is required to have at least two councilmen elected by the qualified electors of their respective wards, and there is no such office as a councilman at large. State ex rel. Barron v. Neff, 87 Neb. 615, 127 N.W. 881 (1910).

Councilman is required to be an elector. Haywood v. Marshall, 53 Neb. 220, 73 N.W. 449 (1897).

An ordinance creating wards requires an affirmative vote of a majority of the councilmen. State ex rel. Grosshans v. Gray, 23 Neb. 365, 36 N.W. 577 (1888).

17-105 City council; meetings; quorum.

Regular meetings of the city council of a city of the second class shall be held at such times as the city council may provide by ordinance. A majority of all the members elected to the city council shall constitute a quorum for the transaction of any business, but a fewer number of members may adjourn from time to time and compel the attendance of absent members. When the city council consists of four members as established by ordinance or home rule charter, the mayor shall be deemed a member of the city council for purposes of establishing a quorum when the mayor's presence is necessary to establish the quorum. Unless a greater vote is required by law, an affirmative vote of at least one-half of the elected members shall be required for the transaction of any business.

Source: Laws 1879, § 5, p. 194; R.S.1913, § 4997; C.S.1922, § 4166; C.S.1929, § 17-105; R.S.1943, § 17-105; Laws 1995, LB 93, § 1; Laws 2017, LB133, § 3; Laws 2020, LB1003, § 170.

17-106 City council; special meetings.

The mayor or any three city council members of a city of the second class shall have power to call special meetings of the city council, the object of which

shall be submitted to the city council in writing; and the call and object, as well as the disposition thereof, shall be entered upon the journal by the city clerk.

Source: Laws 1879, § 13, p. 196; R.S.1913, § 4998; C.S.1922, § 4167; C.S.1929, § 17-106; R.S.1943, § 17-106; Laws 2017, LB133, § 4.

Any defect in the call for a special meeting of the council of a city of the second class is immaterial if all members of the council are present and participated in the meeting without objection. Pokorny v. City of Schuyler, 202 Neb. 334, 275 N.W.2d 281 (1979).

Notice of special meetings need not be given to a council member out of the state or physically unable to be present. Burrows v. Keebaugh, 120 Neb. 136, 231 N.W. 751 (1930).

17-107 Mayor; qualifications; election; officers; appointment; removal; terms of office; police officers; appointment; removal, demotion, or suspension; procedure.

(1) A mayor of a city of the second class shall be elected in the manner provided in the Election Act. The mayor shall take office on the date of the first regular meeting of the city council held in December following the statewide general election. The mayor shall be a resident and registered voter of the city. If the president of the city council assumes the office of mayor for the unexpired term, there shall be a vacancy on the city council which vacancy shall be filled as provided in section 32-568.

(2) The mayor, with the consent of the city council, may appoint such officers as shall be required by ordinance or otherwise required by law. Such officers may be removed from office by the mayor. The terms of office for all officers, except regular police officers, appointed by the mayor and confirmed by the city council shall be established by the city council by ordinance. The ordinance shall provide that either (a) the officers hold the office to which they have been appointed until the end of the mayor's term of office and until their successors are appointed and qualified unless sooner removed or (b) the officers hold office for one year unless sooner removed.

(3)(a) The mayor, by and with the consent of the city council, shall appoint such a number of regular police officers as may be necessary. All police officers appointed by the mayor and city council may be removed, demoted, or suspended at any time by the mayor as provided in subdivision (b) of this subsection. A police officer, including the chief of police, may appeal to the city council such removal, demotion, or suspension with or without pay. After a hearing, the city council may uphold, reverse, or modify the action.

(b) The city council shall by ordinance adopt rules and regulations governing the removal, demotion, or suspension with or without pay of any police officer, including the chief of police. The ordinance shall include a procedure for such removal, demotion, or suspension with or without pay of any police officer, including the chief of police, upon the written accusation of the police chief, the mayor, or any citizen or taxpayer. The city council shall establish by ordinance procedures for acting upon such written accusation, including: (i) Provisions for giving notice and a copy of the written accusation to the police officer; (ii) the police officer's right to have an attorney or representative retained by the police officer present with him or her at all hearings or proceedings regarding the written accusation; (iii) the right of the police officer or his or her attorney or representative retained by the police officer to be heard and present evidence; and (iv) the right of the police officer as well as the individual imposing the action or their respective attorneys or representatives to record all hearings or proceedings regarding the written accusation. The ordinance shall also include a procedure for making application for an appeal, specifications on

the period of time within which such application shall be made, and provisions on the manner in which the appeals hearing shall be conducted. Both the police officer and the individual imposing the action or their respective attorneys or representatives shall have the right at the hearing to be heard and to present evidence to the city council for its consideration. Not later than thirty days following the adjournment of the meeting at which the hearing was held, the city council shall vote to uphold, reverse, or modify the action. The failure of the city council to act within thirty days or the failure of a majority of the elected city council members to vote to reverse or modify the action shall be construed as a vote to uphold the action. The decision of the city council shall be based upon its determination that, under the facts and evidence presented at the hearing, the action was necessary for the proper management and the effective operation of the police department in the performance of its duties under the statutes of the State of Nebraska. Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders.

(c) This subsection does not apply to a police officer during his or her probationary period.

Source: Laws 1879, § 6, p. 194; Laws 1881, c. 23, § 1, p. 168; R.S.1913, § 4999; Laws 1921, c. 155, § 1, p. 637; C.S.1922, § 4168; Laws 1923, c. 67, § 3, p. 203; Laws 1925, c. 36, § 1, p. 143; C.S.1929, § 17-107; R.S.1943, § 17-107; Laws 1955, c. 38, § 1, p. 151; Laws 1969, c. 257, § 7, p. 935; Laws 1972, LB 1032, § 104; Laws 1973, LB 559, § 2; Laws 1974, LB 1025, § 1; Laws 1976, LB 441, § 1; Laws 1976, LB 782, § 13; Laws 1994, LB 76, § 491; Laws 1995, LB 346, § 1; Laws 2009, LB158, § 1; Laws 2011, LB308, § 1; Laws 2017, LB133, § 5.

Cross References

Election Act, see section 32-101.

Mayor with consent of council appoints the city attorney and the council fixes his fees within statutory limits. Darnell v. City of Broken Bow, 139 Neb. 844, 299 N.W. 274 (1941).

Power to employ counsel, implied as it is herein, is not wholly taken away by statutory provisions and, when regular salaried attorney is ill, absent, or disqualified and the defense of city is necessary, a special council may be employed and paid. Meeske v. Baumann, 122 Neb. 786, 241 N.W. 550 (1932), 83 A.L.R. 131 (1932).

Office of chief of police and office of overseer of streets are separate, although both may be held by the same person. Mead v. State ex rel. Sperling, 73 Neb. 754, 103 N.W. 433 (1905).

17-107.01 Repealed. Laws 1975, LB 323, § 6.

17-107.02 Repealed. Laws 1994, LB 76, § 615.

17-108 Officers and employees; salaries.

The officers and employees of a city of the second class shall receive such compensation as the mayor and city council shall fix by ordinance.

Source: Laws 1879, § 7, p. 195; Laws 1881, c. 23, § 2, p. 168; Laws 1911, c. 16, § 1, p. 133; R.S.1913, § 5000; Laws 1919, c. 46, § 1, p. 130; C.S.1922, § 4169; C.S.1929, § 17-108; Laws 1935, c. 36, § 3, p. 149; C.S.Supp.,1941, § 17-108; Laws 1943, c. 30, § 2, p. 140; R.S.1943, § 17-108; Laws 1945, c. 25, § 1, p. 134; Laws 1947, c. 31, § 1(1), p. 140; Laws 1949, c. 21, § 1, p. 92; Laws 1953, c. 33, § 1, p. 123; Laws 1969, c. 89, § 1, p. 452; Laws 2017, LB133, § 6.

To employ an attorney as a private practitioner, who is also city attorney, to foreclose tax sale certificates on a percent basis violates this and other sections, though, in proper cases, he may collect for his services on basis of quantum meruit. Darnell v. City of Broken Bow, 139 Neb. 844, 299 N.W. 274 (1941).

Provision for compensation of employees is not required to be in writing, and may be fixed at time of employment. Morearty v. City of McCook, 117 Neb. 113, 219 N.W. 839 (1928).

While the statute does not fix the salary of the mayor, it directs that the mayor and other officers named shall receive salaries to be fixed by ordinance. Dean v. State ex rel. Miller, 56 Neb. 301, 76 N.W. 555 (1898).

17-108.01 Repealed. Laws 1949, c. 21, § 4.

17-108.02 Officers and employees; merger of offices or employment; salaries.

(1) All officers and employees of a city of the second class shall receive such compensation as the mayor and city council may fix at the time of their appointment or employment subject to the limitations set forth in this section.

(2) The city council may at its discretion by ordinance combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except mayor and city council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time.

(3) The city manager in a city of the second class under the city manager plan of government as provided in the City Manager Plan of Government Act may in his or her discretion combine and merge any elective or appointive office or employment or any combination of duties of any such offices or employments, except mayor and city council member, with any other elective or appointive office or employment so that one or more of such offices or employments or any combination of duties of any such offices or employments may be held by the same officer or employee at the same time.

(4) The offices or employments merged and combined under subsection (2) or (3) of this section shall always be construed to be separate, and the effect of the combination or merger shall be limited to a consolidation of official duties only. The salary or compensation of the officer or employee holding the merged and combined offices or employments or offices and employments shall not be in excess of the maximum amount provided by law for the salary or compensation of the office, offices, employment, or employments so merged and combined.

(5) For purposes of this section, volunteer firefighters and ambulance drivers shall not be considered officers.

Source: Laws 1879, § 7, p. 195; Laws 1881, c. 23, § 2, p. 168; Laws 1911, c. 16, § 1, p. 133; R.S.1913, § 5000; Laws 1919, c. 46, § 1, p. 130; C.S.1922, § 4169; C.S.1929, § 17-108; Laws 1935, c. 36, § 3, p. 149; C.S.Supp.,1941, § 17-108; Laws 1943, c. 30, § 2, p. 140; R.S.1943, § 17-108; Laws 1945, c. 25, § 1, p. 135; Laws 1947, c. 31, § 1(3), p. 140; Laws 1972, LB 1145, § 2; Laws 1984, LB 368, § 2; Laws 1984, LB 682, § 7; Laws 1990, LB 756, § 2; Laws 1990, LB 931, § 3; Laws 1991, LB 12, § 2; Laws 1994, LB 76, § 492; Laws 2017, LB133, § 7; Laws 2019, LB193, § 6.

Cross References

City Manager Plan of Government Act, see section 19-601.

17-108.03 Repealed. Laws 1959, c. 266, § 1.

17-109 Repealed. Laws 1973, LB 559, § 10.

17-110 Mayor; general duties and powers.

The mayor shall preside at all meetings of the city council of a city of the second class. The mayor may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the city council on any pending matter, legislation, or transaction, and the mayor shall, for the purpose of such vote, be deemed to be a member of the city council. He or she shall have superintendence and control of all the officers and affairs of the city and shall take care that the ordinances of the city and all laws governing cities of the second class are complied with.

Source: Laws 1879, § 10, p. 195; R.S.1913, § 5002; C.S.1922, § 4171; C.S.1929, § 17-110; R.S.1943, § 17-110; Laws 1957, c. 55, § 3, p. 266; Laws 1975, LB 172, § 3; Laws 1980, LB 662, § 4; Laws 2013, LB113, § 1; Laws 2017, LB133, § 8.

The mayor has no power to suspend the operation of an ordinance which contains no provision in itself empowering him so to do. Pulver v. State, 83 Neb. 446, 119 N.W. 780 (1909).

The mayor and council have power to compromise and settle claims against the city. State ex rel. Fuller v. Martin, 27 Neb. 441, 43 N.W. 244 (1889).

17-111 Mayor; ordinances; veto power; passage over veto.

The mayor in any city of the second class shall have power to veto or sign any ordinance passed by the city council and to approve or veto any order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim. If the mayor approves the ordinance, order, bylaw, resolution, contract, or claim, he or she shall sign it, and it shall become effective. If the mayor vetoes the ordinance, order, bylaw, resolution, contract, or any item or items of appropriations or claims, he or she shall return it to the city council stating that the measure is vetoed. The mayor may issue the veto at the meeting at which the measure passed or within seven calendar days after the meeting. If the mayor issues the veto after the meeting, the mayor shall notify the city clerk of the veto in writing. The city clerk shall notify the city council in writing of the mayor's veto. Any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim vetoed by the mayor may be passed over his or her veto by a vote of two-thirds of the members of the city council. If the mayor neglects or refuses to sign any ordinance, order, bylaw, resolution, award of or vote to enter into any contract, or the allowance of any claim, but fails to veto the measure within the time required by this section, the measure shall become effective without his or her signature. The mayor may veto any item or items of any appropriation bill or any claims bill, and approve the remainder thereof, and the item or items vetoed may be passed by the city council over the veto as in other cases.

Source: Laws 1879, § 11, p. 195; R.S.1913, § 5003; C.S.1922, § 4172; C.S.1929, § 17-111; R.S.1943, § 17-111; Laws 2014, LB803, § 2; Laws 2017, LB133, § 9.

Mayor's approval may be condition precedent to the validity of the ordinance by its terms, and failure of such approval during mayor's incumbency renders ordinance void. Rooney v. City of South Sioux City, 111 Neb. 1, 195 N.W. 474 (1923).

Where an ordinance or resolution is passed either with or without the mayor's concurrence, he, being the executive officer, is obliged to execute the duties therein contained irrespective of his sanction or disapproval thereof. State ex rel. Fuller v. Martin, 27 Neb. 441, 43 N.W. 244 (1889).

The duty of the mayor is to guard and protect the rights of the city. Greenwood v. Cobbey, 26 Neb. 449, 42 N.W. 413 (1889).

17-112 Mayor; recommendations to city council.

The mayor in any city of the second class shall, from time to time, communicate to the city council such information and recommend such measures as, in his or her opinion, may tend to the improvement of the finances, the police, health, security, ornament, comfort, and general prosperity of the city.

Source: Laws 1879, § 12, p. 196; R.S.1913, § 5004; C.S.1922, § 4173; C.S.1929, § 17-112; R.S.1943, § 17-112; Laws 2017, LB133, § 10.

Statements of mayor as to qualification and integrity of an employee of city are privileged if made in good faith. Greenwood v. Cobbey, 26 Neb. 449, 42 N.W. 413 (1889).

17-113 Mayor; reports of officers; power to require.

The mayor in any city of the second class shall have the power, when he or she deems it necessary, to require any officer of the city to exhibit his or her accounts or other papers, and to make reports to the city council, in writing, touching any subject or matter pertaining to his or her office.

Source: Laws 1879, § 14, p. 196; R.S.1913, § 5005; C.S.1922, § 4174; C.S.1929, § 17-113; R.S.1943, § 17-113; Laws 2017, LB133, § 11.

17-114 Mayor; territorial jurisdiction.

The mayor in any city of the second class shall have such jurisdiction as may be vested in him or her by ordinance, over all places within five miles of the corporate limits of the city, for the enforcement of any health or quarantine ordinance and regulation thereof, and shall have jurisdiction in all matters vested in him or her by ordinance, excepting taxation, within the extraterritorial zoning jurisdiction of such city.

Source: Laws 1879, § 15, p. 196; R.S.1913, § 5006; C.S.1922, § 4175; C.S.1929, § 17-114; R.S.1943, § 17-114; Laws 2017, LB133, § 12.

While it is not determined whether mayor and city council under this section may or may not regulate slaughterhouses outside the city limits, they cannot give vitality and force to such a regulation passed by the board of health in such matter. State v. Temple, 99 Neb. 505, 156 N.W. 1063 (1916).

17-115 Repealed. Laws 1994, LB 76, § 615.

17-116 Repealed. Laws 1980, LB 741, § 1.

17-117 Mayor; remission of fines; pardons; powers.

The mayor of a city of the second class shall have power to remit fines and forfeitures and to grant reprieves and pardons for all offenses arising under the ordinances of the city.

Source: Laws 1879, § 18, p. 196; R.S.1913, § 5009; C.S.1922, § 4178; C.S.1929, § 17-117; R.S.1943, § 17-117; Laws 2017, LB133, § 13.

17-118 Police; arrest; power.

The police officers of a city of the second class shall have the power to arrest all offenders against the laws of the state or of the city, by day or by night, in the same manner as the county sheriff and to keep such offenders in the city

prison, county jail, or other place of confinement to prevent their escape until trial can be had before the proper officer.

Source: Laws 1879, § 19, p. 197; R.S.1913, § 5010; C.S.1922, § 4179; C.S.1929, § 17-118; R.S.1943, § 17-118; Laws 1988, LB 1030, § 5; Laws 2017, LB133, § 14.

Police officers are not provided with countywide jurisdiction pursuant to this statute. State v. Tingle, 239 Neb. 558, 477 N.W.2d 544 (1991).

A police officer of a city of the second class has the same powers as a sheriff or constable to arrest offenders against the laws of the state or city within his county. Henning v. City of Hebron, 186 Neb. 381, 183 N.W.2d 756 (1971).

Policemen of city of second class have all the powers of a sheriff or constable in making arrest. State v. Carpenter, 181 Neb. 639, 150 N.W.2d 129 (1967).

17-119 City overseer of streets; duties.

The city overseer of the streets of a city of the second class shall, subject to the orders of mayor and city council, have general charge, direction, and control of all work on the streets, sidewalks, culverts, and bridges of the city, and shall perform such other duties as the city council may require.

Source: Laws 1879, § 21, p. 197; R.S.1913, § 5012; C.S.1922, § 4181; C.S.1929, § 17-120; R.S.1943, § 17-119; Laws 2017, LB133, § 15.

Cities of second class have exclusive control of streets, sidewalks, etc., must maintain them in a safe condition, and are liable for a breach of duty in respect thereto. Goodrich v. University Place, 80 Neb. 774, 115 N.W. 538 (1908).

17-120 Public morals; powers; restrictions.

A city of the second class shall have the power to restrain, prohibit, and suppress houses of prostitution, gambling and gambling houses, and other disorderly houses and practices, and all kinds of public indecencies, and all lotteries or fraudulent devices and practices for the purpose of obtaining money or property, except that nothing in this section shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act. The city may license, regulate, or prohibit billiard halls and billiard tables, pool halls and pool tables, and bowling alleys.

Source: Laws 1879, § 39, I, p. 201; Laws 1881, c. 24, § 1, p. 194; R.S.1913, § 5014; Laws 1917, c. 99, § 1, p. 263; C.S.1922, § 4183; C.S.1929, § 17-122; R.S.1943, § 17-120; Laws 1986, LB 1027, § 189; Laws 1991, LB 849, § 62; Laws 1993, LB 138, § 64; Laws 2017, LB133, § 16.

Cross References

Nebraska Bingo Act, see section 9-201.
Nebraska Lottery and Raffle Act, see section 9-401.
Nebraska Pickle Card Lottery Act, see section 9-301.
Nebraska Small Lottery and Raffle Act, see section 9-501.
State Lottery Act, see section 9-801.

Bowling alley open to the public on the payment of a fee and operated under the name of ''Recreation Club'' is not exempt from the provisions of an ordinance providing for license passed under the authority of this section. State ex rel. City of Friend v. Friend Recreation Club, 123 Neb. 740, 243 N.W. 876 (1932).

City cannot prohibit sale of card tables in places of business, nor card playing under all circumstances. In re Sapp, 79 Neb. 781, 113 N.W. 261 (1907).

Power was conferred on cities of second class to regulate billiard and pool halls. State ex rel. McMonies v. McMonies, 75 Neb. 443, 106 N.W. 454 (1906).

Validity of ordinance can be questioned only by one whose rights are directly affected thereby. Flick v. City of Broken Bow, 67 Neb. 529, 93 N.W. 729 (1903).

Ordinance to regulate closing of saloons relates to general welfare and is authorized under the police power of the city. Ex parte Wolf, 14 Neb. 24, 14 N.W. 660 (1883).

Ordinances of city of second class punishing trespassers upon real or personal property are valid. City of Brownville v. Cook, 4 Neb. 101 (1875).

17-121 Health and sanitation; rules and regulations; board of health; members; powers.

(1) A city of the second class shall have the power to make regulations to prevent the introduction and spread of contagious, infectious, or malignant diseases into the city, to make quarantine laws for that purpose, and to enforce such regulations.

(2) In cities of the second class with a commission plan of government as provided in the Municipal Commission Plan of Government Act and cities of the second class with a city manager plan of government as provided in the City Manager Plan of Government Act, a board of health shall be created consisting of five members: The mayor, who shall be chairperson, and four other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the board's medical advisor. If the city manager has appointed a chief of police, the chief of police shall serve on the board as secretary and quarantine officer.

(3) In all other cities of the second class, a board of health shall be created consisting of four members: The mayor, who shall be chairperson, the president of the city council, and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the board's medical advisor. If the mayor has appointed a chief of police, the chief of police shall serve on the board as secretary and quarantine officer.

(4) A majority of the board of health shall constitute a quorum and shall enact rules and regulations, which shall have the force and effect of law, to safeguard the health of the people of such city, may enforce them, and may provide fines and punishments for the violation of such rules and regulations. The board of health shall have power to and shall make all necessary rules and regulations relating to matters of sanitation of such city, including the removal of dead animals, the sanitary condition of the streets, alleys, vacant grounds, stockyards, wells, cisterns, privies, waterclosets, cesspools, and all buildings and places not specified where filth, nuisances, or offensive matter is kept or is liable to or does accumulate. The board of health may regulate, suppress, and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the city relating to nuisances or to matters of sanitation of such city. The board of health shall also have control of hospitals, dispensaries, places for treatment of sick, and related matters under such restrictions and provisions as may be provided by ordinance of such city.

Source: Laws 1879, § 39, II, p. 201; Laws 1881, c. 24, § 1, p. 194; Laws 1895, c. 14, § 1, II, p. 109; R.S.1913, § 5015; Laws 1919, c. 44, § 1, p. 128; C.S.1922, § 4184; C.S.1929, § 17-123; R.S.1943, § 17-121; Laws 1977, LB 190, § 2; Laws 1993, LB 119, § 2; Laws 1994, LB 1019, § 2; Laws 1996, LB 1162, § 1; Laws 2017, LB133, § 17; Laws 2019, LB193, § 7.

Cross References

City Manager Plan of Government Act, see section 19-601.
Municipal Commission Plan of Government Act, see section 19-401.

City of second class may enjoin nuisance maintained outside corporate limits. City of Lyons v. Betts, 184 Neb. 746, 171 N.W.2d 792 (1969).

Where a nuisance is admitted to exist, members of the board of health have the legal discretion to determine the manner of

abating the same. State ex rel. Glatfelter v. Hart, 106 Neb. 61, 182 N.W. 567 (1921).

The Legislature has not conferred upon the board of health power to adopt a regulation making it criminal to maintain a slaughterhouse outside of the city. State v. Temple, 99 Neb. 505, 156 N.W. 1063 (1916).

Neither city nor officers of its board of health are liable for damages sustained by reason of their acts committed in the exercise of police power, but a city may be liable for its neglect of an undelegable duty. Sheets v. City of McCook, 95 Neb. 139, 145 N.W. 252 (1914).

The powers and jurisdiction of cities of second class and townships are entirely separate, distinct, and unlike in all respects. Chilton v. Town of Gratton, 82 F. 873 (Cir. Ct., D. Neb. 1897).

17-122 Hospital; establishment and control.

A city of the second class shall have the power to erect, establish, and regulate hospitals and to provide for the government and support of such hospitals.

Source: Laws 1879, § 39, III, p. 201; Laws 1881, c. 24, § 1, p. 194; R.S.1913, § 5016; C.S.1922, § 4185; C.S.1929, § 17-124; R.S. 1943, § 17-122; Laws 2017, LB133, § 18.

17-123 Public health; regulations; water; power to supply.

A city of the second class shall have the power to make regulations to secure the general health of the city, to prevent and remove nuisances within the city and within its extraterritorial zoning jurisdiction, and to provide the city with water.

Source: Laws 1879, § 39, IV, p. 201; Laws 1881, c. 24, § 1, p. 194; R.S.1913, § 5017; C.S.1922, § 4186; C.S.1929, § 17-125; R.S. 1943, § 17-123; Laws 2015, LB266, § 8; Laws 2017, LB133, § 19.

City of second class may bring action to enjoin maintenance of a nuisance. City of Lyons v. Betts, 184 Neb. 746, 171 N.W.2d 792 (1969).

It is not incumbent upon city to enact ordinance prohibiting a nuisance before it has a right to apply to a court of equity for relief. City of Syracuse v. Farmers Elevator, Inc., 182 Neb. 783, 157 N.W.2d 394 (1968).

Village may bring action in equity to enjoin maintenance of public nuisance. Village of Kenesaw v. Chicago, B. & Q. R. R. Co., 91 Neb. 619, 136 N.W. 990 (1912).

17-123.01 Transferred to section 17-573.

17-124 Police; power to establish.

A city of the second class shall have the power to establish a night watch and police and to define the duties and powers of such night watch and police.

Source: Laws 1879, § 39, V, p. 201; Laws 1881, c. 24, § 1, p. 195; R.S.1913, § 5018; C.S.1922, § 4187; C.S.1929, § 17-126; R.S. 1943, § 17-124; Laws 2017, LB133, § 20.

17-125 Transferred to sections 17-528.02 and 17-528.03.

17-126 Public market; establishment; regulation.

A city of the second class shall have the power to purchase, hold, and own grounds for and to erect, establish, and regulate market houses and market places.

Source: Laws 1879, § 39, VII, p. 201; Laws 1881, c. 24, § 1, p. 195; R.S.1913, § 5020; C.S.1922, § 4189; C.S.1929, § 17-128; R.S. 1943, § 17-126; Laws 2017, LB133, § 21.

17-127 Public buildings; power to erect.

A city of the second class shall have the power to provide for the erection and government of any useful or necessary building for the use of the city.

Source: Laws 1879, § 39, VIII, p. 201; Laws 1881, c. 24, § 1, p. 195; R.S.1913, § 5021; C.S.1922, § 4190; C.S.1929, § 17-129; R.S.1943, § 17-127; Laws 2017, LB133, § 22.

17-128 Repealed. Laws 2017, LB133, § 331.

17-129 Disorderly conduct; power to prevent.

A city of the second class shall have the power to prevent intoxication, fighting, quarreling, dog fights, cock fights, and all disorderly conduct.

Source: Laws 1881, c. 24, § 1, p. 195; R.S.1913, § 5023; C.S.1922, § 4192; C.S.1929, § 17-131; R.S.1943, § 17-129; Laws 2017, LB133, § 23.

The power of municipalities to define and punish the offense of driving a motor vehicle while under the influence of intoxicating liquor is not limited by state laws regulating motor vehicle traffic. Gembler v. City of Seward, 136 Neb. 196, 285 N.W. 542 (1939), modified on rehearing 136 Neb. 916, 288 N.W. 545 (1939).

17-130 Fire escapes; exits; regulation.

A city of the second class shall have the power to regulate the use of any opera house, city hall, church, or other building used by the people for worship, for amusement, or for public assemblages to ensure that such opera house, city hall, church, or other building is provided with suitable, ample, and sufficient fire escapes and suitable, ample, and sufficient means of exit and entrance.

Source: Laws 1881, c. 24, § 1, p. 195; R.S.1913, § 5024; C.S.1922, § 4193; C.S.1929, § 17-132; R.S.1943, § 17-130; Laws 2017, LB133, § 24.

17-131 Safety regulations.

A city of the second class shall have the power to prescribe the thickness, strength, and manner of constructing stone, brick, and other buildings and to prescribe and direct the number and construction of means of exit and entrance and the construction of fire escapes in such buildings.

Source: Laws 1881, c. 24, § 1, p. 196; R.S.1913, § 5025; C.S.1922, § 4194; C.S.1929, § 17-133; R.S.1943, § 17-131; Laws 2017, LB133, § 25.

17-132 Places of amusement; safety regulations; revocation of license.

A city of the second class shall have the power (1) to regulate, license, tax, and suppress places of amusement, (2) to revoke the licenses of such places when they are not provided with sufficient and ample means of exit and entrance or when the licensee has been convicted of any violation of the ordinances in relation to such places, and (3) to declare from time to time when such place or places are unsafe for such uses.

Source: Laws 1881, c. 24, § 1, p. 195; R.S.1913, § 5026; C.S.1922, § 4195; C.S.1929, § 17-134; R.S.1943, § 17-132; Laws 2017, LB133, § 26.

City is not authorized under this section to prohibit playing a game of cards for amusement. In re Sapp, 79 Neb. 781, 113 N.W. 261 (1907).

17-133 Repealed. Laws 2017, LB133, § 331.

17-134 Peddlers; pawnbrokers; entertainers; licensing and regulation.

A city of the second class shall have the power by ordinance to license, tax, suppress, regulate, and prohibit hawkers, peddlers, pawnbrokers, theatrical and other exhibitions, shows, and other amusements and to revoke such licenses for violation of such ordinances.

Source: Laws 1881, c. 24, § 1, p. 196; R.S.1913, § 5028; C.S.1922, § 4197; C.S.1929, § 17-136; R.S.1943, § 17-134; Laws 2017, LB133, § 27.

17-135 Repealed. Laws 2017, LB133, § 331.

17-136 Fire hazards; dangerous buildings; elimination.

A city of the second class shall have the power to prevent the dangerous construction and condition of chimneys, fireplaces, hearths, stoves, stovepipes, ovens, or boilers used in and about any building and to cause such to be removed or placed in a safe condition, as the city council may prescribe by ordinance. Such city may regulate and prevent by ordinance the deposit of ashes in unsafe places and cause all dangerous buildings and enclosures to be put in safe condition.

Source: Laws 1881, c. 24, § 1, p. 196; R.S.1913, § 5030; C.S.1922, § 4199; C.S.1929, § 17-138; R.S.1943, § 17-136; Laws 2017, LB133, § 28.

Municipality may enact ordinance to protect public from the dangers resulting from the use of gas. Clough v. North Central Gas Co., 150 Neb. 418, 34 N.W.2d 862 (1948).

17-137 Explosives; storage; fireworks; regulation.

A city of the second class shall have the power to (1) regulate and prevent storage of gunpowder, tar, pitch, resin, coal oil, benzine, turpentine, hemp, cotton, nitroglycerine, petroleum, or any of the productions thereof and other material, (2) regulate the use of lights in stables and shops and other places, (3) regulate the building of bonfires, and (4) regulate, prohibit, and restrain the use of fireworks, firecrackers, Roman candles, sky rockets, and other pyrotechnic displays.

Source: Laws 1881, c. 24, § 1, p. 196; R.S.1913, § 5031; C.S.1922, § 4200; C.S.1929, § 17-139; R.S.1943, § 17-137; Laws 2017, LB133, § 29.

17-138 Animals; cruelty, prevention of.

A city of the second class shall have the power by ordinance to prohibit and punish cruelty to animals.

Source: Laws 1881, c. 24, § 1, p. 197; R.S.1913, § 5032; C.S.1922, § 4201; C.S.1929, § 17-140; R.S.1943, § 17-138; Laws 2017, LB133, § 30.

17-139 Traffic; sales; regulation.

A city of the second class shall have the power by ordinance to regulate traffic and sales upon the streets, the sidewalks, and other public places.

Source: Laws 1881, c. 24, § 1, p. 197; R.S.1913, § 5033; C.S.1922, § 4202; C.S.1929, § 17-141; R.S.1943, § 17-139; Laws 2017, LB133, § 31.

The power of municipalities, under this section, to define and punish the offense of driving a motor vehicle while under the influence of intoxicating liquor, is not limited by the Uniform Motor Vehicle Act. Gembler v. City of Seward, 136 Neb. 196, 285 N.W. 542 (1939), modified on rehearing 136 Neb. 916, 288 N.W. 545 (1939).

17-140 Signs and handbills; regulation.

A city of the second class shall have the power to regulate and prevent the use of streets, sidewalks, and public grounds for signs, sign posts, racks, and the posting of handbills and advertisements.

Source: Laws 1881, c. 24, § 1, p. 197; R.S.1913, § 5034; C.S.1922, § 4203; C.S.1929, § 17-142; R.S.1943, § 17-140; Laws 2017, LB133, § 32.

City of second class has authority by ordinance to regulate and prevent use of sidewalks and streets and to remove obstructions therefrom, but such body cannot act arbitrarily and deny one citizen privileges which it grants to others. City of Pierce v. Schramm, 116 Neb. 263, 216 N.W. 809 (1927).

Municipalities may grant the use of streets to telephone company for its poles and lines. City of Plattsmouth v. Nebraska Telephone Co., 80 Neb. 460, 114 N.W. 588 (1908).

The term ''public roads'' does not include streets and alleys of a municipality, and the unauthorized use of such thoroughfares constitutes a public nuisance. Nebraska Telephone Co. v. Western Independent Long Distance Telephone Co., 68 Neb. 772, 95 N.W. 18 (1903).

17-141 Sidewalks and substructures; regulation.

A city of the second class shall have the power to regulate the use of sidewalks and all structures thereunder.

Source: Laws 1881, c. 24, § 1, p. 197; R.S.1913, § 5035; C.S.1922, § 4204; C.S.1929, § 17-143; R.S.1943, § 17-141; Laws 2017, LB133, § 33.

City is bound to keep its sidewalks reasonably safe for travel, and it is the duty of the officers of the city to exercise reasonable diligence in knowing of dangerous conditions thereof. Anderson v. City of Albion, 64 Neb. 280, 89 N.W. 794 (1902).

Streets must be kept in a reasonably safe condition for public travel, and a petition sufficiently charges negligence if it alleges facts from which a person may reasonably infer street was not kept in such condition. City of Aurora v. Cox, 43 Neb. 727, 62 N.W. 66 (1895).

17-142 Streets; moving of buildings; other obstructions; regulation.

A city of the second class shall have the power to regulate and prevent the moving of buildings through the streets and to regulate and prohibit the piling of building material or any excavation or obstruction of the streets.

Source: Laws 1881, c. 24, § 1, p. 197; R.S.1913, § 5036; C.S.1922, § 4205; C.S.1929, § 17-144; R.S.1943, § 17-142; Laws 2017, LB133, § 34.

17-143 Railroads; location, grade, and crossing; regulation.

A city of the second class shall have the power to provide for and change the location, grade, and crossing of any railroad.

Source: Laws 1881, c. 24, § 1, p. 197; R.S.1913, § 5037; C.S.1922, § 4206; C.S.1929, § 17-145; R.S.1943, § 17-143; Laws 2017, LB133, § 35.

17-144 Repealed. Laws 2017, LB133, § 331.

17-145 Sewers and drains; regulation.

A city of the second class shall have the power to construct and keep in repair culverts, drains, sewers, and cesspools and to regulate the use of such culverts, drains, sewers, and cesspools.

Source: Laws 1881, c. 24, § 1, p. 198; R.S.1913, § 5039; C.S.1922, § 4208; C.S.1929, § 17-147; R.S.1943, § 17-145; Laws 2017, LB133, § 36.

Where a municipal corporation discharges sewage for a period of over ten years, in an adverse manner into a gully, it may acquire an easement therefor. Hall v. City of Friend, 134 Neb. 652, 279 N.W. 346 (1938).

City is liable to owner of property for overflow of surface waters caused by improvement of drainage system. Naysmith v. City of Auburn, 95 Neb. 582, 146 N.W. 971 (1914).

Cities of second class have the right to construct and regulate sewers, and such authority being expressly granted necessarily implies the power to issue bonds for the payment of the same. State ex rel. City of Norfolk v. Babcock, 22 Neb. 614, 35 N.W. 941 (1888).

17-146 Refunding bonds; power to issue.

A city of the second class shall have the power to issue bonds in place of or to supply means to meet its maturing bonds or for the consolidation or funding of such bonds.

Source: Laws 1881, c. 24, § 1, p. 198; R.S.1913, § 5040; C.S.1922, § 4209; C.S.1929, § 17-148; R.S.1943, § 17-146; Laws 2017, LB133, § 37.

Where bonds, when issued by a city, contain recitals insuring that ''all preliminary steps had been taken in manner and form required by law'', if it appears later when bonds are in the hands of a purchaser that a fact stated in the recitals is untrue, the city is estopped to so prove or contend. South Sioux City v. Hanchett Bond Co., 19 F.2d 476 (8th Cir. 1927).

Findings of a board, authorized by the Legislature to determine questions of fact upon which limitations of amount of issue of bonds depends, are conclusive in favor of bona fide purchasers of such bonds. Chilton v. Town of Gratton, 82 F. 873 (Cir. Ct., D. Neb. 1897).

17-147 Fire department; organization and equipment.

A city of the second class shall have the power to procure fire engines, hooks, ladders, buckets, and other apparatus, to organize fire engine, hook and ladder, and bucket companies, to prescribe rules of duty and the government of the fire department with such penalties as the city council may deem proper, not exceeding one hundred dollars, and to make all necessary appropriations for the fire department.

Source: Laws 1879, § 39, IX, p. 201; Laws 1881, c. 24, § 1, p. 198; R.S.1913, § 5041; C.S.1922, § 4210; C.S.1929, § 17-149; R.S.1943, § 17-147; Laws 2017, LB133, § 38.

Power given in this section to procure fire engines, hooks, ladders, etc., is totally different from the power to issue obligations unimpeachable in the hands of third persons in payment therefor. State ex rel. City of O'Neill v. Marsh, 121 Neb. 841, 238 N.W. 760 (1931).

A city may impose an occupation tax by ordinance upon a fire insurance company for the purpose of maintaining a volunteer fire department. German-American Fire Ins. Co. v. City of Minden, 51 Neb. 870, 71 N.W. 995 (1897).

17-148 City council; president; acting president; powers.

In each city of the second class, the city council shall elect one of its own body who shall be styled the president of the city council and who shall preside at all meetings of the city council in the absence of the mayor. In the absence of the president, the city council shall elect one of its own body to occupy his or her place temporarily, who shall be styled acting president of the city council. The president, and acting president, when occupying the place of the mayor,

shall have the same privileges as other members of the city council; and all acts of the president or acting president, while so acting, shall be as binding upon the city council and upon the city as if done by the mayor.

Source: Laws 1879, § 39, X, p. 201; Laws 1881, c. 24, § 1, p. 198; R.S.1913, § 5042; C.S.1922, § 4211; C.S.1929, § 17-150; R.S.1943, § 17-148; Laws 2017, LB133, § 39.

17-149 Transferred to section 17-574.

17-149.01 Transferred to section 17-575.

17-150 Sewerage system; establishment; estimates; duties of engineer; contracts; advertisement for bids.

The city engineer in a city of the second class, when ordered to do so by the city council, shall make all surveys, estimates, and calculations necessary to be made for the establishment of a sewerage system and of the cost of labor and materials for such system. The mayor and city council may employ a special engineer to make or assist in making any such estimate or survey, and any such estimate or survey shall have the same validity and serve in all respects as though made by the city engineer. Before the city council shall make any contract for building any such sewers or any part of such sewers, an estimate of the cost of such sewers shall be made by the city engineer, or by a special engineer as provided by this section, and submitted to the city council, and no contract shall be entered into for the building of any such sewers or any part of such sewers for a price exceeding such estimate. In advertising for bids for any such work or materials, the city council shall cause the amount of such estimate to be published with such advertisement for at least twenty days in a legal newspaper in or of general circulation in the city.

Source: Laws 1903, c. 22, § 2, p. 255; R.S.1913, § 5044; C.S.1922, § 4213; C.S.1929, § 17-152; R.S.1943, § 17-150; Laws 2017, LB133, § 40.

17-151 Sewerage system; establishment; borrowing money; conditions precedent.

Before submitting any proposition for borrowing money for the purposes mentioned in section 17-150, the mayor and city council of a city of the second class shall determine upon a system of sewerage and shall procure from the city engineer an estimate of the actual cost of such system and of the cost of the portion of such sewer as the mayor and city council may propose to construct, with the amount proposed to be borrowed and the plans of such system. Such estimate shall be placed and remain in the hands of the city clerk, subject to public inspection during all the time such proposition to borrow money shall be pending. After such system shall have been adopted, no change shall be made to such system involving an expense of more than one thousand dollars, nor shall any other system be adopted in lieu of such system, unless authorized by a vote of the people.

Source: Laws 1903, c. 22, § 4, p. 256; R.S.1913, § 5045; C.S.1922, § 4214; C.S.1929, § 17-153; R.S.1943, § 17-151; Laws 2017, LB133, § 41.

17-152 Repealed. Laws 1983, LB 421, § 18.

17-153 Sewerage system; bonds; sinking funds; investment.

All taxes levied for the purpose of raising money to pay the interest or to create a sinking fund for the payment of the bonds provided for in section 17-925, shall be payable in money only. Except as otherwise provided, no money so obtained shall be used for any other purpose than the payment of the interest or debt for the payment of which they shall have been raised. Such sinking fund may, under the direction of the mayor and city council, be invested in any of the underdue bonds issued by such city of the second class, and such bonds may be procured by the city treasurer at such rate of premium as shall be prescribed by ordinance. Any due or overdue bond or coupon shall be a sufficient warrant or order for the payment of the same by the city treasurer, out of any fund specially created for that purpose, without any further order or allowance by the mayor and city council.

Source: Laws 1903, c. 22, § 8, p. 258; R.S.1913, § 5047; C.S.1922, § 4216; C.S.1929, § 17-155; R.S.1943, § 17-153; Laws 2017, LB133, § 42.

17-154 Sewers; right-of-way; condemnation; procedure.

In case of the refusal of the owner or owners or claimant or claimants of any lands or any right-of-way, or any easement in any lands through which cities of the second class propose to construct any sewer or drain or any outlet for any sewer or drain, to allow the passage of such sewer or drain, the city proposing to construct such sewer or drain, and desiring the right-of-way may proceed to acquire such right-of-way by the exercise of the power of eminent domain. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1905, c. 28, § 1, p. 253; R.S.1913, § 5049; C.S.1922, § 4218; C.S.1929, § 17-157; R.S.1943, § 17-154; Laws 1951, c. 101, § 55, p. 472; Laws 2017, LB133, § 43.

17-155 Board of equalization; counties under township organization; members; meetings.

In all cities of the second class in counties under township organization, the city council shall constitute a board of equalization for such city, whose duty it shall be to meet and equalize the assessments of such city at the same time and in the same manner as provided by law for townships in counties under township organization.

Source: Laws 1889, c. 76, § 1, p. 537; R.S.1913, § 5050; C.S.1922, § 4219; C.S.1929, § 17-158; R.S.1943, § 17-155; Laws 2017, LB133, § 44.

17-156 Joint city and school district facility; acquisition of land; erection, equipment, furnishings, and maintenance.

Any school district in this state which has within its boundaries, or is contiguous to, a city of the second class may, together with such city, jointly acquire land for, erect, equip, furnish, maintain, and operate a joint municipal

and recreation building or joint recreational and athletic field to be used jointly by such school district and city.

Source: Laws 1953, c. 37, § 1, p. 128; Laws 1955, c. 39, § 1, p. 152; Laws 1961, c. 47, § 1, p. 184.

17-157 Joint city and school district facility; expense; bonds; election; approval by electors.

The cost and expense of acquiring land for, erecting, equipping, furnishing, and maintaining a joint municipal and recreation building or joint recreational and athletic field under section 17-156 shall be borne by the school district and city of the second class in the proportion determined by the board of education of the school district and the city council. The building shall not be erected or contracted to be erected, no land shall be acquired for such buildings, and no bonds shall be issued or sold by the school district or the city of the second class until the school district and the city of the second class have each been authorized to issue bonds to defray its proportion of the cost of such land, building, equipment, and furnishings by the required number of electors of the school district and the city of the second class in the manner provided by sections 10-702 to 10-716 and 17-954. When funds and property are available for such purpose, land may be acquired, buildings erected, or equipment and furnishings supplied by a joint resolution of the school district and the city of the second class without a vote of the people.

Source: Laws 1953, c. 37, § 2, p. 128; Laws 1955, c. 39, § 2, p. 152; Laws 2017, LB133, § 45.

17-158 Joint city and school district facility; indebtedness; bonds; principal and interest; in addition to other limitations.

The amount of indebtedness, authorized to be incurred by any school district or city of the second class for the payment of principal and interest for the bonds authorized by the provisions of sections 17-156 to 17-162 shall be in addition to and over and above any limits under applicable law.

Source: Laws 1953, c. 37, § 3, p. 128; Laws 2017, LB133, § 46.

17-159 Joint city and school district facility; city council and board of education; building commission; powers; duties.

The members of the board of education of the school district and the city council of the city of the second class, which board and city council have agreed to build a joint municipal and recreation building or joint recreational and athletic field under sections 17-156 to 17-162, shall be the building commission to purchase the land for the building and to contract for the erection, equipment, and furnishings of the building or the recreational and athletic field. After the completion of such building or field, the building commission shall be in charge of the maintenance and repair of such building or field.

Source: Laws 1953, c. 37, § 4, p. 129; Laws 1955, c. 39, § 3, p. 153; Laws 2017, LB133, § 47.

17-160 Joint city and school district facility; building commission; plans and specifications; personnel; compensation; contracts.

The building commission shall cause to be prepared building plans and specifications for the joint building or joint recreational and athletic field and may employ architects, engineers, and such clerical help as may be deemed necessary for the purpose of preparing such plans and specifications. The compensation of such personnel shall be fixed by the commission and shall be paid in the same proportion as determined for defraying the cost of such building or field as provided for in section 17-157. The contract for erecting the building, for the equipment, and for furnishings shall be let by the commission in the same manner as for other public buildings. The members of the commission shall receive no compensation for their services as members of the commission.

Source: Laws 1953, c. 37, § 5, p. 129; Laws 1955, c. 39, § 4, p. 153; Laws 2017, LB133, § 48.

17-161 Joint city and school district facility; annual budget of city and school district.

The school district and the city of the second class shall each provide in their annual budgets an item for their proportion of the expense of maintaining any joint municipal and recreation building or joint recreational and athletic field built pursuant to section 17-156.

Source: Laws 1953, c. 37, § 6, p. 129; Laws 1955, c. 39, § 5, p. 154; Laws 2017, LB133, § 49.

17-162 Joint city and school district facility; building commission; accept gifts.

The building commission shall have the power to accept gifts, devises, and bequests of real and personal property to carry out the purposes of sections 17-156 to 17-162 and, to the extent of the powers conferred upon the building commission by sections 17-156 to 17-162, to execute and carry out such conditions as may be annexed to any such gifts, devises, or bequests.

Source: Laws 1953, c. 37, § 7, p. 129; Laws 2017, LB133, § 50.

17-163 Offstreet parking; declaration of purpose.

The Legislature finds and declares that the great increase in the number of motor vehicles, buses, and trucks in Nebraska has created hazards to life and property in cities of the second class in the state. In order to remove or reduce such hazards to life and property and the inconvenience of congested traffic on the streets in such cities in this state, it is hereby deemed necessary and of general benefit to the entire State of Nebraska to provide means for such cities in Nebraska to own offstreet vehicle parking facilities exclusively for the parking of motor vehicles.

Source: Laws 1957, c. 29, § 1, p. 185; Laws 2017, LB133, § 51.

Cross References

For applicability of sections 17-163 to 17-173 to villages, see sections 17-207.01 and 17-207.02.

17-164 Offstreet parking; facilities; acquisition; procedure.

Any city of the second class is hereby authorized to own, purchase, construct, equip, lease, or operate within such city offstreet motor vehicle parking facilities for the use of the general public. This does not include the power to engage,

directly or indirectly, in the sale of gasoline, oil, or other merchandise or in the furnishing of any service other than that of parking motor vehicles as provided in this section. Such city shall have the authority to acquire by grant, contract, purchase, or through the condemnation of property, as provided by law for such acquisition, all real or personal property, including a site or sites on which to construct such facilities, necessary or convenient in the carrying out of this section. Before any such city may commence a program to construct, purchase, or acquire by other means a proposed offstreet parking facility or facilities, notice shall be given, by publication in a legal newspaper in or of general circulation in the city once each week for not less than thirty days, inviting application for private ownership and operation of offstreet parking facilities. If no application or applications have been received or, if received, the application or applications have been disapproved by the city council within ninety days from the first date of publication, then such city may proceed in the exercise of the powers granted under this section.

Source: Laws 1957, c. 29, § 2, p. 186; Laws 2017, LB133, § 52.

17-165 Offstreet parking; revenue bonds; issuance; terms.

In order to pay the cost required by any purchase, construction, lease, or condemnation of property and equipping of parking facilities or the enlargement of presently owned parking facilities, a city of the second class may issue revenue bonds to provide the funds for such improvements. Such revenue bonds shall not be payable from any general tax upon the issuing city, but shall be a lien only upon the revenue and earnings of the parking facilities. Such revenue bonds shall mature in not to exceed forty years but may be optional prior to maturity at a premium as provided in the authorizing resolution or ordinance. Any such revenue bonds which may be issued shall not be included in computing the maximum amounts of bonds which the issuing city may be authorized to issue under its charter or any statute of this state. Such revenue bonds may be issued and sold or delivered to the contractor at par and accrued interest for the amount of work performed. If any city of the second class has installed or installs onstreet parking meters, it may pledge all or any part of the revenue of such parking meters, not previously pledged, as security for the bonds authorized under sections 17-163 to 17-173.

Source: Laws 1957, c. 29, § 3, p. 186; Laws 1969, c. 51, § 42, p. 297; Laws 2017, LB133, § 53.

17-166 Offstreet parking; plans and specifications; coordination with traffic control program.

Before the issuance of any revenue bonds under section 17-165, the city of the second class shall have an independent and qualified firm of engineers prepare plans and specifications for such improvements. In the preparation of the plans and specifications, the independent engineer shall collaborate and counsel with any city engineering or traffic departments so as to coordinate the program with the program for the control of traffic within such city.

Source: Laws 1957, c. 29, § 4, p. 187; Laws 2017, LB133, § 54.

17-167 Offstreet parking; city council; rules and regulations; contracts; rates.

Before the issuance of any revenue bonds as provided under section 17-165, the city council of a city of the second class shall make all necessary rules and

regulations governing the use, operation, and control of such improvements. In carrying out sections 17-163 to 17-173, the city of the second class may make contracts with other departments of the city, or others, if such contracts are necessary and needed for the payment of the revenue bonds authorized under section 17-165 and for the successful operation of the parking facilities. The city council shall also establish and maintain equitable rates or charges for such services sufficient in amount to pay for the cost of operation, repair, and upkeep of the facilities to be purchased, acquired, or leased and the principal of and interest on any revenue bonds issued pursuant to sections 17-163 to 17-173. The city council may also make any other agreements with the purchasers of the bonds for the security of the issuing city and the purchasers of such bonds not in contravention with sections 17-163 to 17-173.

Source: Laws 1957, c. 29, § 5, p. 187; Laws 2017, LB133, § 55.

17-168 Offstreet parking; acquisition of facilities; submission at election; notice.

The mayor and city council of any city of the second class may adopt by ordinance the proposition to make such purchase, or to erect such facility or facilities, set forth in section 17-164, and before the purchase can be made or facility created, must submit the question to the electors of such city at a general municipal election or at a special election called for that purpose and the question must be approved by a majority of the electors voting on such question. If the question is submitted at a special election, the vote for the purchase or acquisition of such real estate or the purchase or erection of such facility or facilities shall equal at least a majority of the votes cast at the last preceding general election. Notice of the time and place of the election shall be given by publication in a legal newspaper in or of general circulation in such city three successive weeks prior to such election.

Source: Laws 1957, c. 29, § 6, p. 188; Laws 2017, LB133, § 56.

17-169 Offstreet parking; facilities; lease; controls retained; business restricted.

On the creation of a motor vehicle parking facility as provided under section 17-164 for the use of the general public, the city of the second class may lease such facility to one or more operators to provide for the efficient operation of the facility. Such lease shall be let on a competitive basis, and no lease shall run for a period in excess of ten years. In granting any lease, the city shall retain such control of the facility as may be necessary to insure that the facility will be properly operated in the public interest and that the prices charged are reasonable. The provisions of sections 17-163 to 17-173 shall not be construed to authorize the city or the lessee of the facility to engage in the sale of any commodity, product, or service or to engage in any business other than the purposes set forth in section 17-164.

Source: Laws 1957, c. 29, § 7, p. 188; Laws 2017, LB133, § 57.

17-170 Offstreet parking; private parking lot; not subject to eminent domain.

Property now used or hereafter acquired within the boundaries of a city of the second class for offstreet motor vehicle parking by a private operator shall not be subject to condemnation.

Source: Laws 1957, c. 29, § 8, p. 188; Laws 2017, LB133, § 58.

17-171 Offstreet parking; rights of bondholders.

The provisions of sections 17-163 to 17-173 and of any ordinance authorizing the issuance of bonds under sections 17-163 to 17-173 shall constitute a contract with the holders of such bonds, and any holder of a bond or bonds or any of the coupons of any bond or bonds of such city, issued under the provisions of sections 17-163 to 17-173, may either in law or in equity, by suit, action, mandamus, or other proceedings, enforce and compel the performance of all duties required by the provisions of sections 17-163 to 17-173 or by the ordinance authorizing the bonds, including the making and collection of sufficient charges and fees for service and the use thereof and the application of income and revenue thereof.

Source: Laws 1957, c. 29, § 9, p. 189; Laws 2017, LB133, § 59.

17-172 Offstreet parking; revenue; use.

Any city of the second class is authorized to use any or all of the revenue from onstreet parking meters for the purpose set forth in section 17-164 if such revenue has not been pledged for the payment of revenue bonds authorized in sections 17-163 to 17-173.

Source: Laws 1957, c. 29, § 10, p. 189; Laws 2017, LB133, § 60.

17-173 Offstreet parking; supplementary powers.

Sections 17-163 to 17-173 are supplementary to existing statutes relating to cities of the second class and confer upon such cities powers not heretofore granted.

Source: Laws 1957, c. 29, § 11, p. 189.

17-174 City of second class; public passenger transportation system; acquire; accept funds; administration; powers.

A city of the second class shall have the power by ordinance to acquire, by the exercise of the power of eminent domain or otherwise, lease, purchase, construct, own, maintain, and operate, or contract for the operation of public passenger transportation systems, excluding railroad systems, including all property and facilities required for such public passenger transportation systems, within and without the limits of the city, to redeem such property from prior encumbrance in order to protect or preserve the interest of the city in such property, to exercise all powers granted by the Constitution and laws of the State of Nebraska, including, but not limited to, receiving and accepting from the government of the United States or any agency thereof, from the State of Nebraska or any subdivision thereof, and from any person or corporation, donations, devises, gifts, bequests, loans, or grants for or in aid of the acquisition, operation, and maintenance of such public passenger transportation systems, and to administer, hold, use, and apply the same for the purposes for which such donations, devises, gifts, bequests, loans, or grants may have been made, to negotiate with employees and enter into contracts of employment, to employ by contract or otherwise individuals singularly or collectively, to enter into agreements authorized under the Interlocal Cooperation Act or the Joint

Public Agency Act, and to exercise such other and further powers with respect thereto as may be necessary, incident, or appropriate to the powers of such city.

Source: Laws 1975, LB 395, § 2; Laws 1999, LB 87, § 62; Laws 2017, LB133, § 61.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

ARTICLE 2
LAWS APPLICABLE ONLY TO VILLAGES

Section
17-201. Village, defined; incorporation; restriction on territory; condition.
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17-202. Board of trustees; election; terms.
17-203. Board of trustees; qualifications.
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17-229. Street improvement program; authorization; tax levy.
17-230. Street improvement program; tax levy limitation.
17-231. Street improvement program; construction of improvements; issuance of warrants; interest; unused funds transferred to general fund.

17-201 Village, defined; incorporation; restriction on territory; condition.

(1) Any municipality containing not less than one hundred nor more than eight hundred inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census incorporated as a village under the laws of this state, any village that votes to retain village government as provided in section 17-312, and any city of the second class that has adopted village government as provided by sections 17-306 to 17-309 shall be a village and shall have the rights, powers, and immunities granted by law to villages. The population of a village shall consist of the people residing within the territorial boundaries of such village and the residents of any territory duly and properly annexed to such village.

(2) Whenever a majority of the inhabitants of any village, not incorporated under any laws of this state, present a petition to the county board of the county in which the petitioners reside, requesting that they may be incorporated as a village and designating the name they wish to assume and the metes and bounds of the proposed village, and a majority of the members of such county board are satisfied that a majority of the inhabitants of the proposed village have signed such petition and that inhabitants to the number of one hundred or more are actual residents of the territory described in the petition, the county board shall declare the proposed village incorporated, enter the order of incorporation upon its records, and designate the metes and bounds of such village. Thereafter the village shall be governed by the provisions of law applicable to the government of villages. The county board shall, at the time of the incorporation of the village, appoint five persons, having the qualifications provided in section 17-203, as the village board of trustees, who shall hold their offices and perform all the duties required of them by law until the election and qualification of their successors at the time and in the manner provided in section 17-202, except that the county board shall not declare a proposed village incorporated or enter an order of incorporation if any portion of the territory of such proposed village is within five miles of another incorporated municipality.

Source: Laws 1879, § 40, p. 202; Laws 1881, c. 22, § 1, p. 165; Laws 1913, c. 137, § 1, p. 335; R.S.1913, § 5051; C.S.1922, § 4223; C.S.1929, § 17-201; R.S.1943, § 17-201; Laws 1961, c. 48, § 1, p. 188; Laws 1969, c. 91, § 1, p. 454; Laws 1971, LB 62, § 2; Laws 1993, LB 726, § 7; Laws 2014, LB702, § 2; Laws 2017, LB113, § 13; Laws 2017, LB133, § 62.

1. Requirements
2. Incorporation
3. Miscellaneous

1. Requirements

Petitioners must be actual and permanent residents of area embraced in petition to be considered inhabitants. State ex rel. Little v. Board of County Commissioners of Cherry County, 182 Neb. 419, 155 N.W.2d 351 (1967).

To warrant board to incorporate territory into a village, there must be requisite population. Remote territory, or purely agricultural land not connected or not adapted to municipal purposes, may not be included. State ex rel. Pond v. Clark, 75 Neb. 620, 106 N.W. 971 (1906); State ex rel. Loy v. Mote, 48 Neb. 683, 67 N.W. 810 (1896).

An order incorporating a village is void, though the petition therefor is purported to be signed by a majority of the taxable inhabitants, when in fact such signatures were not signed thereon but were fraudulently attached. State ex rel. Summers v. Uridil, 37 Neb. 371, 55 N.W. 1072 (1893).

First general election provided for in this section is the village election. State ex rel. Mayor of David City v. Palmer, 10 Neb. 203, 4 N.W. 965 (1880).

2. Incorporation

A sanitary and improvement district is a public corporate entity within the boundaries of which a village may not be incorporated pursuant to this section. State ex rel. Lanman v. Board of Cty. Commissioners, 277 Neb. 492, 763 N.W.2d 392 (2009).

Incorporation as a village is not permissible if the area of the proposed village has previously been incorporated under any Nebraska statute. State ex rel. Lanman v. Board of Cty. Commissioners, 277 Neb. 492, 763 N.W.2d 392 (2009).

The duty imposed upon the county board by this section is ministerial in nature. Little v. Board of County Commissioners of Cherry County, 179 Neb. 655, 140 N.W.2d 1 (1966).

The incorporation of a village by the county board upon petition of a majority of the taxable inhabitants is not an unlawful delegation of legislative power or a taking of property without due process of law. Kriz v. Klingensmith, 176 Neb. 205, 125 N.W.2d 674 (1964).

3. Miscellaneous

The terms of sections 17-201 to 17-228 refer to villages only. Gibson v. Troupe, 96 Neb. 770, 148 N.W. 944 (1914).

By acceptance of powers of taxation and government, cities of second class and villages assume the duties, responsibilities and liabilities flowing therefrom, and there is no substantial difference between such municipalities and municipalities of any other class. Goodrich v. University Place, 80 Neb. 774, 115 N.W. 538 (1908).

The power of including lands within city's boundaries is legislative rather than judicial in character, and owner may not restrain collection of city taxes on the ground there was no authority to include such land. Sage v. City of Plattsmouth, 48 Neb. 558, 67 N.W. 455 (1896); South Platte Land Co. v. Buffalo County, 15 Neb. 605, 19 N.W. 711 (1884).

This section was not intended to clothe large rural districts with municipal powers, nor to subject such lands to special taxation for municipal purposes. State ex rel. Hammond v. Dimond, 44 Neb. 154, 62 N.W. 498 (1895).

It is the duty of village board to divide the village into wards and call an election for electing officers as a city of the second class when the population is sufficient. State ex rel. Hostetter v. Holden, 19 Neb. 249, 27 N.W. 120 (1886).

17-201.01 Villages; incorporation; presumption of regularity of proceedings.

When a county board has entered an order declaring any village within the county as incorporated, it shall be conclusively presumed that such incorporation and all proceedings in connection therewith are valid in all respects notwithstanding some defect or defects that may appear on the face of the record, or the absence of any record, unless an action shall be brought within one year from the date of entry of such order of the county board, attacking its validity.

Source: Laws 1961, c. 48, § 2, p. 189; Laws 2017, LB133, § 63.

17-202 Board of trustees; election; terms.

The corporate powers and duties of every village shall be vested in a board of trustees which shall consist of five members. At the first statewide general election held after the incorporation of a village, two trustees shall be elected to serve two years and three trustees shall be elected to serve four years. Thereafter the board members shall be elected as provided in the Election Act. The terms shall begin on the first regular meeting of the board in December following the statewide general election. The changes made to this section by Laws 1994, LB 76, and Laws 1995, LB 194, shall not change the staggering of the terms of the board members in villages established prior to January 1, 1995.

Source: Laws 1879, § 41, p. 202; Laws 1899, c. 13, § 1, p. 78; R.S.1913, § 5052; C.S.1922, § 4224; C.S.1929, § 17-202; Laws 1943, c. 26, § 1, p. 120; R.S.1943, § 17-202; Laws 1969, c. 257, § 9, p. 936; Laws 1994, LB 76, § 493; Laws 1995, LB 194, § 3; Laws 2017, LB133, § 64.

Cross References

Board of trustees, election, see section 32-532.
Election Act, see section 32-101.
Vacancies, see sections 32-568 and 32-569.

17-203 Board of trustees; qualifications.

Any person may be a trustee who is a citizen of the United States, resides in the village, and is a registered voter.

Source: Laws 1879, § 42, p. 202; Laws 1899, c. 13, § 1, p. 78; R.S.1913, § 5053; Laws 1915, c. 90, § 1, p. 230; Laws 1921, c. 129, § 1, p. 539; C.S.1922, § 4225; C.S.1929, § 17-203; R.S.1943, § 17-203; Laws 1969, c. 257, § 10, p. 936; Laws 1973, LB 559, § 4; Laws 1994, LB 76, § 494.

17-203.01 Repealed. Laws 1994, LB 76, § 615.

17-204 Board of trustees; oath; meetings.

Every village trustee, before entering upon the duties of his or her office, shall take an oath to support the Constitution of the United States and the Constitution of Nebraska and faithfully and impartially to discharge the duties of his or her office. Every village board of trustees appointed by the county board shall meet within twenty days, organize, and appoint the officers required by law. All trustees elected to office shall qualify and meet on the first regular meeting of the village board of trustees in December thereafter, organize, elect a chairperson of the board of trustees, and appoint the officers required by law. The village board of trustees shall, by ordinance, fix the time and place of holding its stated meetings and may be convened at any time by the chairperson.

Source: Laws 1879, § 43, p. 203; Laws 1913, c. 216, § 1, p. 646; R.S.1913, § 5054; C.S.1922, § 4226; C.S.1929, § 17-204; R.S.1943, § 17-204; Laws 1974, LB 897, § 1; Laws 1995, LB 194, § 4; Laws 2017, LB133, § 65.

This section authorized chairman to convene the village board at special meeting for purpose of passing a liquor license. Vogel v. Rawley, 85 Neb. 600, 123 N.W. 1037 (1909).

17-205 Board of trustees; quorum; compulsory attendance.

At all meetings of the village board of trustees, a majority of the trustees shall constitute a quorum to do business. A smaller number may adjourn from day to day and may compel the attendance of absent members in such manner and under such penalties as prescribed by the village board of trustees by ordinance.

Source: Laws 1879, § 44, p. 203; R.S.1913, § 5055; C.S.1922, § 4227; C.S.1929, § 17-205; R.S.1943, § 17-205; Laws 2017, LB133, § 66.

17-206 Board of trustees; journal; roll calls; public proceedings.

The village board of trustees shall keep a journal of the board's proceedings and, at the desire of any member, shall cause the yeas and nays to be taken and entered on the journal on any question or ordinance, and the proceedings shall be public.

Source: Laws 1879, § 45, p. 203; R.S.1913, § 5056; C.S.1922, § 4228; C.S.1929, § 17-206; R.S.1943, § 17-206; Laws 2017, LB133, § 67.

17-207 Board of trustees; powers; restrictions.

The village board of trustees shall have power to pass ordinances: (1) To prevent and remove nuisances within the village or within its extraterritorial zoning jurisdiction; (2) to restrain and prohibit gambling; (3) to provide for licensing and regulating theatrical and other amusements within the village; (4) to prevent the introduction and spread of contagious diseases; (5) to establish and regulate markets; (6) to erect and repair bridges; (7) to erect, repair, and regulate wharves; (8) to regulate the landing of watercraft; (9) to provide for the inspection of building materials to be used or offered for sale in the village; (10)

to govern the planting and protection of shade trees in the streets and the building of structures projecting upon or over and adjoining, and all excavations through and under, the sidewalks of the village; (11) to maintain the peace, good government, and welfare of the village and its trade and commerce; and (12) to enforce all ordinances by inflicting penalties upon inhabitants or other persons, for the violation of such ordinances, not exceeding five hundred dollars for any one offense, recoverable with costs. Nothing in this section shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act.

Source: Laws 1879, § 46, p. 203; Laws 1907, c. 15, § 1, p. 123; R.S.1913, § 5057; C.S.1922, § 4229; C.S.1929, § 17-207; R.S.1943, § 17-207; Laws 1986, LB 1027, § 190; Laws 1991, LB 849, § 63; Laws 1993, LB 138, § 65; Laws 1999, LB 128, § 1; Laws 2015, LB266, § 10; Laws 2017, LB133, § 68.

Cross References

Nebraska Bingo Act, see section 9-201.
Nebraska Lottery and Raffle Act, see section 9-401.
Nebraska Pickle Card Lottery Act, see section 9-301.
Nebraska Small Lottery and Raffle Act, see section 9-501.
State Lottery Act, see section 9-801.

It is the duty of a municipality to regulate the building of stairways projecting upon, over, or adjoining sidewalks, and it is liable for negligence in performing such duty. Pinches v. Village of Dickens, 127 Neb. 239, 254 N.W. 877 (1934).

Village is liable for services of one superintending the repair and alteration of well or waterworks where the improvement was completed and all other bills therefor paid by village, without question. Launt v. Village of Oakdale, 88 Neb. 320, 129 N.W. 258 (1911).

Villages as well as cities of second class have full power to license, regulate, and prohibit billiard and pool hall within their limits. Cole v. Village of Culbertson, 86 Neb. 160, 125 N.W. 287 (1910).

Village board may grant liquor license at a special meeting after legal notice. Vogel v. Rawley, 85 Neb. 600, 123 N.W. 1037 (1909).

Municipality has no power by ordinance to prohibit the keeping of card tables or power to make it unlawful to permit card playing. In re Sapp, 79 Neb. 781, 113 N.W. 261 (1907).

The running of a bowling alley in connection with a saloon or hotel was declared, under former act, to be a criminal offense. Koepke v. State, 68 Neb. 152, 93 N.W. 1129 (1903).

Village boards have power by ordinance to license and regulate billiard and pool rooms and an ordinance whose main object is to license and regulate the same, is not wholly void because of imposing an occupation tax not clearly expressed in title. Morgan v. State, 64 Neb. 369, 90 N.W. 108 (1902).

Village is subject to liability for defective sidewalk. City of Wahoo v. Reeder, 27 Neb. 770, 43 N.W. 1145 (1889); Village of Orleans v. Perry, 24 Neb. 831, 40 N.W. 417 (1888); Village of Ponca v. Crawford, 23 Neb. 662, 37 N.W. 609 (1888).

17-207.01 Offstreet motor vehicle parking; acquisition; procedure.

Any village is hereby authorized to own, purchase, construct, equip, lease, or operate within such village offstreet motor vehicle parking facilities for the use of the general public. This does not include the power to engage, directly or indirectly, in the sale of gasoline, oil, or other merchandise or in the furnishing of any service other than that of parking motor vehicles as provided in this section. Such village shall have the authority to acquire by grant, contract, purchase, or through the condemnation of property, as provided by law for such acquisition, all real or personal property, including a site or sites on which to construct such facilities, necessary or convenient in the carrying out of this section. Before any village may commence a program to construct, purchase, or acquire by other means a proposed offstreet parking facility or facilities, notice shall be given, by publication in a legal newspaper in or of general circulation in the village once each week for not less than thirty days, inviting application for private ownership and operation of offstreet parking facilities. If no application or applications have been received or, if received, the application or applications have been disapproved by the village board of trustees

within ninety days from the first date of publication, then such village may proceed in the exercise of the powers granted under this section.

Source: Laws 1961, c. 50, § 1, p. 191; Laws 2017, LB133, § 69.

17-207.02 Offstreet motor vehicle parking; acquisition; board of trustees; powers.

The powers granted by section 17-207.01 shall be exercised in the manner and be subject to all the terms, conditions, and limitations provided in sections 17-163 to 17-173.

Source: Laws 1961, c. 50, § 2, p. 192.

17-208 Appointive officers; term of office; police officer; removal, demotion, or suspension; procedure; board of health; members; duties.

(1) The village board of trustees may appoint a village clerk, treasurer, attorney, engineer, overseer of the streets, and chief of police and other such officers as shall be required by ordinance or otherwise required by law.

(2)(a) The village chief of police or any other police officer may appeal to the village board of trustees his or her removal, demotion, or suspension with or without pay. After a hearing, the village board of trustees may uphold, reverse, or modify the action.

(b) The village board of trustees shall by ordinance adopt rules and regulations governing the removal, demotion, or suspension with or without pay of any police officer, including the village chief of police. The ordinance shall include a procedure for such removal, demotion, or suspension with or without pay of any police officer, including the village chief of police, upon the written accusation of the village chief of police, the chairperson of the village board of trustees, or any citizen or taxpayer. The village board of trustees shall establish by ordinance procedures for acting upon such written accusation, including: (i) Provisions for giving notice and a copy of the written accusation to the police officer; (ii) the police officer's right to have an attorney or representative retained by the police officer present with him or her at all hearings or proceedings regarding the written accusation; (iii) the right of the police officer or his or her attorney or representative retained by the police officer to be heard and present evidence; and (iv) the right of the police officer as well as the individual imposing the action or their respective attorneys or representatives to record all hearings or proceedings regarding the written accusation. The ordinance shall also include a procedure for making application for an appeal, specifications on the period of time within which such application shall be made, and provisions on the manner in which the appeals hearing shall be conducted. Both the police officer and the individual imposing the action or their respective attorneys or representatives shall have the right at the hearing to be heard and to present evidence to the village board of trustees for its consideration. Not later than thirty days following the adjournment of the meeting at which the hearing was held, the village board of trustees shall vote to uphold, reverse, or modify the action. The failure of the village board of trustees to act within thirty days or the failure of a majority of the elected board members to vote to reverse or modify the action shall be construed as a vote to uphold the action. The decision of the village board of trustees shall be based upon its determination that, under the facts and evidence presented at the hearing, the action was necessary for the proper management and the effective

operation of the police department in the performance of its duties under the statutes of the State of Nebraska. Nothing in this section shall be construed to prevent the preemptory suspension or immediate removal from duty of an officer by the appropriate authority, pending the hearing authorized by this section, in cases of gross misconduct, neglect of duty, or disobedience of orders.

(c) This subsection does not apply to a police officer during his or her probationary period.

(3) The village board of trustees shall also appoint a board of health consisting of three members: The chairperson of the village board of trustees, who shall be chairperson, and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the medical advisor to the board of health. If the village board of trustees has appointed a chief of police, the chief of police may be appointed to the board of health and serve as secretary and quarantine officer. A majority of the board of health shall constitute a quorum and shall enact rules and regulations, which shall have the force and effect of law, to safeguard the health of the people of such village and prevent nuisances and unsanitary conditions. The board of health shall enforce such rules and regulations and provide fines and punishments for violations.

(4) The village clerk, treasurer, attorney, engineer, overseer of the streets, members of the board of health, and other appointed officers, except regular police officers, shall hold office for one year unless removed by the chairperson of the village board of trustees with the advice and consent of the village board of trustees.

Source: Laws 1879, § 47, p. 204; Laws 1885, c. 18, § 1, p. 158; Laws 1895, c. 15, § 1, p. 110; Laws 1911, c. 20, § 1, p. 137; R.S.1913, § 5058; Laws 1919, c. 165, § 1, p. 369; C.S.1922, § 4230; C.S. 1929, § 17-208; R.S.1943, § 17-208; Laws 1995, LB 346, § 2; Laws 1996, LB 1162, § 2; Laws 2009, LB158, § 2; Laws 2011, LB308, § 2; Laws 2017, LB133, § 70.

Village marshal is appointive officer, and is not an employee within the meaning of the Workmen's Compensation Act. Suverkrubbe v. Village of Fort Calhoun, 127 Neb. 472, 256 N.W. 47 (1934).

17-209 Appointed officers and employees; compensation; fixed by ordinance.

The appointive officials and other employees of the village shall receive such compensation as the chairperson and village board of trustees shall designate by ordinance; and the annual salary of the chairperson and other members of the village board of trustees shall be fixed by ordinance.

Source: Laws 1879, § 48, p. 204; Laws 1885, c. 18, § 1, p. 159; R.S.1913, § 5059; C.S.1922, § 4231; C.S.1929, § 17-209; Laws 1935, c. 36, § 4, p. 149; Laws 1937, c. 32, § 1, p. 157; C.S.Supp.,1941, § 17-209; Laws 1943, c. 30, § 3, p. 140; R.S.1943, § 17-209; Laws 1945, c. 26, § 1, p. 137; Laws 1947, c. 31, § 2(1), p. 141; Laws 1949, c. 21, § 2, p. 92; Laws 1961, c. 49, § 1, p. 190; Laws 1969, c. 89, § 2, p. 452; Laws 2017, LB133, § 71.

17-209.01 Repealed. Laws 1949, c. 21, § 4.

17-209.02 Officers and employees; combine or merge office, employment, or duties.

(1)(a) The village board of trustees may, by ordinance, combine or merge any elective or appointive village office or village employment or any combination of duties of any such offices or employments, except that the office of village trustee shall not be combined or merged with any other village office or village employment except as provided in subsection (2) of this section.

(b) The village offices or village employments combined or merged shall always be construed to be separate and the effect of the combination or merger shall be limited to a consolidation of official duties only.

(2)(a) The office of village trustee shall not be combined or merged with any other village office or village employment, except that a member of the village board of trustees may receive compensation to perform seasonal or emergency work upon approval by the village board of trustees.

(b) No member of the village board of trustees shall receive compensation from the village in excess of the maximum amount provided by law.

(3) For purposes of this section, volunteer firefighters and volunteer rescue squad personnel shall not be considered village officers.

Source: Laws 1945, c. 25, § 2, p. 135; R.S.Supp.,1945, § 17-209.01; Laws 1972, LB 1032, § 106; Laws 1984, LB 368, § 3; Laws 1984, LB 682, § 8; Laws 1986, LB 548, § 9; Laws 1990, LB 756, § 3; Laws 2017, LB133, § 72; Laws 2021, LB405, § 1.

17-210 Board of trustees; ordinances; publication; chairperson pro tempore.

The chairperson of the village board of trustees shall cause the ordinances of the village to be printed and published for the information of the inhabitants and cause such ordinances to be carried into effect. In the absence of the chairperson from any meeting of the village board of trustees, the village board of trustees shall have power to appoint a chairperson pro tempore, who shall exercise and have the powers and perform the same duties as the regular chairperson.

Source: Laws 1879, § 49, p. 204; R.S.1913, § 5060; C.S.1922, § 4232; C.S.1929, § 17-210; R.S.1943, § 17-210; Laws 2017, LB133, § 73.

17-211 Elections; notice.

The village clerk shall give public notice of the time and place of holding each village election, the notice to be given not less than ten nor more than twenty days previous to the election in a legal newspaper in or of general circulation in the village.

Source: Laws 1879, § 50, p. 205; R.S.1913, § 5061; C.S.1922, § 4233; C.S.1929, § 17-211; R.S.1943, § 17-211; Laws 1959, c. 60, § 54, p. 272; Laws 2017, LB133, § 74.

17-212 Elections; officers of election; vacancies; how filled.

If, on any day appointed for holding any village election, any of the judges or clerks of election shall fail to attend, the electors present may fill such vacancies from among the qualified electors present.

Source: Laws 1879, § 51, p. 205; R.S.1913, § 5062; C.S.1922, § 4234; C.S.1929, § 17-212; R.S.1943, § 17-212; Laws 2017, LB133, § 75.

17-213 Village chief of police; powers and duties.

The village chief of police shall have power to make or order an arrest with proper process for any offense against the laws of the state or ordinances of the village and bring the offender to trial before the proper officer and to arrest without process in all cases where any such offense shall be committed or attempted to be committed in his or her presence.

Source: Laws 1885, c. 18, § 1, p. 160; R.S.1913, § 5063; C.S.1922, § 4235; C.S.1929, § 17-213; R.S.1943, § 17-213; Laws 1972, LB 1032, § 106; Laws 2017, LB133, § 76.

Cross References

Ticket quota requirements, prohibited, see section 48-235.

Village marshal is not an employee within the meaning of workmen's compensation law. Suverkrubbe v. Village of Fort Calhoun, 127 Neb. 472, 256 N.W. 47 (1934).

17-213.01 Village engineer; powers and duties.

(1) The village engineer, when ordered to do so by the village board of trustees, shall make surveys, estimates, and calculations necessary to be made for the establishment and maintenance of public works by the village.

(2) The village board of trustees may, in lieu of appointing a village engineer, employ a special engineer to perform the duties that would otherwise be performed by the village engineer. Any work executed by such special engineer shall have the same validity and serve in all respects as though executed by the village engineer.

Source: Laws 2017, LB133, § 77.

17-214 Village overseer of streets; power and duties.

The village overseer of streets shall, subject to the order of the village board of trustees, have general charge, direction, and control of all works on streets, sidewalks, culverts, and bridges of the village and shall perform such other duties as the village board of trustees may direct.

Source: Laws 1885, c. 18, § 1, p. 160; R.S.1913, § 5064; C.S.1922, § 4236; C.S.1929, § 17-214; R.S.1943, § 17-214; Laws 2017, LB133, § 78.

17-215 Village; dissolution; how effected.

Any village incorporated under the laws of this state shall abolish its incorporation whenever a majority of the registered voters of the village, voting on the question of such abolishment, shall so decide in the manner provided in sections 17-215 to 17-219.03.

Source: Laws 1885, c. 17, § 1, p. 156; R.S.1913, § 5065; C.S.1922, § 4237; C.S.1929, § 17-215; R.S.1943, § 17-215; Laws 1998, LB 1346, § 2; Laws 2017, LB133, § 79.

The power to terminate the corporate existence of a village was granted by ballot to the electors and, when exercised by a majority vote, the existence ceases. State ex rel. Banta v. Greer, 86 Neb. 88, 124 N.W. 905 (1910).

17-215.01 Village; dissolution; county, defined.

For purposes of sections 17-215 to 17-219.03, when reference is made to the county within which the village is located and the village is located in more

than one county, county means the county within which the greater portion of the area of the village is located.

Source: Laws 1998, LB 1346, § 1.

17-216 Village; dissolution; petition or resolution; election.

(1) Whenever a petition for submission of the question of the abolishment of incorporation to the registered voters of any village, signed by not less than one-third of the registered voters of the village, is filed in the office of the county clerk or election commissioner of the county in which such village is situated, the county clerk or election commissioner shall cause such question to be submitted to the registered voters of the village as provided in this section and give notice thereof in the general notice of the election at which the question will be submitted.

(2) Whenever two-thirds of the members of the village board of trustees, by resolution following a public hearing, vote to submit the question of the abolishment of the incorporation of the village, the resolution shall be filed in the office of the county clerk or election commissioner of the county in which such village is situated and the county clerk or election commissioner shall cause such question to be submitted to the registered voters of the village as provided in this section and give notice thereof in the general notice of the election at which the question will be submitted.

(3) If a petition or resolution is filed with the county clerk or election commissioner, the county clerk or election commissioner shall cause such question to be submitted to the registered voters of the village at the next primary or general election which is scheduled to be held more than seventy days after the date upon which the petition or resolution is filed. If the petition or resolution calls for a vote on the question at a special election to be called for that purpose, the county clerk or election commissioner shall cause a special election to be called for the purpose of placing the question before the registered voters and the election shall be called not sooner than sixty days nor later than seventy days after the date of the filing of the petition or resolution. If a petition is filed at any time other than within one hundred eighty days prior to a primary or general election and the petition does not call for the question to be considered at a special election, the village board of trustees may, by majority vote, call for the county clerk or election commissioner to cause the matter to be placed upon the ballot at a special election on a date certain specified by the board, except that such date shall not be sooner than sixty days after the date upon which the petition was filed.

(4) If the question of abolishment of incorporation is submitted to the voters and such question receives a favorable vote by a majority of those voting on the issue, the village board of trustees shall file with the Secretary of State a certified statement showing the total votes for and against such measure.

Source: Laws 1885, c. 17, § 2, p. 157; R.S.1913, § 5066; C.S.1922, § 4238; C.S.1929, § 17-216; R.S.1943, § 17-216; Laws 1973, LB 559, § 5; Laws 1998, LB 1346, § 3; Laws 2017, LB133, § 80.

17-217 Village; dissolution; election; form of ballot.

The form of the ballot for the question of the abolishment of incorporation of a village shall be, respectively, For abolishment of incorporation, and Against abolishment of incorporation, and the same shall be printed upon a separate

ballot and shall be counted and canvassed in the same manner as other ballots voted at the election.

Source: Laws 1885, c. 17, § 3, p. 157; R.S.1913, § 5067; C.S.1922, § 4239; C.S.1929, § 17-217; R.S.1943, § 17-217; Laws 1973, LB 559, § 6; Laws 2017, LB133, § 81.

17-218 Village; dissolution; when effective.

(1) If a majority of the registered voters of a village voting on the question vote in favor of the abolishment of the incorporation of a village, then, from and after the effective date of the abolishment of the incorporation as determined by the county board as provided in subsection (2) of this section, the incorporation of the village shall cease and be abolished, and the area formerly encompassed within the boundaries of the village shall thereafter be governed by county commissioners as provided by law for unincorporated areas within the county. Upon such date, the terms of office of all elected and appointed officers and employees of the village shall end.

(2) Within fifty days after the date of the election at which the registered voters of the village approve the abolishment of the village's incorporation, the county board of the county within which the village is located shall, by resolution, specify the month, day, and year upon which the abolishment of the incorporation becomes effective. The effective date shall not be later than (a) six calendar months following the date of the election or (b) if there are liabilities of the village which cannot be retired except by means of a continuing property tax levy by the village, the date such liabilities can be paid, whichever is later. The county clerk shall transmit a copy of the resolution to the Secretary of State.

Source: Laws 1885, c. 17, § 4, p. 157; R.S.1913, § 5068; C.S.1922, § 4240; C.S.1929, § 17-218; R.S.1943, § 17-218; Laws 1998, LB 1346, § 4; Laws 2017, LB133, § 82.

17-219 Village; dissolution; village property, records, and funds; disposition.

Upon the effective date of the abolishment of incorporation of a village, all property and records belonging to the village shall be transferred to the county board of the county in which the village is located. All funds of the village not otherwise disposed of shall be transferred to the county treasurer to be paid out by order of the county board as it sees fit.

Source: Laws 1885, c. 17, § 5, p. 157; R.S.1913, § 5069; C.S.1922, § 4241; C.S.1929, § 17-219; R.S.1943, § 17-219; Laws 1998, LB 1346, § 5; Laws 2017, LB133, § 83.

17-219.01 Village; dissolution; property; sale by county board; when authorized.

Notwithstanding any more general law respecting revenue, the county board in any county in this state in which the incorporation of any village has been abolished according to law shall advertise and sell all corporate property of the village for which the county itself has no use or which remains unsold or undisposed of after the expiration of six months from the effective date of the abolishment of the incorporation of such village as provided by the county board for liquidation of any liabilities of the village. After the effective date of the abolishment of the incorporation of the village, the county board shall treat

all real estate listed and described in the original plat of such village upon which the owner of such real estate has failed and neglected to pay the taxes on such real estate as if such taxes were originally levied by the county and, notwithstanding any other provision of law, the taxes shall be deemed to have been levied by the county as of the date of the original levy by the village and due and owing as provided by law to the county.

Source: Laws 1935, c. 158, § 1, p. 581; C.S.Supp.,1941, § 17-227; R.S. 1943, § 17-219.01; R.S.1943, (1987), § 17-226; Laws 1998, LB 1346, § 6; Laws 2017, LB133, § 84.

17-219.02 Village; dissolution; property; sale; notice.

The county treasurer shall, before selling any property under section 17-219.01, give notice of the sale of such property in the same manner as notice is given when lands are sold under execution by the county sheriff, and the sale shall likewise be conducted in the same manner as execution sales.

Source: Laws 1935, c. 158, § 2, p. 581; C.S.Supp.,1941, § 17-228; R.S. 1943, § 17-219.02; R.S.1943, (1987), § 17-227; Laws 1998, LB 1346, § 7; Laws 2017, LB133, § 85.

17-219.03 Village; dissolution; board of trustees; county board; duties.

(1) On and after the date of a vote by a majority of the registered voters of a village voting on the question in favor of the abolishment of the incorporation of a village, the village board of trustees shall not expend any funds of the village, liquidate any village assets, whether such assets are real or personal property, or otherwise encumber or exercise any authority over the property or funds of the village without the prior approval of the county board of the county within which the village is located.

(2) Within ten days after a vote by a majority of the registered voters of a village voting on the question in favor of the abolishment of the incorporation of a village, the village board of trustees shall meet and approve a resolution setting out with particularity all of the assets and liabilities of the village, including a full and complete inventory of all property, real and personal, owned by the village. The resolution shall be transmitted to the county clerk of the county within which the village is located, and the county clerk shall provide copies to the members of the county board.

(3) If the liabilities of the village exceed the value of all the assets of the village, the county board shall, within twenty days after the receipt of the resolution by the county clerk, schedule a joint meeting between the village board of trustees and the county board to review the resolution and discuss how to liquidate the liabilities with the village board of trustees.

(4) Within thirty days after the date upon which the joint meeting is held pursuant to subsection (3) of this section, the county board shall adopt a plan for the liquidation of village assets to retire the liabilities of the village.

Source: Laws 1935, c. 158, § 3, p. 581; C.S.Supp.,1941, § 17-229; R.S. 1943, § 17-219.03; R.S.1943, (1987), § 17-228; Laws 1998, LB 1346, § 8; Laws 2017, LB133, § 86.

17-220 Village situated in more than one county; how organized.

A majority of the inhabitants of any village situated in two or more counties may present a petition to the county board of any county in which any part of such village is situated, requesting that they may be incorporated as a village; and such county board shall act upon the petition the same as if the village were situated wholly within the county where the petition was presented. If the county board shall declare such village incorporated, the village shall thereafter be governed by the provisions of the statutes of this state applicable to the government of villages. The county clerk of such county shall immediately certify the proceedings relating to the incorporation of such village to the county board of each other county in which any part of such village is situated, and each county board to which such proceedings shall be certified shall enter such proceedings upon its records.

Source: Laws 1893, c. 9, § 1, p. 138; R.S.1913, § 5069; C.S.1922, § 4242; C.S.1929, § 17-220; R.S.1943, § 17-220; Laws 2017, LB133, § 87.

A village situated in one county may annex territory in another county. Barton v. City of Omaha, 180 Neb. 752, 145 N.W.2d 444 (1966).

This section is broad enough to permit a village located upon the border of one county to annex contiguous territory situated in adjacent county, but such village has the burden of proving that the territory annexed will be benefited or that justice and equity require the territory be annexed. Village of Wakefield v. Utecht, 90 Neb. 252, 133 N.W. 240 (1911).

17-221 Repealed. Laws 1994, LB 76, § 615.

17-222 Village situated in more than one county; jails.

Any village situated in two or more counties may use the jails of any and all counties in which any part of such village is situated.

Source: Laws 1893, c. 9, § 4, p. 139; R.S.1913, § 5072; C.S.1922, § 4244; C.S.1929, § 17-222; R.S.1943, § 17-222; Laws 2017, LB133, § 88.

17-223 Village situated in more than one county; tax; how certified.

Taxes levied for village purposes, in villages situated in two or more counties, shall be certified to the county clerk of each county in which any part of such village is situated, and such county clerks shall place such certifications on the proper tax list.

Source: Laws 1893, c. 9, § 5, p. 139; R.S.1913, § 5073; C.S.1922, § 4245; C.S.1929, § 17-223; R.S.1943, § 17-223; Laws 2017, LB133, § 89.

A tax levy in a village situated in two or more counties shall be certified to the county clerks. Village of Wakefield v. Utecht, 90 Neb. 252, 133 N.W. 240 (1911).

17-224 Village situated in more than one county; legal notices; publication.

All notices and other publications, required by law to be published in any county in which any part of a village is situated, may be published in any legal newspaper in or of general circulation in such village, and such publication shall have the same force and effect as it would have if published in every county in which any part of such village is situated.

Source: Laws 1893, c. 9, § 7, p. 140; R.S.1913, § 5074; C.S.1922, § 4246; C.S.1929, § 17-224; R.S.1943, § 17-224; Laws 2017, LB133, § 90.

17-225 Railroads; blocking crossings; penalty.

It shall be unlawful for any railroad company or for any of its officers, agents, or employees to obstruct with car or cars, with engine or engines, or with any

other rolling stock, for more than ten minutes at a time, any public highway, street, or alley in any unincorporated village in the State of Nebraska. Any corporation, person, firm, or individual violating any provision of this section shall, upon conviction thereof, be fined in any sum not less than ten dollars nor more than one hundred dollars.

Source: Laws 1907, c. 109, § 1, p. 384; Laws 1907, c. 109, § 2, p. 384; R.S.1913, § 5075; C.S.1922, § 4247; C.S.1929, § 17-225; R.S. 1943, § 17-225; Laws 2017, LB133, § 91.

17-226 Transferred to section 17-219.01.

17-227 Transferred to section 17-219.02.

17-228 Transferred to section 17-219.03.

17-229 Street improvement program; authorization; tax levy.

If the village board of trustees determines by a three-fourths vote the necessity of initiating a street improvement program within the village, which improvements are in the nature of a general benefit to the whole community and not of special benefit to adjoining or to abutting property and which consists of graveling, base stabilization, oiling, or other improvements to the streets, but which improvements do not consist of curb and gutter or asphalt or concrete pavings, the village board of trustees may, by ordinance, provide for the levy and collection of a special tax not exceeding seventeen and five-tenths cents on each one hundred dollars on the taxable value of all the taxable property in the village for a period not to exceed five years to create a fund for the payment of such improvements.

Source: Laws 1963, c. 85, § 1, p. 293; Laws 1979, LB 187, § 46; Laws 1992, LB 719A, § 49; Laws 2017, LB133, § 92.

17-230 Street improvement program; tax levy limitation.

Any levy pursuant to section 17-229 shall not be considered within the limitation on the village for the levy of taxes as contained in section 17-702.

Source: Laws 1963, c. 85, § 2, p. 293; Laws 1965, c. 69, § 2, p. 290; Laws 1979, LB 187, § 47; Laws 2017, LB133, § 93.

17-231 Street improvement program; construction of improvements; issuance of warrants; interest; unused funds transferred to general fund.

In order to construct the improvements as outlined in section 17-229, the village board of trustees may proceed from time to time to make such improvements costing not exceeding eighty-five percent of the amount of taxes to be collected under the special tax levy. In order to allow the construction of the contemplated improvements immediately, the village board of trustees may issue warrants from time to time in the aggregate amount of eighty-five percent of the estimated taxes to be collected over the period of years provided for the levy, the amount of such warrants authorized to be issued to be based upon the amount of revenue to be raised by the tax to be levied and the taxable valuation of the taxable property in the village at the time the determination of necessity is made by ordinance multiplied by the number of years the tax has to run. Such warrants shall not bear interest in excess of six percent per annum, may be issued in such denominations as the village board of trustees may determine,

and shall be paid from the collection of the special tax levy. Any unpaid amount of the levy after the payment of any such warrants in full, including both principal and interest, shall be transferred to the general fund.

Source: Laws 1963, c. 85, § 3, p. 293; Laws 1979, LB 187, § 48; Laws 1992, LB 719A, § 50; Laws 2017, LB133, § 94.

ARTICLE 3

CHANGES IN POPULATION OR CLASS

(a) CITIES OF THE FIRST CLASS

Section
17-301. City of the first class; reorganization as city of the second class; procedure; mayor, city council, and Secretary of State; duties.
17-302. Government pending reorganization.
17-303. Wards; establish.
17-304. Reorganization; council; members; qualifications.
17-305. Reorganization; existing ordinances; effect; modification.
17-305.01. Repealed. Laws 2010, LB 919, § 3.

(b) CITIES OF THE SECOND CLASS

17-306. City of the second class; reorganization as village; petition; election.
17-306.01. Village reorganized from city of second class; discontinuation; reorganize as city of the second class; petition; election.
17-307. Transferred to section 17-312.
17-308. Reorganization; transfer of property; how effected.
17-309. Reorganization; existing ordinances; effect; debts; taxes.
17-310. Decrease in population; remain city of the second class.

(c) VILLAGES

17-311. Village; increase in population; reorganization as city of the second class.
17-312. Village; retention of village government; petition; election.
17-313. Village; organize as city of second class; petition; election.

(a) CITIES OF THE FIRST CLASS

17-301 City of the first class; reorganization as city of the second class; procedure; mayor, city council, and Secretary of State; duties.

(1) This section applies to cities of the first class whose population is less than five thousand inhabitants but more than eight hundred inhabitants as determined by the federal decennial census conducted in the year 2010 or any subsequent federal decennial census or the most recent revised certified count by the United States Bureau of the Census.

(2)(a) If a city of the first class has a population of less than five thousand inhabitants but not less than four thousand inhabitants, as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, the mayor of the city shall certify such fact to the Secretary of State. If the mayor and city council determine that it is in the best interests of such city to become a city of the second class, the mayor and city council shall adopt an ordinance to that effect and shall notify the Secretary of State and notice and a copy of such ordinance shall accompany the certification. If the Secretary of State receives such notification, he or she shall declare such city to be a city of the second class. If the mayor and city council determine that it is in the best interests of such city to remain a city of the first class, they shall submit to the Secretary of State, within nine years

after the certification is required to be submitted pursuant to this subdivision, an explanation of the city's plan to increase the city's population.

(b) If a city of the first class has a population of less than five thousand inhabitants but not less than four thousand inhabitants, as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census immediately following the census or revised certified count referred to in subdivision (a) of this subsection, the mayor of the city shall certify such fact to the Secretary of State. If the mayor and city council determine that it is in the best interests of such city to become a city of the second class, the mayor and city council shall adopt an ordinance to that effect and shall notify the Secretary of State and notice and a copy of such ordinance shall accompany the certification. If the Secretary of State receives such notification, he or she shall declare such city to be a city of the second class.

(c) If a city of the first class has a population of less than five thousand inhabitants but not less than four thousand inhabitants, as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census immediately following the census or revised certified count referred to in subdivision (b) of this subsection, the mayor of the city shall certify such fact to the Secretary of State. After receipt of such certification, the Secretary of State shall declare such city to be a city of the second class.

(3) If a city of the first class has a population of less than four thousand inhabitants but more than eight hundred inhabitants, as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, the mayor of the city shall certify such fact to the Secretary of State. After receipt of such certification, the Secretary of State shall declare such city to be a city of the second class.

(4) Beginning on the date upon which a city becomes a city of the second class pursuant to section 17-305, such city shall be governed by the laws of this state applicable to cities of the second class.

Source: Laws 1933, c. 112, § 1, p. 452; C.S.Supp.,1941, § 17-162; R.S. 1943, § 17-301; Laws 1984, LB 1119, § 3; Laws 2002, LB 729, § 5; Laws 2010, LB919, § 1; Laws 2017, LB113, § 14; Laws 2017, LB133, § 95.

When it is definitely shown that a first-class city has decreased in population to less than five thousand inhabitants, the mayor of the city has a mandatory duty to certify such fact to the Governor. State ex rel. Cashman v. Carmean, 138 Neb. 819, 295 N.W. 801 (1941).

17-302 Government pending reorganization.

The government of a city shall continue, as organized at the date of the declaration of the Secretary of State under section 17-301, until the reorganization of such city under section 17-305.

Source: Laws 1933, c. 112, § 2, p. 453; C.S.Supp.,1941, § 17-163; R.S. 1943, § 17-302; Laws 2002, LB 729, § 6; Laws 2017, LB133, § 96.

Upon decrease in population of a first-class city below five thousand inhabitants, the form of government continues until reorganization as second-class city. State ex rel. Cashman v. Carmean, 138 Neb. 819, 295 N.W. 801 (1941).

17-303 Wards; establish.

The mayor and city council shall, within ninety days after the declaration of the Secretary of State under section 17-301, divide the city into not less than two nor more than six wards as may be provided by ordinance. Such wards shall contain, as nearly as practicable, an equal area and an equal number of legal voters. The division and boundaries of such wards, as defined by ordinance, shall take effect on the first day of the first succeeding municipal year following the next general city election after such reorganization. Any city council member whose term continues, by reason of his or her prior election under the statutes governing cities of the first class, through another year or years beyond the date of the reorganization as a city of the second class shall continue to hold his or her office as city council member from the ward in which he or she is a resident as if elected for the same term under the statutes governing cities of the second class.

Source: Laws 1933, c. 112, § 3, p. 453; C.S.Supp.,1941, § 17-164; R.S. 1943, § 17-303; Laws 2002, LB 729, § 7; Laws 2017, LB133, § 97.

This section provides how the number of wards shall be determined after proclamation of change from first-class city to second-class city. State ex rel. Cashman v. Carmean, 138 Neb. 819, 295 N.W. 801 (1941).

17-304 Reorganization; council; members; qualifications.

After the terms of members of the city council in office at the time of reorganization as a city of the second class shall have expired, the city council shall consist of not less than four nor more than twelve citizens of such city, who shall be qualified electors under the Constitution and laws of the State of Nebraska.

Source: Laws 1933, c. 112, § 4, p. 454; C.S.Supp.,1941, § 17-165; R.S. 1943, § 17-304; Laws 1973, LB 559, § 7; Laws 2017, LB133, § 98.

This section provides the number and qualification of members of city council after expiration of terms of incumbents, where first-class city becomes second-class city through decrease in population. State ex rel. Cashman v. Carmean, 138 Neb. 819, 295 N.W. 801 (1941).

17-305 Reorganization; existing ordinances; effect; modification.

(1) Upon the expiration of one year after the date of the declaration of the Secretary of State under section 17-301, the city shall be, as of that date, incorporated as a city of the second class. All ordinances, bylaws, acts, regulations, obligations, rules, and proclamations existing and in force in or with respect to any such city at the time of the declaration of the Secretary of State under section 17-301 shall be and remain in full force and effect for a period of one year and may be enacted, altered, or amended during such period in a manner consistent with the statutes governing cities of the first class, except that any such acts, alterations, or amendments shall not be effective beyond the date upon which the city is incorporated as a city of the second class.

(2) Notwithstanding the provisions of subsection (1) of this section, a city shall amend, repeal, or modify all ordinances, bylaws, acts, regulations, obligations, rules, and proclamations which are existing and in force in or with respect to such city at the time of the declaration of the Secretary of State under section 17-301 and which are inconsistent with the statutes governing cities of the second class in a manner which is in conformance and consistent

with the statutes governing cities of the second class to take effect upon the effective date of the city's incorporation as a city of the second class.

Source: Laws 1933, c. 112, § 5, p. 454; C.S.Supp.,1941, § 17-166; R.S. 1943, § 17-305; Laws 1984, LB 1119, § 4; Laws 2002, LB 729, § 8.

Upon decrease in population of first-class city below five thousand inhabitants, the ordinances, rules, and regulations remain in effect. State ex rel. Cashman v. Carmean, 138 Neb. 819, 295 N.W. 801 (1941).

17-305.01 Repealed. Laws 2010, LB 919, § 3.

(b) CITIES OF THE SECOND CLASS

17-306 City of the second class; reorganization as village; petition; election.

(1) The registered voters of a city of the second class may vote to discontinue organization as a city of the second class and organize as a village. The issue may be placed before the voters by a resolution adopted by the city council or by petition signed by one-fourth of the registered voters of such city.

(2) The petitions shall conform to section 32-628. The Secretary of State shall design the form to be used for the petitions. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. The city council shall submit the petitions to the election commissioner or county clerk for signature verification pursuant to section 32-631. The required number of signatures shall be one-fourth of the number of voters registered in the city at the last statewide general election. The election commissioner or county clerk shall notify the city council within thirty days after receiving the petitions from the city council whether the required number of signatures has been gathered. The city shall reimburse the county for any costs incurred by the election commissioner or county clerk.

(3) If the city council determines that the petitions are in proper form and signed by the necessary number of registered voters or after adoption of the resolution by the city council, the city council shall submit the question to the voters of whether to discontinue organization as a city of the second class and organize as a village at a special election pursuant to section 32-559 or at the same time as a local or statewide primary or general election held in the city of the second class. The form of ballot shall be For organization as a village, and Against organization as a village, and at the same election the voters shall vote for five trustees for the village. If a majority of the votes cast are For organization as a village, then such city shall within sixty days after such election become a village and be governed under the laws of this state applicable to a village unless at some future election such village votes to reorganize as a city of the second class in the manner provided in section 17-306.01.

Source: Laws 1879, § 53, p. 205; Laws 1909, c. 21, § 1, p. 189; R.S.1913, § 5077; C.S.1922, § 4249; C.S.1929, § 17-301; R.S.1943, § 17-306; Laws 1972, LB 661, § 3; Laws 2014, LB702, § 3.

Whenever a city of second class desires to discontinue its organization and return to a village organization, it may do so. State ex rel. Hostetter v. Holden, 19 Neb. 249, 27 N.W. 120 (1886).

17-306.01 Village reorganized from city of second class; discontinuation; reorganize as city of the second class; petition; election.

(1) The registered voters of a village which was reorganized under section 17-306 from a city of the second class to a village may vote to discontinue

organization as a village and reorganize as a city of the second class under this section if the population exceeds eight hundred inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census. The issue may be placed before the voters by a resolution adopted by the village board of trustees or by petition signed by one-fourth of the registered voters of the village.

(2) The petitions under subsection (1) of this section shall conform to section 32-628. The Secretary of State shall design the form to be used for the petitions. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. The village board of trustees shall submit the petitions to the election commissioner or county clerk for signature verification pursuant to section 32-631. The required number of signatures shall be one-fourth of the number of voters registered in the village at the last statewide general election. The election commissioner or county clerk shall notify the village board of trustees within thirty days after receiving the petitions from the village board of trustees whether the required number of signatures has been gathered. The village shall reimburse the county for any costs incurred by the election commissioner or county clerk.

(3) If the village board of trustees determines that the petitions are in proper form and signed by the necessary number of registered voters or after adoption of the resolution by the village board of trustees, the village board of trustees shall submit the question to the voters of whether to organize as a city of the second class at a special election pursuant to section 32-559 or at the same time as a local or statewide primary or general election held in the village. The form of the ballot at such election shall be For reorganization of the Village of . . . . . as a city of the second class and Against reorganization of the Village of . . . . . as a city of the second class.

(4) If the majority of the votes cast are for reorganization as a city of the second class, the village board of trustees shall certify such fact to the Secretary of State who, upon the filing of such a certificate, shall by proclamation declare such village to have become a city of the second class. After such proclamation, such village shall become a city of the second class and such city shall be governed under the laws of this state applicable to cities of the second class. The government of such city shall continue as organized at the date of such proclamation until the reorganization as a city of the second class.

(5) Upon such proclamation, the village board of trustees shall call a special election for the purpose of electing new members of the city council to be held not more than eight months after the proclamation is issued. At the initial election of the mayor and city council members, the names of the candidates receiving the greatest number of votes at the primary election if one is held shall be placed on the general election ballot. One-half or the bare majority of the candidates for city council in each precinct or ward or at-large candidates, as the case may be, receiving the greatest number of votes at the general election, shall be elected to terms of the longest duration, and those receiving the next greatest number of votes shall be elected to the remaining term or terms. Thereafter all members of the city council shall be nominated at the statewide primary election and elected at the statewide general election for four-year terms as provided in section 32-533. The members of the village board of trustees shall hold office only until the newly elected mayor and city council members assume office.

(6) All ordinances, bylaws, acts, rules, regulations, obligations, and proclamations existing and in force in or with respect to any village at the time of its incorporation as a city of the second class shall remain in full force and effect after such incorporation as a city of the second class until repealed or modified by such city within one year after the date of the filing of the certificate pursuant to subsection (4) of this section.

Source: Laws 2014, LB702, § 4; Laws 2017, LB113, § 15; Laws 2017, LB133, § 99.

17-307 Transferred to section 17-312.

17-308 Reorganization; transfer of property; how effected.

If a city of the second class reorganizes as a village pursuant to section 17-306, the village board of trustees shall, at the expiration of sixty days from such election, enter upon the duties of their offices; and all books, papers, records, money, and property of such city shall be delivered over to the village board of trustees; and the authority of the city council and all city officers shall cease from and after the taking effect of village government in such city.

Source: Laws 1879, § 54, p. 206; R.S.1913, § 5078; C.S.1922, § 4250; C.S.1929, § 17-302; R.S.1943, § 17-308; Laws 2017, LB133, § 100.

17-309 Reorganization; existing ordinances; effect; debts; taxes.

Upon reorganization of a city of the second class as a village pursuant to section 17-306, all ordinances of the city shall remain and be in full force in the village until amended or repealed by the village board of trustees, and the village board of trustees shall provide for the payment of indebtedness of the city and levy necessary taxes for such indebtedness as if the indebtedness had been incurred by the village.

Source: Laws 1879, § 55, p. 206; R.S.1913, § 5079; C.S.1922, § 4251; C.S.1929, § 17-303; R.S.1943, § 17-309; Laws 2017, LB133, § 101.

17-310 Decrease in population; remain city of the second class.

Whenever any city of the second class decreases in population until it has a population of less than eight hundred inhabitants and more than one hundred inhabitants, as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, the mayor and city council may decide by ordinance to remain a city of the second class. If the mayor and city council enact such an ordinance, the mayor shall certify such fact to the Secretary of State who, upon the filing of such a certificate, shall by proclamation declare such city to remain a city of the second class. Such city shall continue to be governed by laws of this state applicable to cities of the second class.

Source: Laws 1984, LB 1119, § 5; Laws 2017, LB113, § 16; Laws 2017, LB133, § 102.

(c) VILLAGES

17-311 Village; increase in population; reorganization as city of the second class.

(1) Except as provided in section 17-312, whenever any village increases in population until it has a population of more than eight hundred inhabitants but less than five thousand inhabitants, as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, the village board of trustees shall certify such fact to the Secretary of State who, upon the filing of such a certificate, shall by proclamation declare such village to have become a city of the second class. After such proclamation, such city shall be governed by the laws of this state applicable to cities of the second class. The government of such city shall continue as organized at the date of such proclamation until the reorganization as a city of the second class.

(2) If any village becomes a city of the second class, the village board of trustees shall call a special election for the purpose of electing the mayor and city council members to be held not more than eight months after the proclamation is issued. At the initial election of the mayor and city council members, the names of the candidates receiving the greatest number of votes at the primary election if one is held shall be placed on the general election ballot. One-half or the bare majority of the candidates for city council in each precinct or ward or at-large candidates, as the case may be, receiving the greatest number of votes at the general election, shall be elected to terms of the longest duration, and those receiving the next greatest number of votes shall be elected to the remaining term or terms. The members of the village board of trustees shall hold office only until the newly elected mayor and city council members assume office.

(3) All ordinances, bylaws, acts, rules, regulations, obligations, and proclamations existing and in force in or with respect to any village at the time of its incorporation as a city of the second class shall remain in full force and effect after such incorporation as a city of the second class until repealed or modified by such city within one year after the date of the filing of the certificate pursuant to subsection (1) of this section.

Source: Laws 1984, LB 1119, § 6; Laws 1988, LB 796, § 2; Laws 1994, LB 76, § 495; Laws 2017, LB113, § 17; Laws 2017, LB133, § 103.

17-312 Village; retention of village government; petition; election.

(1) Whenever any village attains a population exceeding eight hundred inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, the registered voters of the village may vote to retain a village form of government. The issue may be placed before the voters by a resolution adopted by the village board of trustees or by petition signed by one-fourth of the registered voters of the village.

(2) The petitions under subsection (1) of this section shall conform to section 32-628. The Secretary of State shall design the form to be used for the petitions. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. The village board of trustees shall submit the petitions to the election commissioner or county clerk for signature verification pursuant to section 32-631. The required number of signatures shall be one-fourth of the number of voters registered in the village at the last statewide general election. The election commissioner or county clerk shall notify the

village board of trustees within thirty days after receiving the petitions from the village board of trustees whether the required number of signatures has been gathered. The village shall reimburse the county for any costs incurred by the election commissioner or county clerk.

(3) If the village board of trustees determines that the petitions are in proper form and signed by the necessary number of registered voters or after adoption of the resolution by the village board of trustees, the village board of trustees shall submit the question to the voters of whether to retain the village form of government at a special election pursuant to section 32-559 or at the same time as a local or statewide primary or general election held in the village. The form of the ballot at such election shall be For retention of village government and Against retention of village government. If the majority of the votes cast are for retention of village government, then such village shall remain a village and be governed under the laws of this state applicable to villages unless at some future election such village votes to reorganize as a city of the second class in the manner provided in section 17-313.

(4) If the question to retain a village form of government is submitted at a special election, such election shall be held not later than October 15 of an odd-numbered year. If the question is rejected, city of the second class officials shall be elected at the next regularly scheduled election.

(5) If the question to retain a village form of government is submitted at a regularly scheduled election, no village trustees shall be elected at such election, but village trustees whose terms are to expire following such election shall hold office until either their successors or a mayor and city council members take office as follows:

(a) If the question is rejected, the village board of trustees shall call a special election, to be held not more than eight months after the election at which the question was rejected, for the purpose of electing a mayor and city council members under the provisions of law relating to cities of the second class. The terms of office for such officials shall be established pursuant to section 17-311. The members of the village board of trustees shall hold office only until the newly elected mayor and city council members assume office; and

(b) If the question is approved, the village board of trustees shall call a special election, to be held not more than eight months after the election at which the question was approved, for the purpose of electing successors to those members of the village board of trustees who held office beyond the normal expiration of their terms. Such special election shall be conducted under the provisions of law relating to villages. Persons so elected shall take office as soon after the completion of the canvass of the votes as is practicable, and their terms of office shall be as if the holdovers had not occurred.

Source: Laws 1909, c. 21, § 1, p. 190; R.S.1913, § 5007; C.S.1922, § 4249; C.S.1929, § 17-301; R.S.1943, § 17-307; Laws 1969, c. 91, § 2, p. 455; Laws 1971, LB 62, § 3; Laws 1972, LB 661, § 4; Laws 1988, LB 796, § 1; R.S.Supp.,1990, § 17-307; Laws 1994, LB 76, § 496; Laws 2014, LB702, § 5; Laws 2017, LB113, § 18; Laws 2017, LB133, § 104.

17-313 Village; organize as city of second class; petition; election.

(1) The registered voters of a village may vote to discontinue organization as a village and organize as a city of the second class under this section if the

population of the village exceeds eight hundred inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census and the prior vote pursuant to section 17-312 was in favor of retaining the village form of government. The issue may be placed before the voters by a resolution adopted by the village board of trustees or by petition signed by one-fourth of the registered voters of the village.

(2) The petitions under subsection (1) of this section shall conform to section 32-628. The Secretary of State shall design the form to be used for the petitions. Petition signers and petition circulators shall conform to the requirements of sections 32-629 and 32-630. The village board of trustees shall submit the petitions to the election commissioner or county clerk for signature verification pursuant to section 32-631. The required number of signatures shall be one-fourth of the number of voters registered in the village at the last statewide general election. The election commissioner or county clerk shall notify the village board of trustees within thirty days after receiving the petitions from the village board of trustees whether the required number of signatures has been gathered. The village shall reimburse the county for any costs incurred by the election commissioner or county clerk.

(3) If the village board of trustees determines that the petitions are in proper form and signed by the necessary number of registered voters or after adoption of the resolution by the village board of trustees, the village board of trustees shall submit the question to the voters of whether to organize as a city of the second class at a special election pursuant to section 32-559 or at the same time as a local or statewide primary or general election held in the village. The form of the ballot at such election shall be For reorganization of the Village of . . . . . as a city of the second class and Against reorganization of the Village of . . . . . as a city of the second class.

(4) If the majority of the votes cast are for reorganization as a city of the second class, the village board of trustees shall certify such fact to the Secretary of State who, upon the filing of such a certificate, shall by proclamation declare such village to have become a city of the second class. After such proclamation, such village is a city of the second class, and such city shall be governed under the laws of this state applicable to cities of the second class. The government of such city shall continue as organized at the date of such proclamation until the reorganization as a city of the second class.

(5) Upon such proclamation, the village board of trustees shall call a special election for the purpose of electing a mayor and city council members to be held not more than eight months after the proclamation is issued. At the initial election of the mayor and city council members, the names of the candidates receiving the greatest number of votes at the primary election if one is held shall be placed on the general election ballot. One-half or the bare majority of the candidates for city council in each precinct or ward or at-large candidates receiving the greatest number of votes at the general election shall be elected to terms of the longest duration, and those receiving the next greatest number of votes shall be elected to the remaining term or terms. Thereafter all members of the city council shall be nominated at the statewide primary election and elected at the statewide general election for four-year terms as provided in section 32-533. The members of the village board of trustees shall hold office only until the newly elected mayor and city council members assume office.

(6) All ordinances, bylaws, acts, rules, regulations, obligations, and proclamations existing and in force in or with respect to any village at the time of its incorporation as a city of the second class shall remain in full force and effect after such incorporation as a city of the second class until repealed or modified by such city within one year after the date of the filing of the certificate pursuant to subsection (4) of this section.

Source: Laws 2014, LB702, § 6; Laws 2017, LB113, § 19; Laws 2017, LB133, § 105.

ARTICLE 4

CHANGE OF BOUNDARY; ADDITIONS

(a) CONSOLIDATION

Section
17-401. Consolidation; authority.
17-402. Consolidation; procedure.
17-403. Consolidation; when effective; existing rights and liabilities preserved.
17-404. Consolidation; property.

(b) ANNEXATION OF TERRITORY

17-405. Transferred to section 18-3301.
17-405.01. Annexation; powers; restrictions.
17-405.02. Contiguous land, defined.
17-405.03. Laws, codes, rules, or regulations; effect of annexation.
17-405.04. Inhabitants of annexed land; benefits; ordinances.
17-405.05. City or village in two or more counties; annexation by city or village; procedure.
17-406. Transferred to section 18-3302.
17-407. Annexation by city or village within county between 100,000 and 250,000 inhabitants; mayor and city council or chairperson and village board of trustees; powers; notice; contents; liability; limitation on action.
17-408. Repealed. Laws 1967, c. 74, § 6.
17-409. Repealed. Laws 1967, c. 74, § 6.
17-410. Repealed. Laws 1967, c. 74, § 6.
17-411. Repealed. Laws 1967, c. 74, § 6.
17-412. Transferred to section 18-3303.
17-413. Transferred to section 17-405.05.

(c) DETACHMENT OF TERRITORY WITHIN CITY LIMITS

17-414. Repealed. Laws 2021, LB131, § 27.

(d) PLATTING

17-415. Transferred to section 18-3304.
17-416. Transferred to section 18-3305.
17-417. Transferred to section 18-3306.
17-418. Transferred to section 18-3307.
17-419. Transferred to section 18-3308.
17-420. Transferred to section 18-3309.
17-421. Transferred to section 18-3310.
17-422. Transferred to section 18-3311.
17-423. Transferred to section 18-3312.
17-424. Transferred to section 18-3313.
17-425. Transferred to section 18-3314.
17-426. Transferred to section 18-3315.

(a) CONSOLIDATION

17-401 Consolidation; authority.

Any two or more cities of the second class or villages, lying adjacent to each other, may consolidate and become one city or village, as the case may be, and

under the name and with all the powers, obligations, and duties of the city or village whose name shall be assumed and adopted in the proceedings provided in sections 17-402 and 17-403.

Source: Laws 1879, § 91, p. 228; R.S.1913, § 5082; C.S.1922, § 4254; C.S.1929, § 17-403; R.S.1943, § 17-401; Laws 2017, LB133, § 106.

17-402 Consolidation; procedure.

When any city or village shall desire to be annexed to another contiguous city or village, the city council or village board of trustees of each city or village shall appoint three commissioners to arrange and report to such city council or village board of trustees respectively the terms and conditions on which the proposed annexation can be made. If the city council or village board of trustees of each such city or village approves of the terms and conditions of such proposed annexation by ordinance, the city council or village board of trustees of each of such cities or villages shall submit the question of such annexation, upon the terms and conditions so proposed, to the electors of the respective cities or villages. If a majority of the electors of each such city or village vote in favor of such annexation, the city council or village board of trustees of each shall, by ordinance, declare such annexation. A certified copy of the whole proceedings of the city or village shall be filed with the city clerk or village clerk to which the annexation is made.

Source: Laws 1879, § 92, p. 228; R.S.1913, § 5083; C.S.1922, § 4255; C.S.1929, § 17-404; R.S.1943, § 17-402; Laws 2017, LB133, § 107.

17-403 Consolidation; when effective; existing rights and liabilities preserved.

When certified copies of the proceedings for annexation are filed, as contemplated in section 17-402, the annexation shall be deemed complete; and the city or village to which annexation is made shall have the power to pass such ordinances, not inconsistent with law, as will carry into effect the terms of such annexation. After such annexation, the annexed city or village shall be governed as part of the city or village to which annexation is made. Such annexation shall not affect or impair any rights or liabilities then existing for or against either of such cities or villages, but they may be enforced as if no such annexation had taken place.

Source: Laws 1879, § 93, p. 228; R.S.1913, § 5084; C.S.1922, § 4256; C.S.1929, § 17-405; R.S.1943, § 17-403; Laws 2017, LB133, § 108.

The vacation by the owner of plat of an addition of a municipality within corporate limits does not ipso facto disconnect said land from the corporation. Kershaw v. Jansen, 49 Neb. 467, 68 N.W. 616 (1896).

17-404 Consolidation; property.

When a city or village is annexed to another pursuant to section 17-402, the property, both real and personal, notes, bonds, obligations, accounts, demands, evidences of debt, rights, choses in action, franchises, books, records, maps, plats, and effects of every nature, of and belonging to the city or village so

annexed, shall be the property of and belong to the city or village to which it is annexed.

Source: Laws 1879, § 94, p. 229; R.S.1913, § 5085; C.S.1922, § 4257; C.S.1929, § 17-406; R.S.1943, § 17-404; Laws 2017, LB133, § 109.

(b) ANNEXATION OF TERRITORY

17-405 Transferred to section 18-3301.

17-405.01 Annexation; powers; restrictions.

(1) Except as provided in subsections (2) and (3) of this section and section 17-407, the mayor and city council of any city of the second class or the chairperson and members of the village board of trustees may by ordinance, except as provided in sections 13-1111 to 13-1118, at any time, include within the corporate limits of such city or village any contiguous or adjacent lands, lots, tracts, streets, or highways as are urban or suburban in character, and in such direction as may be deemed proper. Such grant of power shall not be construed as conferring power to extend the limits of any city of the second class or village over any agricultural lands which are rural in character.

(2) The mayor and city council of any city of the second class or the chairperson and members of the village board of trustees may, by ordinance, annex any lands, lots, tracts, streets, or highways which constitute a redevelopment project area so designated by the city or village or its community redevelopment authority in accordance with the provisions of the Community Development Law when such annexation is for the purpose of implementing a lawfully adopted redevelopment plan containing a provision dividing ad valorem taxes as provided in subsection (1) of section 18-2147 and which will involve the construction or development of an agricultural processing facility, notwithstanding that such lands, lots, tracts, streets, or highways are not contiguous or adjacent or are not urban or suburban in character. Such annexation shall comply with all other provisions of law relating to annexation generally for cities of the second class and villages. The city or village shall not, in consequence of the annexation under this subsection of any noncontiguous land, exercise the authority granted to it by law to extend its extraterritorial zoning jurisdiction beyond its corporate boundaries for purposes of planning, zoning, or subdivision development without the agreement of any other city, village, or county currently exercising zoning jurisdiction over the area surrounding the annexed redevelopment project area. The annexation of any noncontiguous land undertaken pursuant to this subsection shall not result in any change in the service area of any electric utility without the express agreement of the electric utility serving the annexed noncontiguous area at the time of annexation, except that at such time following the annexation of the noncontiguous area as the city or village lawfully annexes sufficient intervening territory so as to directly connect the noncontiguous area to the main body of the city or village, such noncontiguous area shall, solely for the purposes of section 70-1008, be treated as if it had been annexed by the city or village on the date upon which the connecting intervening territory had been formally annexed. For purposes of this subsection, agricultural processing facility means a plant or establishment where value is added to agricultural commodities through processing, fabrication, or other means and where eighty percent or

more of the direct sales from the facility are to other than the ultimate consumer of the processed commodities. A facility shall not qualify as an agricultural processing facility unless its construction or development involves the investment of more than one million dollars derived from nongovernmental sources.

(3) The mayor and two-thirds of the city council of any city of the second class or the chairperson and two-thirds of the members of the village board of trustees may, by ordinance, annex any lands, lots, tracts, streets, or highways when such annexation is for the purpose of relocating part or all of such city or village due to catastrophic flooding, notwithstanding that such lands, lots, tracts, streets, or highways are not contiguous or adjacent or are not urban or suburban in character. Such annexation shall comply with all other provisions of law relating to annexation generally for cities of the second class and villages. The city or village shall not, in consequence of the annexation under this subsection of any noncontiguous land, exercise the authority granted to it by law to extend its extraterritorial zoning jurisdiction beyond its corporate boundaries for purposes of planning, zoning, or subdivision development without the agreement of any other city, village, or county currently exercising zoning jurisdiction over the area surrounding the annexed area. The annexation of any noncontiguous land undertaken pursuant to this subsection shall not result in any change in the service area of any electric utility without the express agreement of the electric utility serving the annexed noncontiguous area at the time of annexation, except that at such time following the annexation of the noncontiguous area as the city or village lawfully annexes sufficient intervening territory so as to directly connect the noncontiguous area to the main body of the city or village, such noncontiguous area shall, solely for the purposes of section 70-1008, be treated as if it had been annexed by the city or village on the date upon which the connecting intervening territory had been formally annexed. If, within five years following an annexation undertaken pursuant to this subsection, part or all of the city or village has not been relocated to the annexed area, the city or village shall initiate detachment of such annexed area pursuant to subsection (2) of section 18-3316. For purposes of this subsection, catastrophic flooding means a flooding event that (a) results in total property damage within the city or village which exceeds forty-five percent of the total assessed value of the improvements within the city or village and (b) is declared to be a major disaster by the President of the United States or the Governor.

Source: Laws 1967, c. 74, § 1, p. 240; Laws 1997, LB 875, § 1; Laws 2009, LB495, § 6; Laws 2017, LB133, § 110; Laws 2018, LB874, § 3; Laws 2020, LB1003, § 171; Laws 2021, LB131, § 13.

Cross References

Community Development Law, see section 18-2101.

Contiguity or adjacency requires the connecting point between the land sought to be annexed and the corporate boundary to be substantially adjacent. County of Sarpy v. City of Gretna, 273 Neb. 92, 727 N.W.2d 690 (2007).

Neither the shape of the annexed tract nor the purpose for the annexation determines whether an annexation is lawful. County of Sarpy v. City of Gretna, 273 Neb. 92, 727 N.W.2d 690 (2007).

Agricultural lands which are urban or suburban in character are subject to annexation hereunder and there is no provision which prevents consideration thereof at a special meeting. Holden v. City of Tecumseh, 188 Neb. 117, 195 N.W.2d 225 (1972).

17-405.02 Contiguous land, defined.

For purposes of section 17-405.01, lands, lots, tracts, streets, or highways shall be deemed contiguous although a stream, roadway, embankment, strip, or

parcel of land not more than five hundred feet wide lies between such lands, lots, tracts, streets, or highways and the corporate limits of a city of the second class or village.

Source: Laws 1967, c. 74, § 2, p. 241; Laws 1971, LB 890, § 1; Laws 2017, LB133, § 111.

17-405.03 Laws, codes, rules, or regulations; effect of annexation.

Any extraterritorial zoning regulations, property use regulations, or other laws, codes, rules, or regulations imposed upon any annexed lands by the city of the second class or village before such annexation shall continue in full force and effect until otherwise changed.

Source: Laws 1967, c. 74, § 3, p. 241; Laws 2017, LB133, § 112.

17-405.04 Inhabitants of annexed land; benefits; ordinances.

The inhabitants of territories annexed under sections 17-405.01 to 17-405.05 shall receive substantially the benefits of other inhabitants of such city of the second class or village as soon as practicable, and adequate plans and necessary city council or village board of trustees action to furnish such benefits as police, fire, snow removal, and water service must be adopted not later than one year after the date of annexation, and such inhabitants shall be subject to the ordinances and regulations of such city or village, except that such one-year period shall be tolled pending final court decision in any court action to contest such annexation.

Source: Laws 1967, c. 74, § 4, p. 241; Laws 2017, LB133, § 113.

17-405.05 City or village in two or more counties; annexation by city or village; procedure.

When any city of the second class or village situated in two or more counties shall desire to annex to its corporate limits any contiguous territory, whether within the counties within which such city or village is situated or otherwise, such territory may be annexed in the manner provided by sections 17-405.01 to 17-405.04.

Source: Laws 1903, c. 23, § 2, p. 259; R.S.1913, § 5089; C.S.1922, § 4262; C.S.1929, § 17-411; R.S.1943, § 17-413; Laws 1967, c. 74, § 5, p. 241; R.S.1943, (1987), § 17-413; Laws 2017, LB133, § 114.

A village located upon the border of one county may annex contiguous territory situated in an adjacent county, though such village has the burden of proving that the territory annexed will be benefited or that justice and equity require that the territory be annexed. Village of Wakefield v. Utecht, 90 Neb. 252, 133 N.W. 240 (1911).

17-406 Transferred to section 18-3302.

17-407 Annexation by city or village within county between 100,000 and 250,000 inhabitants; mayor and city council or chairperson and village board of trustees; powers; notice; contents; liability; limitation on action.

(1) The provisions of this section shall govern annexation by a city of the second class or village located in whole or in part within the boundaries of a county having a population in excess of one hundred thousand inhabitants but less than two hundred fifty thousand inhabitants as determined by the most

recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census.

(2) The mayor and city council of any city of the second class or the chairperson and members of the village board of trustees of any village described in subsection (1) of this section may by ordinance, except as provided in sections 13-1111 to 13-1118, at any time include within the corporate limits of such city or village any contiguous or adjacent lands, lots, tracts, streets, or highways as are urban or suburban in character and in such direction as may be deemed proper. Such grant of power shall not be construed as conferring power to extend the limits of any such municipality over any agricultural lands which are rural in character.

(3) Not later than fourteen days prior to the public hearing before the planning commission on a proposed annexation by the city or village, the city clerk or village clerk shall send notice of the proposed annexation by certified mail, return receipt requested, to any of the following entities serving customers in such city or village or in the area proposed for annexation: Any natural gas public utility as defined in section 66-1802; any natural gas utility owned or operated by the city or village; any metropolitan utilities district; any public power district; any public power and irrigation district; any municipality; any electric cooperative; and any other governmental entity providing electric service. Such notice shall include a copy of the proposed annexation ordinance, the date, time, and place of the public hearing before the planning commission on the proposed annexation ordinance, and a map showing the boundaries of the area proposed for annexation.

(4) Prior to the final adoption of the annexation ordinance, the minutes of the meeting of the city council or village board of trustees at which such final adoption was considered shall reflect formal compliance with subsection (3) of this section.

(5) No additional or further notice beyond that required by subsection (3) of this section shall be necessary in the event (a) that the scheduled public hearing of the city council or village board of trustees on the proposed annexation is adjourned, continued, or postponed until a later date or (b) that subsequent to providing such notice the ordinance regarding such proposed annexation was amended, changed, or rejected by action of the city council or village board of trustees prior to formal passage of the annexation ordinance.

(6) Except for a willful or deliberate failure to cause notice to be given, no annexation decision made by a city of the second class or village either to accept or reject a proposed annexation, either in whole or in part, shall be void, invalidated, or affected in any way because of any irregularity, defect, error, or failure on the part of the city or village or its employees to cause notice to be given as required by this section if a reasonable attempt to comply with this section was made.

(7) Except for a willful or deliberate failure to cause notice to be given, the city or village and its employees shall not be liable for any damage to any person resulting from any failure to cause notice to be given as required by this section when a reasonable attempt was made to provide such notice. No action for damages resulting from the failure to cause notice to be provided as required by this section shall be filed more than one year following the date of the formal acceptance or rejection of the proposed annexation, either in whole or in part, by the city council or village board of trustees.

(8) No action to challenge the validity of the acceptance or rejection of a proposed annexation on the basis of this section shall be filed more than one year following the date of the formal acceptance or rejection of the annexation by the city council or village board of trustees.

Source: Laws 2009, LB495, § 7; Laws 2017, LB74, § 2; Laws 2017, LB133, § 115.

An action to determine the validity of an annexation ordinance and enjoin its enforcement sounds in equity. County of Sarpy v. City of Gretna, 309 Neb. 320, 960 N.W.2d 272 (2021).

Subsection (2) of this section does not prohibit annexation of all agricultural lands, but only those agricultural lands which are rural in character. Lands may be currently utilized in an agricultural fashion and still not be rural in character. County of Sarpy v. City of Gretna, 309 Neb. 320, 960 N.W.2d 272 (2021).

The issue of whether annexed territory is agricultural land that is rural in character is a question of law. County of Sarpy v. City of Gretna, 309 Neb. 320, 960 N.W.2d 272 (2021).

The use of land for agricultural purposes does not necessarily mean it is rural in character. It is the nature of its location as well as its use which determine whether it is rural or urban in character. County of Sarpy v. City of Gretna, 309 Neb. 320, 960 N.W.2d 272 (2021).

The word ''rural'' is defined as ''of or pertaining to the country as distinguished from a city or town,'' and the word ''urban'' is defined as ''of or belonging to a city or town.'' County of Sarpy v. City of Gretna, 309 Neb. 320, 960 N.W.2d 272 (2021).

To determine whether lands are urban or suburban, or rural, the test is whether a city has arbitrarily and irrationally used the power granted therein to include lands entirely disconnected, agricultural in character, and bearing no rational relation to the legitimate purposes of annexation. County of Sarpy v. City of Gretna, 309 Neb. 320, 960 N.W.2d 272 (2021).

17-408 Repealed. Laws 1967, c. 74, § 6.

17-409 Repealed. Laws 1967, c. 74, § 6.

17-410 Repealed. Laws 1967, c. 74, § 6.

17-411 Repealed. Laws 1967, c. 74, § 6.

17-412 Transferred to section 18-3303.

17-413 Transferred to section 17-405.05.

(c) DETACHMENT OF TERRITORY WITHIN CITY LIMITS

17-414 Repealed. Laws 2021, LB131, § 27.

(d) PLATTING

17-415 Transferred to section 18-3304.

17-416 Transferred to section 18-3305.

17-417 Transferred to section 18-3306.

17-418 Transferred to section 18-3307.

17-419 Transferred to section 18-3308.

17-420 Transferred to section 18-3309.

17-421 Transferred to section 18-3310.

17-422 Transferred to section 18-3311.

17-423 Transferred to section 18-3312.

17-424 Transferred to section 18-3313.

17-425 Transferred to section 18-3314.

17-426 Transferred to section 18-3315.

ARTICLE 5
GENERAL GRANT OF POWER

Section
17-501. Cities of the second class and villages; powers; board of public trust; members; duties.
17-502. Seal; other powers.
17-503. Real property; sale; exception; procedure; remonstrance petition; procedure; hearing.
17-503.01. Real property less than five thousand dollars; sale; procedure.
17-503.02. Personal property; sale; procedure; other conveyance.
17-504. Corporate name; process; service.
17-505. Ordinances, rules, and regulations; enactment; enforcement.
17-505.01. Notice; publication.
17-506. Property tax; amount of levy authorized.
17-507. Other taxes; power to levy.
17-508. Streets; grading and repair, when; bridges and sewers; construction.
17-508.01. Streets; maintenance and repair; contracts with county authorized.
17-508.02. Streets; grading and repair; bridges and sewers; tax limits.
17-509. Streets and malls; power to improve; districts.
17-510. Streets; improvement district; creation by petition; denial; special assessments.
17-511. Streets; improvement by ordinance; objections; time of filing; special assessment.
17-512. Streets; main thoroughfares; improvement by ordinance; assessments.
17-513. Streets; improvement; petitions and protests; sufficiency; how determined; appeal.
17-514. Streets; improvement; assessments; certification to county treasurer.
17-515. Streets and malls; improvement; assessments; interest; when delinquent; payment in installments.
17-516. Streets and malls; improvement; paving bonds; warrants; interest; terms.
17-517. Repealed. Laws 1963, c. 72, § 2.
17-518. Streets; improvement; sinking fund; investment.
17-519. Streets; improvement; assessments against public lands; payment.
17-520. Streets; improvement; intersections; property; assessment; Intersection Paving Bonds; warrants; interest; partial payments; final payments.
17-521. Streets; improvement; railways; duty to pave.
17-522. Sidewalks; repair; cost; assessment; notice.
17-523. Sidewalks; temporary walks; construction; cost.
17-524. Streets and sidewalks; improvements; assessments; how made; collection.
17-525. Occupation tax; power to levy; exceptions.
17-526. Dogs and other animals; license tax; enforcement.
17-527. Elections; rules governing; power to prescribe.
17-528. Electricity; franchises and contracts; tax; sale by public service company to city.
17-528.01. Repealed. Laws 1957, c. 33, § 2.
17-528.02. Gas franchises; length; conditions; tax.
17-528.03. Electricity franchises; length; conditions; election, when required; exceptions.
17-529. Watercourses; aqueducts; wells; regulation.
17-529.01. Dikes; erection and maintenance; eminent domain; procedure.
17-529.02. Flood control projects; cooperation with United States; consent to requirements.
17-529.03. Flood control projects; removal to another site; definitions.
17-529.04. Flood control projects; removal to another site; when authorized.
17-529.05. Flood control projects; removal to another site; petition; contents; order for hearing; notice.
17-529.06. Flood control projects; removal to another site; hearing; entry of order.
17-529.07. Flood control projects; removal to another site; order; effect.

Section
17-529.08. Flood control projects; bonds; interest; election; tax; levy.
17-530. Waterworks; franchises; terms.
17-531. Waterworks; acquisition or construction authorized.
17-532. Waterworks; private companies; compulsory connections.
17-533. Waterworks; construction; bids.
17-534. Waterworks; purchase or construction; bonds; interest; limitation; tax; approval of electors required; exception.
17-535. Waterworks; construction and maintenance; acquisition of land beyond extraterritorial zoning jurisdiction; procedure.
17-536. Waterworks; water supply; pollution; power to prevent.
17-537. Waterworks; rules and regulations.
17-538. Waterworks; use of water; rates or rental; collection.
17-539. Waterworks; construction; cost; special assessments.
17-540. Waterworks; income; how used; surplus, investment.
17-541. Waterworks; water commissioner; appointment; term; bond or insurance; removal; public works commissioner, when.
17-542. Waterworks; rates; regulation.
17-543. Waterworks; water commissioner; duty to account; report; salary; public works commissioner; duties.
17-544. Repealed. Laws 1947, c. 36, § 1.
17-545. Waterworks; additional tax; when authorized.
17-546. Waterworks; additional tax; provision cumulative.
17-547. Animals running at large; regulation.
17-548. Pounds; establishment.
17-549. Fire prevention; regulations.
17-550. Buildings; construction; regulation.
17-551. Railways; depots; regulation.
17-552. Railways; crossings; safety regulations.
17-553. Repealed. Laws 1991, LB 356, § 36.
17-554. Fuel and feed; inspection and weighing.
17-555. Streets and sidewalks; removal of obstructions; trees; declaration of nuisance; procedure; special assessment.
17-556. Public safety; firearms; explosives; riots; regulation.
17-557. Streets; safety regulations; removal of snow, ice, and other encroachments.
17-557.01. Sidewalks; removal of encroachments; cost of removal; special assessments; interest.
17-558. Streets; improving; vacating; abutting property; how treated.
17-559. Streets; offstreet parking; markets; public utilities; establishment; eminent domain; procedure.
17-560. Borrowing power; pledges.
17-561. Railway tracks; lighting, city may require; cost; assessment.
17-562. Repealed. Laws 1980, LB 741, § 1.
17-563. Lots; drainage; weeds or litter; nuisance; noncompliance by owner; notice; hearing; special assessment; violation; penalty; civil action.
17-563.01. Repealed. Laws 1991, LB 330, § 3.
17-564. Fines; actions to recover.
17-565. Fines; action to recover; limitation.
17-566. County jail; use by city; compensation.
17-567. Highways, streets, bridges; maintenance and control.
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17-568.01. City engineer or village engineer; public works; prepare estimate of cost; board of public works; powers; contracts; procedure; city council or village board of trustees; powers and duties; public emergency.
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17-569. Abandoned real estate; sale; ordinance.
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Section
17-575. Sewerage and drainage; failure of property owner to connect; notice; cost; special assessment; collection.

17-501 Cities of the second class and villages; powers; board of public trust; members; duties.

Cities of the second class and villages shall be bodies corporate and politic and shall have power (1) to sue and be sued; (2) to contract or be contracted with; (3) to acquire and hold real and personal property within or without the limits of the city or village, for the use of the city or village, convey property, real or personal, and lease, lease with option to buy, or acquire by gift or devise real or personal property; and (4) to receive and safeguard donations in trust and may, by ordinance, supervise and regulate such property and the principal and income constituting the foundation or community trust property in conformity with the instrument or instruments creating such trust. The city council of any city of the second class or the village board of trustees may elect a board of five members, to be known as a board of public trust, who shall be residents of such city or village and whose duties shall be defined by ordinance and who shall have control and management of such donations in trust, in conformity with such ordinance. At the time of the establishment of the board of public trust, one member shall be elected for a term of one year, one for a term of two years, one for a term of three years, one for a term of four years, and one for a term of five years, and thereafter one member shall be elected each year for a term of five years. Vacancies in the membership of the board of public trust shall be filled in like manner as regular members of the board of public trust are elected.

Source: Laws 1879, § 56, p. 206; R.S.1913, § 5080; Laws 1917, c. 100, § 1, p. 264; C.S.1922, § 4252; C.S.1929, § 17-401; Laws 1933, c. 29, § 1, p. 206; Laws 1935, Spec. Sess., c. 10, § 6, p. 75; Laws 1937, c. 30, § 1, p. 153; Laws 1941, c. 25, § 1, p. 120; Laws 1941, c. 130, § 14, p. 498; C.S.Supp.,1941, § 17-401; Laws 1943, c. 34, § 1, p. 152; R.S.1943, § 17-501; Laws 1971, LB 32, § 3; Laws 2005, LB 626, § 3; Laws 2017, LB133, § 117.

Right of city to employ special counsel may be implied from power to sue and be sued. Meeske v. Baumann, 122 Neb. 786, 241 N.W. 550 (1932), 83 A.L.R. 131 (1932).

Village may bring suit in equity to declare a stockyard a public nuisance and to enjoin the same. Village of Kenesaw v. Chicago, B. & Q. R. R. Co., 91 Neb. 619, 136 N.W. 990 (1912).

Power of city of second class to contract is not made dependent upon its having previously provided funds with which to pay for that which it contracts. Slocum v. City of North Platte, 192 F. 252 (8th Cir. 1911).

17-502 Seal; other powers.

Each city of the second class or village shall have a common seal, which it may change and alter at pleasure, and such other powers as may be conferred by law.

Source: Laws 1879, § 56, p. 207; R.S.1913, § 5080; Laws 1917, c. 100, § 1, p. 264; C.S.1922, § 4252; C.S.1929, § 17-401; Laws 1933, c. 29, § 1, p. 206; Laws 1935, Spec. Sess., c. 10, § 6, p. 75; Laws 1937, c. 30, § 1, p. 153; Laws 1941, c. 25, § 1, p. 120; Laws 1941, c. 130, § 14, p. 498; C.S.Supp.,1941, § 17-401; Laws 1943, c. 34, § 1, p. 153; R.S.1943, § 17-502; Laws 2017, LB133, § 118.

17-503 Real property; sale; exception; procedure; remonstrance petition; procedure; hearing.

(1) Except as provided in section 17-503.01, the power of any city of the second class or village to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution directing the sale of such real property.

(2) After the passage of the resolution directing the sale, notice of all proposed sales of property described in subsection (1) of this section and the terms of such sales shall be published once each week for three consecutive weeks in a legal newspaper in or of general circulation in such city or village.

(3) If within thirty days after the third publication of the notice a remonstrance petition against such sale (a) conforms to section 32-628, (b) is signed by registered voters of the city or village equal in number to thirty percent of the registered voters of the city or village voting at the last regular municipal election held in such city or village, and (c) is filed with the governing body of such city or village, such property shall not then, nor within one year thereafter, be sold. If the date for filing the petition falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the thirty-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. Upon the receipt of the petition, the governing body of such city or village, with the aid and assistance of the election commissioner or county clerk, shall determine the validity and sufficiency of signatures on the petition. The governing body of such city or village shall deliver the petition to the election commissioner or county clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the petition, the election commissioner or county clerk shall issue to the governing body a written receipt that the petition is in the custody of the election commissioner or county clerk. The election commissioner or county clerk shall compare the signature of each person signing the petition with the voter registration records to determine if each signer was a registered voter on or before the date on which the petition was filed with the governing body. The election commissioner or county clerk shall also compare the signer's printed name, street and number or voting precinct, and city, village, or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the election commissioner or county clerk determines that the printed name, street and number or voting precinct, and city, village, or post office address matches the registration records and that the registration was received on or before the date on which the petition was filed with the governing body. The determinations of the election commissioner or county clerk may be rebutted by any credible evidence which the governing body finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the petition, the sufficiency of the petition, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the petition process. Upon completion of the comparison of names and addresses with the voter registration records, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the election commissioner or county clerk shall set forth the reason for the invalidity of the

signature. If the election commissioner or county clerk determines that a signer has affixed his or her signature more than once to the petition and that only one person is registered by that name, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature. The election commissioner or county clerk shall certify to the governing body the number of valid signatures necessary to constitute a valid petition. The election commissioner or county clerk shall deliver the petition and the certifications to the governing body within forty days after the receipt of the petition from the governing body. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than twenty signatures on one signature page shall be counted.

The governing body shall, within thirty days after the receipt of the petition and certifications from the election commissioner or county clerk, hold a public hearing to review the petition and certifications and receive testimony regarding them. The governing body shall, following the hearing, vote on whether or not the petition is valid and shall uphold the petition if sufficient valid signatures have been received.

(4) Real property now owned or hereafter owned by a city of the second class or a village may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of sections 18-1001 to 18-1006.

(5) Following (a) passage of the resolution directing a sale, (b) publishing of the notice of the proposed sale, and (c) passing of the thirty-day right-of-remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale.

(6) Notwithstanding the procedures in subsections (1) through (5) of this section, real property owned by a city of the second class or a village may be conveyed when such property:

(a) Is sold in compliance with the requirements of federal or state grants or programs;

(b) Is conveyed to another public agency; or

(c) Consists of streets and alleys.

Source: Laws 1879, § 56, p. 207; R.S.1913, § 5080; Laws 1917, c. 100, § 1, p. 264; C.S.1922, § 4252; C.S.1929, § 17-401; Laws 1933, c. 29, § 1, p. 206; Laws 1935, Spec. Sess., c. 10, § 8, p. 76; Laws 1937, c. 30, § 1, p. 153; Laws 1941, c. 25, § 1, p. 120; Laws 1941, c. 130, § 14, p. 498; C.S.Supp.,1941, § 17-401; Laws 1943, c. 34, § 1, p. 153; R.S.1943, § 17-503; Laws 1957, c. 30, § 1, p. 190; Laws 1957, c. 31, § 1, p. 193; Laws 1971, LB 399, § 1; Laws 1981, LB 33, § 1; Laws 1982, LB 909, § 4; Laws 1988, LB 793, § 5; Laws 1993, LB 59, § 2; Laws 1997, LB 230, § 2; Laws 2003, LB 476, § 1; Laws 2017, LB133, § 119; Laws 2017, LB315, § 1; Laws 2022, LB843, § 1.
Effective date July 21, 2022.

Attempted sale of real estate without compliance with this section is void. Oman v. City of Wayne, 149 Neb. 303, 30 N.W.2d 921 (1948).

Question raised but not decided as to validity of conveyance from nominal purchaser at tax sale where city was real owner of title. Taxpayers' League of Wayne County v. Wightman, 139 Neb. 212, 296 N.W. 886 (1941).

17-503.01 Real property less than five thousand dollars; sale; procedure.

Section 17-503 shall not apply to the sale of real property if the authorizing resolution directs the sale of real property, the total fair market value of which is less than five thousand dollars. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the city or village for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required.

Source: Laws 1982, LB 909, § 5; Laws 1995, LB 197, § 1; Laws 2003, LB 476, § 2.

17-503.02 Personal property; sale; procedure; other conveyance.

(1) The power of any city of the second class or village to convey any personal property owned by it shall be exercised by resolution directing the sale and the manner and terms of the sale. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the city or village for a period of not less than seven days prior to the sale of the property. If the fair market value of the property is greater than five thousand dollars, notice of the sale shall also be published once in a legal newspaper in or of general circulation in such city or village at least seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale.

(2) Personal property may be conveyed notwithstanding the procedure in subsection (1) of this section when (a) such property is being sold in compliance with the requirements of federal or state grants or programs or (b) such property is being conveyed to another public agency.

Source: Laws 2003, LB 476, § 3; Laws 2007, LB28, § 1; Laws 2017, LB133, § 120.

17-504 Corporate name; process; service.

The corporate name of each city of the second class or village shall be the City (or Village) of . . . . . , and all and every process and notice whatever affecting such city or village shall be served in the manner provided for service of a summons in a civil action.

Source: Laws 1879, § 57, p. 207; R.S.1913, § 5081; C.S.1922, § 4253; C.S.1929, § 17-402; R.S.1943, § 17-504; Laws 1983, LB 447, § 6; Laws 2017, LB133, § 121.

Service upon mayor by registered mail in workmen's compensation case was good. Clark v. Village of Hemingford, 147 Neb. 1044, 26 N.W.2d 15 (1947).

The chairman of village board has no authority to waive issuance and service of summons and enter voluntary appearance without the official authority of the board. Anstine v. State, 137 Neb. 148, 288 N.W. 525 (1939).

Service of process upon a municipal corporation is had by service upon the mayor or chairman, and in his absence upon the clerk, and in absence of such officers, by leaving a certified copy at the office of the clerk, which service brings the corporation and not the official into court. Fogg v. Ellis, 61 Neb. 829, 86 N.W. 494 (1901); Chicago, B. & Q. R. R. Co. v. Hitchcock County, 60 Neb. 722, 84 N.W. 97 (1900).

17-505 Ordinances, rules, and regulations; enactment; enforcement.

In addition to those special powers specifically granted by law, cities of the second class and villages shall have the power to make all such ordinances, bylaws, rules, regulations, and resolutions, not inconsistent with the laws of the state, as may be expedient for maintaining the peace, good government, and

welfare of the city or village and its trade and commerce and to enforce all ordinances by inflicting fines or penalties for the breach of such ordinances, not exceeding five hundred dollars for any one offense, recoverable with costs.

Source: Laws 1879, § 69, XII, p. 213; Laws 1881, c. 23, § 8, XII, p. 175; Laws 1885, c. 20, § 1, XII, p. 166; Laws 1887, c. 12, § 1, XII, p. 294; R.S.1913, § 5106; C.S.1922, § 4279; C.S.1929, § 17-428; R.S.1943, § 17-505; Laws 1999, LB 128, § 2; Laws 2017, LB133, § 122.

Municipality may enact ordinance imposing duty on gas company of keeping in repair and maintaining all pipelines. Clough v. North Central Gas Co., 150 Neb. 418, 34 N.W.2d 862 (1948).

Cities of the second class have power to make ordinances that punish operators of motor vehicles on city streets. Gembler v. City of Seward, 136 Neb. 196, 285 N.W. 542 (1939), modified on rehearing 136 Neb. 916, 288 N.W. 545 (1939).

Powers conferred upon villages and cities are not extended to board of health. State v. Temple, 99 Neb. 505, 156 N.W. 1063 (1916).

Payment of occupation tax under prior ordinance would not prevent prosecution for engaging in operation of billiard and pool room under later ordinance requiring a license. McCarter v. City of Lexington, 80 Neb. 714, 115 N.W. 303 (1908).

Municipality may grant the use of its streets to telephone company for its poles and lines, which right is a public use and not a special privilege, and, when company makes expenditures relying on an ordinance granting such use, city authorities cannot subsequently impose additional arbitrary burdens. City of Plattsmouth v. Nebraska Telephone Co., 80 Neb. 460, 114 N.W. 588 (1908).

Ordinance attempting to make it unlawful to keep any card table or permit card playing in any place of business was not authorized by this section. In re Sapp, 79 Neb. 781, 113 N.W. 261 (1907).

Village boards have power by ordinance to license and regulate billiard and pool rooms. Morgan v. State, 64 Neb. 369, 90 N.W. 108 (1902).

Village cannot enforce its ordinances both by fine and imprisonment, nor by imprisonment alone except as a means of enforcing the payment of the fine. Bailey v. State of Nebraska, 30 Neb. 855, 47 N.W. 208 (1890).

17-505.01 Notice; publication.

If a city of the second class or village is required to publish a notice or advertisement in a legal newspaper in or of general circulation in the city or village, and if there is no legal newspaper in or of general circulation in such city or village, then the city or village shall publish such notice or advertisement in a legal newspaper in or of general circulation in the county in which such city or village is located. If there is no legal newspaper in or of general circulation in such county, then the city or village shall publish such notice or advertisement by posting a written or printed copy thereof in each of three public places in the city or village for the same period of time such city or village is required to publish the notice or advertisement in a legal newspaper.

Source: Laws 2017, LB133, § 123.

17-506 Property tax; amount of levy authorized.

Cities of the second class and villages shall have power to levy taxes for general revenue purposes in any one year not to exceed thirty-five cents on each one hundred dollars upon the taxable value of all the taxable property in such cities and villages. The valuation of such property shall be ascertained from the books or assessment rolls of the county assessor.

Source: Laws 1879, § 69, I, p. 211; Laws 1881, c. 23, § 8, I, p. 172; Laws 1885, c. 20, § 1, I, p. 162; Laws 1887, c. 12, § 1, I, p. 291; R.S.1913, § 5107; Laws 1915, c. 91, § 1, p. 231; Laws 1919, c. 51, § 1, p. 149; C.S.1922, § 4280; C.S.1929, § 17-429; R.S.1943, § 17-506; Laws 1947, c. 32, § 1, p. 142; Laws 1953, c. 287, § 14, p. 938; Laws 1979, LB 187, § 49; Laws 1992, LB 719A, § 51.

After the passage of the appropriation bill, power to contract is determined by the amounts appropriated therein plus amounts on hand of previous levies and previous appropriations. LeBarron v. City of Harvard, 129 Neb. 460, 262 N.W. 26 (1935).

A city can levy taxes for city purposes only on property within the city and the property is taxed when the levy is made. State ex rel. Hinson v. Nickerson, 99 Neb. 517, 156 N.W. 1039 (1916).

A village is authorized to levy taxes to pay a judgment for such construction of a light plant, even though a maximum amount of taxes has been theretofore assessed for payment of bonds and general purposes. Village of Oshkosh v. State of Nebraska ex rel. Fairbanks, Morse & Co., 20 F.2d 621 (8th Cir. 1927).

City can acquire waterworks and levy tax to pay for same, without a prior appropriation therefor, as the power to purchase and levy a tax for such purpose comes within the statutory exception. Slocum v. City of North Platte, 192 F. 252 (8th Cir. 1911).

17-507 Other taxes; power to levy.

Cities of the second class and villages shall have power to levy any other tax or special assessment authorized by law.

Source: Laws 1879, § 69, II, p. 211; Laws 1881, c. 23, § 8, II, p. 173; Laws 1885, c. 20, § 1, II, p. 163; Laws 1887, c. 12, § 1, II, p. 291; R.S.1913, § 5108; C.S.1922, § 4281; C.S.1929, § 17-430; R.S. 1943, § 17-507; Laws 2017, LB133, § 124.

When bonds are lawfully issued, municipality has authority to levy tax for their payment. Talbott v. City of Lyons, 171 Neb. 186, 105 N.W.2d 918 (1960).

Where improvements are made, special assessments may be levied by the council to pay for the same by resolution under terms of this section. Weilage v. City of Crete, 110 Neb. 544, 194 N.W. 437 (1923).

Though municipality can only levy taxes authorized and has no inherent power to levy a tax, the power may be implied from express power given to incur an obligation where the Legislature must have intended to furnish a means of payment. Union Pacific R. R. Co. v. Heuer, 97 Neb. 436, 150 N.W. 259 (1914).

The reducing of a water claim to judgment will not justify special taxes to pay the claim. State ex rel. Young v. Royse, 71 Neb. 1, 98 N.W. 459 (1904); State ex rel. Young v. Royse, 3 Neb. Unof. 262, 91 N.W. 559 (1902).

Under terms of prior act, municipality had authority to levy taxes to pay judgments on all taxable property within its boundaries and this section did not repeal the authority. Dawson County v. Clark, 58 Neb. 756, 79 N.W. 822 (1899).

Municipality is authorized to levy tax to pay judgment, and is not restricted in doing so by limitation on amount of bonds that could be issued to construct light plant. Village of Oshkosh v. State of Nebraska ex rel. Fairbanks, Morse & Co., 20 F.2d 621 (8th Cir. 1927).

This section provides power for cities of second class and villages to raise funds in addition to the general tax levy. Slocum v. City of North Platte, 192 F. 252 (8th Cir. 1911).

17-508 Streets; grading and repair, when; bridges and sewers; construction.

Cities of the second class and villages shall have the power to provide for the grading and repair of any street, avenue, or alley and the construction of bridges, culverts, and sewers. No street, avenue, or alley shall be graded unless such street, avenue, or alley shall be ordered to be done by the affirmative vote of two-thirds of the city council or village board of trustees.

Source: Laws 1879, § 69, III, p. 211; Laws 1881, c. 23, § 8, III, p. 173; Laws 1885, c. 20, § 1, III, p. 163; Laws 1887, c. 12, § 1, III, p. 291; Laws 1903, c. 20, § 1, p. 248; R.S.1913, § 5109; Laws 1915, c. 91, § 1, p. 231; C.S.1922, § 4282; C.S.1929, § 17-431; R.S. 1943, § 17-508; Laws 1945, c. 28, § 1, p. 140; Laws 1945, c. 29, § 1, p. 143; Laws 1947, c. 23, § 1(1), p. 143; Laws 2017, LB133, § 125.

Cities of the second class are given the power to provide for the grading and repair of streets and the construction of culverts and sewers. Young v. City of Scribner, 171 Neb. 544, 106 N.W.2d 864 (1960).

Requirement of two-thirds vote is limited to orders for grading of streets. Village of Maxwell v. Booth, 161 Neb. 300, 73 N.W.2d 177 (1955).

Maintenance and repair of streets is a governmental function and the cost thereof must be paid from the general fund of the city. Thomson v. City of Chadron, 145 Neb. 316, 16 N.W.2d 447 (1944).

The making, improving, and repairing of streets relates to city's corporate interests only and it is liable for failure to maintain its streets in a safe condition. Goodrich v. University Place, 80 Neb. 774, 115 N.W. 538 (1908).

Where municipality makes provisions for carrying off surface water by drains, it may not discontinue the same and leave lot owner in worse condition than before it constructed such drains. City of McCook v. McAdams, 76 Neb. 1, 106 N.W. 988 (1906), affirmed on rehearing 76 Neb. 7, 110 N.W. 1005 (1907), vacated on rehearing 76 Neb. 11, 114 N.W. 596 (1908); McAdams v. City of McCook, 71 Neb. 789, 99 N.W. 656 (1904).

17-508.01 Streets; maintenance and repair; contracts with county authorized.

Where a city of the second class or village does not have sufficient funds to purchase equipment to maintain and keep its streets in repair, such city or village may contract with the county in which it is situated to have the county

maintain and keep its streets in repair. The cost of such maintenance and repair shall be paid by such city or village to the county.

Source: Laws 1947, c. 33, § 1(2), p. 143.

17-508.02 Streets; grading and repair; bridges and sewers; tax limits.

For purposes of section 17-508, cities of the second class and villages shall have power to levy in any one year not to exceed ten and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property within the limits of such cities and villages.

Source: Laws 1879, § 69, III, p. 211; Laws 1881, c. 23, § 8, III, p. 173; Laws 1885, c. 20, § 1, III, p. 163; Laws 1887, c. 12, § 1, III, p. 291; Laws 1903, c. 20, § 1, p. 248; R.S.1913, § 5109; Laws 1915, c. 91, § 1, p. 231; C.S.1922, § 4282; C.S.1929, § 17-431; R.S. 1943, § 17-508; Laws 1945, c. 28, § 1, p. 140; Laws 1945, c. 29, § 1, p. 143; Laws 1947, c. 33, § 1(3), p. 144; Laws 1953, c. 287, § 15, p. 939; Laws 1979, LB 187, § 50; Laws 1992, LB 719A, § 52; Laws 2017, LB133, § 126.

17-509 Streets and malls; power to improve; districts.

The governing body of any city of the second class or village may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravel, macadamize, remacadamize, widen or narrow streets or roadways, resurface or relay existing pavement, or otherwise improve any streets, alleys, public grounds, public ways, entirely or partially, and streets which divide the city or village corporate limits and the area adjoining the city or village; construct or reconstruct pedestrian walks, plazas, malls, landscaping, outdoor sprinkler systems, fountains, decorative water ponds, lighting systems, and permanent facilities; and construct sidewalks and improve the sidewalk space. These projects may be funded at public cost or by the levy of special assessments on the property especially benefited in proportion to such benefits, except as provided in sections 19-2428 to 19-2431. The governing body may by ordinance create improvement districts, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys, or public ways, and may include two or more types of improvements authorized under this section in a single district in one proceeding. All of the improvements which are to be funded by a levy of special assessment on the property especially benefited shall be ordered as provided in sections 17-510 to 17-512, unless the governing body improves a street which divides the city or village corporate area and the area adjoining the city or village. Whenever the governing body of any city of the second class or village improves any street which divides the city or village corporate limits and the area adjoining the city or village, the governing body shall determine the sufficiency of petition as set forth in section 17-510 by the owners of the record title representing more than sixty percent of the front footage of the property directly abutting upon the street to be improved, rather than sixty percent of the resident owners. Whenever the governing body shall deem it necessary to make any of the improvements authorized under this section on a street which divides the city or village corporate limits and the area adjoining the city or village, the governing body shall by ordinance create the improvement district pursuant to

section 17-511 and the right of remonstrance shall be limited to owners of record title, rather than resident owners.

Source: Laws 1879, § 69, IV, p. 211; Laws 1881, c. 23, § 8, IV, p. 173; Laws 1885, c. 20, § 1, IV, p. 163; Laws 1887, c. 12, § 7, IV, p. 292; Laws 1903, c. 20, § 1, IV, p. 163; Laws 1909, c. 22, § 1, p. 191; Laws 1911, c. 21, § 1, p. 138; R.S.1913, § 5110; Laws 1915, c. 92, § 1, p. 232; Laws 1917, c. 102, § 1, p. 267; Laws 1919, c. 50, § 1, p. 144; C.S.1922, § 4283; Laws 1923, c. 135, § 1, p. 300; Laws 1927, c. 42, § 1, p. 176; C.S.1929, § 17-432; Laws 1933, c. 136, § 20, p. 529; C.S.Supp.,1941, § 17-432; R.S.1943, § 17-509; Laws 1969, c. 92, § 1, p. 456; Laws 1979, LB 136, § 3; Laws 1983, LB 94, § 2; Laws 1995, LB 196, § 2; Laws 2017, LB133, § 127.

1. Power to improve
2. Creation of districts
3. Special assessments
4. Miscellaneous

1. Power to improve

General power to pave streets is conferred upon cities of the second class. Elliott v. City of Auburn, 172 Neb. 1, 108 N.W.2d 328 (1961).

Cities of second class or villages can pave streets only by legally following one of three applicable methods. Manners v. City of Wahoo, 153 Neb. 437, 45 N.W.2d 113 (1950).

A public highway or public way, which a city has power to pave and levy a special assessment to pay the cost thereof, is a public highway within the corporate limits of the city as distinguished from a street, and such highway as is formally or impliedly dedicated to and accepted by the city. City of McCook v. Red Willow County, 133 Neb. 380, 275 N.W. 396 (1937).

Where statute authorizes city to pave streets but contains nothing to contrary, there arises an implication that the city is authorized to enter into contracts for the performance of the work and to pay for same by a general tax levy. Daniels v. City of Gering, 130 Neb. 443, 265 N.W. 416 (1936).

This section does not apply to nor govern the construction of temporary sidewalks or ungraded and unimproved streets. Whitla v. Connor, 114 Neb. 526, 208 N.W. 670 (1926).

City of second class has authority to pave its streets. Rooney v. City of So. Sioux City, 111 Neb. 1, 195 N.W. 474 (1923).

2. Creation of districts

The authority of the city will not be extended to include in the improvement a street not within the city limits and not forming a part or connected with state highway. Dorland v. City of Humboldt, 129 Neb. 477, 262 N.W. 22 (1935); Garver v. City of Humboldt, 120 Neb. 132, 231 N.W. 699 (1930).

Where three-fourths of the members of the council vote for ordinance creating paving district, the municipality is authorized to contract and appropriate money for grading and paving without vote of people. Wookey v. City of Alma, 118 Neb. 158, 223 N.W. 953 (1929).

3. Special assessments

Special assessments are levied on basis of benefits accruing to property and not on basis of cost of improvement immediately in front of property. Chicago & N. W. Ry. Co. v. City of Seward, 166 Neb. 662, 90 N.W.2d 282 (1958).

Legislative power to make special assessments is to be strictly construed. Chicago & N. W. Ry. Co. v. City of Seward, 166 Neb. 123, 88 N.W.2d 175 (1958).

Power to levy special assessments is subject to restrictions prescribed by statute. Chicago, St. P., M. & O. Ry. Co. v. City of Randolph, 163 Neb. 687, 81 N.W.2d 159 (1957).

Taxing authorities may not separate, reapportion, and reassess special assessments after the same have been once legally assessed without objection. Village of Winside v. Brune, 133 Neb. 80, 274 N.W. 212 (1937).

This section does not provide appeal to the district court from acts of the municipal board or council sitting as a board of equalization, but review may be had by error proceedings. Roberts v. City of Mitchell, 131 Neb. 672, 269 N.W. 515 (1936).

Property owner has option under statute to pay assessment in installments as they accrue, with interest, or to pay balance of assessment at any time with interest to date. State ex rel. Todd v. Thomas, 127 Neb. 891, 257 N.W. 265 (1934).

It is mandatory and jurisdictional that one of the three methods stated be followed before such improvement may be lawfully made and, unless such municipality follows one of the methods, the assessments made are void. Musser v. Village of Rushville, 122 Neb. 128, 239 N.W. 642 (1931).

Resolution of necessity is not jurisdictional, nor is the establishment of grade by ordinance required before letting of paving contract. Burrows v. Keebaugh, 120 Neb. 136, 231 N.W. 751 (1930).

A municipality may levy a special assessment on adjacent cemetery property to the extent of the benefits conferred therein by the improvement of a street. Greenwood Cemetery v. City of Wayne, 110 Neb. 300, 193 N.W. 734 (1923).

If board, in levying assessments to pay for sidewalks, does not take the benefits and damages resulting to the property into account and levies the total cost without regards thereto, the tax is void. Schneider v. Plum, 86 Neb. 129, 124 N.W. 1132 (1910).

Estimate of cost by city engineer must be submitted and approved before council can levy special assessment for sidewalk. Moss v. City of Fairbury, 66 Neb. 671, 92 N.W. 721 (1902).

4. Miscellaneous

Where a city issues bonds designated as paving district bonds, and neither the bonds nor the ordinance authorizing them provide that the bonds shall be payable only out of special assessments, the bonds are general obligations of the city which authorize the levy of a general tax to pay the same. Alexander v. Bailey, 108 Neb. 717, 189 N.W. 365 (1922).

17-510 Streets; improvement district; creation by petition; denial; special assessments.

If a petition is signed by the owners of the record title representing more than sixty percent of the front footage of property directly abutting upon the streets, alleys, public ways, or public grounds proposed to be improved in an improvement district created pursuant to section 17-509 and presented and filed with the city clerk or village clerk, the governing body of the city or village shall by ordinance create an improvement district, cause such work to be done or such improvement to be made, contract for such improvement, and levy special assessments on the lots and parcels of land abutting on or adjacent to such streets or alleys specially benefited by such improvement in such district in proportion to such benefits, except as provided in sections 19-2428 to 19-2431, to pay the cost of such improvement. The governing body may deny the formation of the proposed improvement district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the governing body denies a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties.

Source: Laws 1879, § 69, IV, p. 211; Laws 1881, c. 23, § 8, IV, p. 173; Laws 1885, c. 20, § 1, IV, p. 163; Laws 1887, c. 12, § 1, IV, p. 292; Laws 1903, c. 20, § 1, p. 248; Laws 1909, c. 22, § 1, p. 191; Laws 1911, c. 21, § 1, p. 139; R.S.1913, § 5110; Laws 1915, c. 92, § 1, p. 232; Laws 1917, c. 102, § 1, p. 268; Laws 1919, c. 50, § 1, p. 145; C.S.1922, § 4283; Laws 1923, c. 135, § 1, p. 331; Laws 1927, c. 42, § 1, p. 177; C.S.1929, § 17-432; Laws 1933, c. 136, § 20, p. 529; C.S.Supp.,1941, § 17-432; R.S.1943, § 17-510; Laws 1979, LB 176, § 1; Laws 1983, LB 125, § 2; Laws 1983, LB 94, § 3; Laws 2015, LB361, § 29; Laws 2017, LB133, § 128.

Property owner has no constitutional right to notice and hearing upon the formation of the district. Kriz v. Klingensmith, 176 Neb. 205, 125 N.W.2d 674 (1964).

Method is provided for commencing proceedings for paving upon petition of abutting property owners. Elliott v. City of Auburn, 172 Neb. 1, 108 N.W.2d 328 (1961).

All property in improvement district which either abuts on or is adjacent to improvement made is liable for assessments unless exempted. Chicago & N. W. Ry. Co. v. City of Seward, 166 Neb. 662, 90 N.W.2d 282 (1958).

Property abutting on street containing "T" intersections was subject to assessment to extent benefited. Chicago & N. W. Ry. Co. v. City of Seward, 166 Neb. 123, 88 N.W.2d 175 (1958).

Procedure under this section must be initiated by petition of resident owners. Chicago, St. P., M. & O. Ry. Co. v. City of Randolph, 163 Neb. 687, 81 N.W.2d 159 (1957).

Action of governing board to pave may be initiated by petitions signed by sixty percent of the resident owners of abutting property. Manners v. City of Wahoo, 153 Neb. 437, 45 N.W.2d 113 (1950).

Though petition for paving was not signed by three-fifths of the resident owners of the property subject to assessment, the ordinance was valid under statute empowering the city council by the assent of the three-fourths of its members to make the improvement without a petition. City of Superior v. Simpson, 114 Neb. 698, 209 N.W. 505 (1926).

Provision requiring the petition of three-fifths of the resident owners or a three-fourths vote of council or board of trustees does not apply to temporary sidewalks on an unimproved and ungraded street. Gibson v. Troupe, 96 Neb. 770, 148 N.W. 944 (1914).

17-511 Streets; improvement by ordinance; objections; time of filing; special assessment.

Whenever the governing body of a city of the second class or village deems it necessary to make the improvements in section 17-509 which are to be funded by a levy of special assessment on the property specially benefited, such governing body shall by ordinance create an improvement district and, after the passage, approval, and publication of such ordinance, shall publish notice of the creation of any such district for six days in a legal newspaper in or of general circulation in the city or village if such legal newspaper is a daily newspaper or for two consecutive weeks if such legal newspaper is a weekly newspaper. If the owners of the record title representing more than fifty percent of the front footage of the property directly abutting on the street or alley to be improved file with the city clerk or village clerk within twenty days

after the first publication of such notice written objections to the creation of such district, such improvement shall not be made as provided in such ordinance, but such ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the governing body shall immediately cause such work to be done or such improvement to be made, shall contract for the work or improvement, and shall levy special assessments on the lots and parcels of land abutting on or adjacent to such street or alley specially benefited in such district in proportion to such benefits to pay the cost of such improvement.

Source: Laws 1927, c. 42, § 1, p. 177; C.S.1929, § 17-432; Laws 1933, c. 136, § 20, p. 530; C.S.Supp.,1941, § 17-432; R.S.1943, § 17-511; Laws 1979, LB 176, § 2; Laws 1986, LB 960, § 8; Laws 1995, LB 196, § 3; Laws 2015, LB361, § 30; Laws 2017, LB133, § 129.

Separate and distinct method for initiating paving project is provided by this section. Elliott v. City of Auburn, 172 Neb. 1, 108 N.W.2d 328 (1961).

Requirements of this section compared with similar requirements applicable to first-class cities. Danielson v. City of Bellevue, 167 Neb. 809, 95 N.W.2d 57 (1959).

Property abutting on "T" intersection was liable for special assessments. Chicago & N. W. Ry. Co. v. City of Seward, 166 Neb. 662, 90 N.W.2d 282 (1958).

Cost of paving intersections should be assessed upon all the taxable property of city. Chicago & N. W. Ry. Co. v. City of Seward, 166 Neb. 123, 88 N.W.2d 175 (1958).

Creation of paving district must be ordered by ordinance. Chicago, St. P., M. & O. Ry. Co. v. City of Randolph, 163 Neb. 687, 81 N.W.2d 159 (1957).

Constitutionality upheld against claim of failure of lawful classification and violation of due process. Freeman v. City of Neligh, 155 Neb. 651, 53 N.W.2d 67 (1952).

Where paving district is created by ordinance without petition, majority of resident owners of directly abutting property may file objections and prevent such paving. Manners v. City of Wahoo, 153 Neb. 437, 45 N.W.2d 113 (1950).

In case of objection by one joint tenant in which the other joint tenant has not joined, rebuttable presumption arises that the one objecting represents the entire property. Bonner v. City of Imperial, 149 Neb. 721, 32 N.W.2d 267 (1948).

An ordinance specifying a street or part of street to be paved, sufficiently describes a paving district and such street or part of street and abutting property therein constitute the paving district. Chittenden v. Kibler, 100 Neb. 756, 161 N.W. 272 (1917).

17-512 Streets; main thoroughfares; improvement by ordinance; assessments.

The city council of a city of the second class or village board of trustees may, by a three-fourths vote of all members of such city council or village board of trustees, enact an ordinance creating an improvement district, order such work to be done without petition upon any federal or state highways in the city or village or upon a street or route, designated by the mayor and city council or village board of trustees as a main thoroughfare, that connects to either a federal or state highway or a county road, and shall contract for such work, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley specially benefited thereby in such district in proportion to such benefits, to pay the cost of such improvement.

Source: Laws 1879, § 69, IV, p. 211; Laws 1881, c. 23, § 8, IV, p. 173; Laws 1885, c. 20, § 1, IV, p. 163; Laws 1903, c. 20, § 1, p. 248; Laws 1909, c. 22, § 1, p. 191; Laws 1911, c. 21, § 1, p. 139; R.S.1913, § 5110; Laws 1915, c. 92, § 1, p. 232; Laws 1917, c. 102, § 1, p. 268; Laws 1919, c. 50, § 1, p. 145; C.S.1922, § 4283; Laws 1923, c. 135, § 1, p. 331; Laws 1927, c. 42, § 1, p. 178; C.S.1929, § 17-432; Laws 1933, c. 136, § 20, p. 530; C.S.Supp.,1941, § 17-432; R.S.1943, § 17-512; Laws 1972, LB 1320, § 1; Laws 2015, LB361, § 31; Laws 2017, LB133, § 130.

Another method for initiating paving proceedings is provided by this section. Elliott v. City of Auburn, 172 Neb. 1, 108 N.W.2d 328 (1961).

Power is granted to enact an ordinance creating a paving district. Chicago, St. P., M. & O. Ry. Co. v. City of Randolph, 163 Neb. 687, 81 N.W.2d 159 (1957).

Main thoroughfare must connect at both ends with state highway system. Manners v. City of Wahoo, 153 Neb. 437, 45 N.W.2d 113 (1950).

If three-fourths of all the members of council vote for improvement, the filing of the petition for the improvement by three-fourths of the resident owners of the property subject to the assessment is not necessary. Carr v. City of Lexington, 103 Neb. 293, 171 N.W. 920 (1919).

Under terms of former act, petition for improvement was not necessary and, upon a three-fourths vote of all the members of the council assenting to make the improvement, could create a paving district and levy special assessment to pay for the same. Fitzgerald v. Sattler, 102 Neb. 665, 168 N.W. 599 (1918).

17-513 Streets; improvement; petitions and protests; sufficiency; how determined; appeal.

Before proceeding with any improvement under section 17-509, the sufficiency of the protests or petitions or of the existence of the required facts and conditions shall be determined by the city council or village board of trustees at a hearing of which notice shall be given to all persons who may become liable for assessments by one publication in each of two successive weeks in a legal newspaper in or of general circulation in the city or village. Appeal from the action of the city council or village board of trustees may be made to the district court of the county in which the proposed district is situated. The sufficiency of the protests or petitions referred to in sections 17-510 and 17-511, as to the ownership of the property, shall be determined by the record in the office of the county clerk or register of deeds at the time of the adoption of such ordinance. In determining the sufficiency of the petitions or objections, intersections shall be disregarded, and any lot or ground owned by the city or village shall not be counted for or against such improvement.

Source: Laws 1927, c. 42, § 1, p. 178; C.S.1929, § 17-432; Laws 1933, c. 136, § 20, p. 530; C.S.Supp.,1941, § 17-432; R.S.1943, § 17-513; Laws 1963, c. 71, § 1, p. 274; Laws 2017, LB133, § 131.

Sufficiency of paving petition is to be determined by record at time of adoption of ordinance. Elliott v. City of Auburn, 172 Neb. 1, 108 N.W.2d 328 (1961).

17-514 Streets; improvement; assessments; certification to county treasurer.

All assessments under sections 17-509 to 17-512 shall be a lien on the property on which levied from the date of levy and shall be certified by direction of the city council or village board of trustees to the city treasurer or village treasurer for collection. Except as provided in section 18-1216, such assessment shall be due and payable to such treasurer until the first day of November thereafter, or until the delivery of the tax list for such year to the county treasurer of the county in which such city or village is situated, at and after which time such assessment shall be due and payable to such county treasurer. The city council or village board of trustees of such city or village shall, within the time provided by law, cause such assessments, or portion thereof then remaining unpaid, to be certified to the county clerk for entry upon the proper tax lists. If the city treasurer or village treasurer collects any assessment or portion of such assessment so certified while such assessment shall be payable to the county treasurer, the city treasurer or village treasurer shall certify the assessment or portion of such assessment to the county treasurer at once, and the county treasurer shall correct the record to show such payment.

Source: Laws 1909, c. 21, § 1, p. 191; Laws 1911, c. 21, § 1, p. 139; R.S.1913, § 5110; Laws 1915, c. 92, § 1, p. 232; Laws 1917, c. 102, § 1, p. 268; Laws 1919, c. 50, § 1, p. 145; C.S.1922, § 4283; Laws 1923, c. 135, § 1, p. 331; Laws 1927, c. 42, § 1, p. 178;

C.S.1929, § 17-432; Laws 1933, c. 136, § 20, p. 531; C.S.Supp.,1941, § 17-432; R.S.1943, § 17-514; Laws 1996, LB 962, § 1; Laws 2017, LB133, § 132.

Special assessments are a lien from date of levy. Belza v. Village of Emerson, 159 Neb. 651, 68 N.W.2d 272 (1955).

Special assessments on real property are a lien inferior to lien of general taxes, and where property is sold at a tax foreclosure to satisfy lien of general taxes, title passes to a purchaser by such sale, free and clear of all special assessment liens. Polenz v. City of Ravenna, 145 Neb. 845, 18 N.W.2d 510 (1945).

17-515 Streets and malls; improvement; assessments; interest; when delinquent; payment in installments.

(1) All assessments as provided in sections 17-509 to 17-512, except for paving, repaving, construction of malls and plazas, and the landscaping and permanent facilities of such malls and plazas, graveling, or curbing and guttering, shall draw interest until such assessments become delinquent, at a rate set by the city council or village board of trustees from the date of levy, and shall become delinquent on the first day of May subsequent to the date of levy, and shall thereafter draw interest at a rate not exceeding the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature.

(2) Such assessments for paving, repaving, construction of malls and plazas, and the landscaping and permanent facilities of such malls and plazas, or curbing and guttering shall become delinquent in equal annual installments over such period of years, not to exceed fifteen, as the city council or village board of trustees may determine at the time of making the levy, the first such equal installment to become delinquent in fifty days after the date of such levy.

(3) As to such assessments for graveling, one-third of the total amount assessed against each lot or parcel of land shall become delinquent in fifty days after the date of such levy; one-third in one year; and one-third in two years.

(4) Each of the installments, referred to in subsections (2) and (3) of this section, except the first, shall draw interest at a rate set by the city council or village board of trustees, from the time of the levy until such installment shall become delinquent; and after such installment becomes delinquent, interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be paid thereon. Should there be three or more of such installments delinquent and unpaid on the same property, the city council or village board of trustees may by resolution declare all future installments on such delinquent property to be due on a fixed future date. All of such installments may be paid at one time on any lot or land within fifty days from the date of the levy without interest and, if so paid, such lot or land shall be exempt from any lien or charge for the levy.

Source: Laws 1909, c. 22, § 1, p. 192; Laws 1911, c. 21, § 1, p. 139; R.S.1913, § 5110; Laws 1915, c. 92, § 1, p. 233; Laws 1917, c. 102, § 1, p. 268; Laws 1919, c. 50, § 1, p. 145; C.S. 1922, § 4283; Laws 1923, c. 135, § 1, p. 331; Laws 1927, c. 42, § 1, p. 178; C.S.1929, § 17-432; Laws 1933, c. 136, § 20, p. 531; C.S.Supp.,1941, § 17-432; R.S.1943, § 17-515; Laws 1953, c. 34, § 1, p. 124; Laws 1959, c. 64, § 3, p. 287; Laws 1965, c. 65, § 1, p. 283; Laws 1969, c. 92, § 2, p. 457; Laws 1969, c. 51, § 43, p. 298; Laws 1976, LB 441, § 2; Laws 1980, LB 933, § 18; Laws 1981, LB 167, § 19; Laws 2017, LB133, § 133.

A taxpayer has the option to pay the installments with interest as they become due or may pay balance thereon with interest before due. State ex rel. Todd v. Thomas, 127 Neb. 891, 257 N.W. 265 (1934).

17-516 Streets and malls; improvement; paving bonds; warrants; interest; terms.

For the purpose of paying the cost of constructing, landscaping, and equipping malls and plazas, paving, repaving, macadamizing or graveling, curbing, guttering, or otherwise improving streets, avenues, or alleys in any improvement district, the mayor and city council of a city of the second class or village board of trustees shall have the power and may, by ordinance, cause to be issued bonds of the city or village to be called District Improvement Bonds of District No. . . . ., payable in not exceeding fifteen years from date, and to bear interest payable annually or semiannually with interest coupons attached or may issue its warrants, as other warrants are issued, to be called District Improvement Warrants of District No. . . . ., payable in the order of their number, to be issued in such denominations as may be deemed advisable, and to bear interest. When warrants are issued for the payment of such cost, special taxes and assessments shall be levied sufficient to pay such warrants and the interest thereon within three years from the date of issuance.

Source: Laws 1909, c. 22, § 1, p. 192; Laws 1911, c. 21, § 1, p. 140; R.S.1913, § 5110; Laws 1915, c. 92, § 1, p. 233; Laws 1917, c. 102, § 1, p. 269; Laws 1919, c. 50, § 1, p. 146; C.S.1922, § 4283; Laws 1923, c. 135, § 1, p. 332; Laws 1927, c. 42, § 1, p. 179; C.S.1929, § 17-432; Laws 1933, c. 136, § 20, p. 532; C.S.Supp.,1941, § 17-432; R.S.1943, § 17-516; Laws 1963, c. 72, § 1, p. 275; Laws 1963, c. 73, § 1, p. 276; Laws 1969, c. 92, § 3, p. 458; Laws 1969, c. 51, § 44, p. 299; Laws 2017, LB133, § 134.

17-517 Repealed. Laws 1963, c. 72, § 2.

17-518 Streets; improvement; sinking fund; investment.

Pending final redemption of warrant or warrants or bond or bonds for paving issued under section 17-516, the city treasurer or village treasurer is authorized to invest such sinking fund in interest-bearing time certificates of deposit in depositories approved and authorized to receive county funds, but in no greater amount in any depository than such depository is authorized to receive deposits of county funds; and the interest arising from such certificate of deposit shall be credited to its respective sinking fund as provided by law.

Source: Laws 1923, c. 135, § 1, p. 332; Laws 1927, c. 42, § 1, p. 180; C.S.1929, § 17-432; Laws 1933, c. 136, § 20, p. 532; C.S.Supp.,1941, § 17-432; R.S.1943, § 17-518; Laws 2017, LB133, § 135.

17-519 Streets; improvement; assessments against public lands; payment.

If in any city of the second class or village there shall be any real estate belonging to any county, school district, city, village, or other political subdivision adjacent to or abutting upon the street or other public way whereon paving, repaving, graveling, or other improvement has been ordered, it shall be the duty of the governing body of the political subdivision to provide for the payment of such special assessments or taxes as may be assessed against the real estate so adjacent or abutting or within an improvement district. In the

event of the neglect or refusal so to do, the city or village may recover the amount of such special taxes or assessments in any proper action, and the judgment thus obtained may be enforced in the usual manner.

Source: Laws 1909, c. 22, § 1, p. 193; Laws 1911, c. 21, § 1, p. 140; R.S.1913, § 5110; Laws 1915, c. 92, § 1, p. 234; Laws 1917, c. 102, § 1, p. 269; Laws 1919, c. 50, § 1, p. 146; C.S.1922, § 4283; Laws 1923, c. 135, § 1, p. 333; Laws 1927, c. 42, § 1, p. 180; C.S.1929, § 17-432; Laws 1933, c. 136, § 20, p. 533; C.S.Supp.,1941, § 17-432; R.S.1943, § 17-519; Laws 2017, LB133, § 136.

All property in improvement district which either abuts on or is adjacent to improvement made is liable for assessments unless exempted. Chicago & N. W. Ry. Co. v. City of Seward, 166 Neb. 662, 90 N.W.2d 282 (1958).

17-520 Streets; improvement; intersections; property; assessment; Intersection Paving Bonds; warrants; interest; partial payments; final payments.

In cities of the second class and villages, for all paving and improvements of the intersections and areas formed by the crossing of streets, avenues, or alleys, and one-half of the streets adjacent to real estate owned by the United States, the State of Nebraska, or the city or village, the assessment shall be made upon all of the taxable property of such city or village; and for the payment of such paving or improvements the mayor and city council or the village board of trustees are hereby authorized to issue paving bonds of the city or village, in such denominations as they deem proper to be called Intersection Paving Bonds payable in not to exceed fifteen years from the date of such bonds, and to bear interest payable annually or semiannually. Such bonds shall not be issued until the work is completed and then not in excess of the cost of such improvements. For the purpose of making partial payments as the work progresses in paving, repaving, macadamizing or graveling, curbing, and guttering or improvements of streets, avenues, alleys, or intersections and areas formed by the crossing of streets, avenues, or alleys, or one-half of the streets adjacent to real estate owned by the United States, the State of Nebraska, or the city or village, warrants may be issued by the mayor and city council, or the village board of trustees, upon certificates of the engineer in charge showing the amount of the work completed and materials necessarily purchased and delivered for the orderly and proper continuation of the project, in a sum not exceeding ninety-five percent of the cost thereof, and upon completion and acceptance of the work issue a final warrant for the balance of the amount due the contractor, which warrants shall be redeemed and paid upon the sale of bonds authorized by law. The city or village shall pay to the contractor interest, at the rate of eight percent per annum on the amounts due on partial and final payments, beginning forty-five days after the certification of the amounts due by the engineer in charge and approval by the governing body and running until the date that the warrant is tendered to the contractor. Nothing in this section shall be construed as authorizing the mayor and city council or village board of trustees to pave or gravel any intersections or areas formed by the crossing of streets, avenues, or alleys unless in connection with one or more blocks of street paving or graveling of which the paving or graveling of such intersection or area shall form a part.

Source: Laws 1909, c. 22, § 1, p. 193; Laws 1911, c. 21, § 1, p. 141; R.S.1913, § 5110; Laws 1915, c. 92, § 1, p. 234; Laws 1917, c. 102, § 1, p. 269; Laws 1919, c. 50, § 1, p. 146; C.S.1922, § 4283;

Laws 1923, c. 135, § 1, p. 333; Laws 1927, c. 42, § 1, p. 180; C.S.1929, § 17-432; Laws 1933, c. 136, § 20, p. 533; C.S.Supp.,1941, § 17-432; R.S.1943, § 17-520; Laws 1965, c. 65, § 2, p. 284; Laws 1969, c. 51, § 45, p. 299; Laws 1975, LB 112, § 2; Laws 2017, LB133, § 137.

Statutory language includes "T" intersections. Chicago & N. W. Ry. Co. v. City of Seward, 166 Neb. 123, 88 N.W.2d 175 (1958).

17-521 Streets; improvement; railways; duty to pave.

Any street or other railway company, occupying with any track any street, avenue, or alley or portion thereof, which may be ordered paved, repaved, macadamized, or graveled, may be charged with the expense of such improvement of such portion of such street, avenue, or alley so occupied by it between its tracks, between its rails, and for one foot beyond the outer rails; and the cost of such improvement may be collected and enforced against such company in such manner as may be provided by ordinance; or the mayor and city council or village board of trustees may by ordinance require such company to pave, repave, macadamize, or gravel such portion of such street, avenue, or alley occupied by such tracks and for one foot beyond its outside rails.

Source: Laws 1909, c. 22, § 1, p. 194; Laws 1911, c. 21, § 1, p. 141; R.S.1913, § 5110; Laws 1915, c. 92, § 1, p. 234; Laws 1917, c. 102, § 1, p. 270; Laws 1919, c. 50, § 1, p. 148; C.S.1922, § 4283; Laws 1923, c. 135, § 1, p. 334; Laws 1927, c. 42, § 1, p. 181; C.S.1929, § 17-432; Laws 1933, c. 136, § 20, p. 534; C.S.Supp.,1941, § 17-432; R.S.1943, § 17-521; Laws 2017, LB133, § 138.

17-522 Sidewalks; repair; cost; assessment; notice.

(1) The mayor and city council of a city of the second class or village board of trustees may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as the mayor and city council or village board of trustees deems necessary and assess the expense of such construction or repairs on the property in front of which such construction or repairs are made, after having given notice (a) by publication in one issue of a legal newspaper in or of general circulation in such city or village and (b) by either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon such premises ten days prior to the commencement of such construction or repair. The powers conferred under this section are in addition to those provided in sections 17-509 to 17-521 and may be exercised without creating an improvement district.

(2) If the owner of any property abutting any street or avenue or part thereof fails to construct or repair any sidewalk in front of the owner's property within the time and in the manner as directed and requested by the mayor and city council or village board of trustees, after having received due notice to do so, the mayor and city council or village board of trustees may cause the sidewalk to be constructed or repaired and may assess the cost of such construction or repairs against the property.

Source: Laws 1879, § 69, V, p. 211; Laws 1881, c. 23, § 8, V, p. 173; Laws 1885, c. 20, § 1, V, p. 163; Laws 1887, c. 12, § 1, V, p. 292;

R.S.1913, § 5111; C.S.1922, § 4284; C.S.1929, § 17-433; Laws 1943, c. 31, § 1, p. 141; R.S.1943, § 17-522; Laws 1947, c. 34, § 1, p. 144; Laws 2005, LB 161, § 6; Laws 2017, LB133, § 139.

Law requires the village or city officer to use only reasonable diligence to keep the walks in a reasonably safe condition for the use by persons passing over them. Hupfer v. City of North Platte, 134 Neb. 585, 279 N.W. 168 (1938); Gates v. City of North Platte, 126 Neb. 785, 254 N.W. 418 (1934); Strubble v. Village of DeWitt, 81 Neb. 504, 116 N.W. 154 (1908).

The repair of sidewalks is at the cost of the owner. Gibson v. Troupe, 96 Neb. 770, 148 N.W. 944 (1914).

17-523 Sidewalks; temporary walks; construction; cost.

Cities of the second class and villages shall have the power to provide for the laying of temporary sidewalks, upon the natural surface of the ground, without regard to grade, on streets not permanently improved, and to provide for the assessment of the cost of such temporary sidewalks on the property in front of which such sidewalks shall be laid.

Source: Laws 1879, § 69, VI, p. 211; Laws 1881, c. 23, § 8, VI, p. 173; Laws 1885, c. 20, § 1, VI, p. 164; Laws 1887, c. 12, § 1, VI, p. 292; Laws 1905, c. 29, § 1, p. 255; R.S.1913, § 5112; C.S.1922, § 4285; C.S.1929, § 17-434; R.S.1943, § 17-523; Laws 2017, LB133, § 140.

This section governs the construction of temporary sidewalks on ungraded and unimproved streets. Whitla v. Connor, 114 Neb. 526, 208 N.W. 670 (1926).

The terms of this section provide for the construction of temporary, as distinguished from permanent, sidewalk improvements. Gibson v. Troupe, 96 Neb. 770, 148 N.W. 944 (1914).

The provisions for estimates are jurisdictional, and without compliance therewith, there is no authority for a special tax. Moss v. City of Fairbury, 66 Neb. 671, 92 N.W. 721 (1902).

A sidewalk is defined as that portion of a public highway which is set apart by dedication, ordinance, or otherwise for the use of pedestrians. City of Ord v. Nash, 50 Neb. 335, 69 N.W. 964 (1897).

17-524 Streets and sidewalks; improvements; assessments; how made; collection.

Assessments made under sections 17-509 to 17-523 shall be made and assessed in the following manner:

(1) Such assessment shall be made by the city council or village board of trustees at a special meeting, by a resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements, and the amount charged against the same, which, with the vote, shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a legal newspaper in or of general circulation in the city or village at least four weeks before the meeting is held or, in lieu of such notice, personal service may be made upon persons owning or occupying property to be assessed; and

(2) All such assessments shall be known as special assessments for improvements, shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other city or village taxes.

Source: Laws 1879, § 69, VII, p. 212; Laws 1881, c. 23, § 8, VII, p. 174; Laws 1885, c. 20, § 1, VII, p. 164; Laws 1887, c. 12, § 1, VII, p. 292; R.S.1913, § 5113; C.S.1922, § 4286; C.S.1929, § 17-435; R.S.1943, § 17-524; Laws 1955, c. 40, § 1, p. 155; Laws 2017, LB133, § 141.

1. Authority to improve
2. Procedure for assessment
3. Review of proceedings

4. Enforcement
5. Miscellaneous

1. Authority to improve

Special assessments are levied on basis of benefits accruing to property and not on basis of cost of improvement immediately in front of property. Chicago & N. W. Ry. Co. v. City of Seward, 166 Neb. 662, 90 N.W.2d 282 (1958).

Property of railroad was taxable for all special benefits received. Chicago & N. W. Ry. Co. v. City of Seward, 166 Neb. 123, 88 N.W.2d 175 (1958).

Municipality cannot assess for public improvement adjacent property beyond the amount of the present benefit or its reasonably prospective benefit. Munsell v. City of Hebron, 117 Neb. 251, 220 N.W. 289 (1928).

City council has no authority to assess abutting lot owner with cost of paving that part of street taken by street railway. Wales v. Warren, 66 Neb. 455, 92 N.W. 590 (1902).

2. Procedure for assessment

Notice is provided by this section to taxpayer of levy of special assessments for paving. Elliott v. City of Auburn, 172 Neb. 1, 108 N.W.2d 328 (1961).

Assessments may be made by resolution. Chicago, St. P., M. & O. Ry. Co. v. City of Randolph, 163 Neb. 687, 81 N.W.2d 159 (1957).

This section designates the manner special assessments shall be made and does not give a village authority to reapportion or reassess special assessments. Village of Winside v. Brune, 133 Neb. 80, 274 N.W. 212 (1937).

The burden is on a person assailing an assessment as void for paving to prove the invalidating facts. City of Superior v. Simpson, 114 Neb. 698, 209 N.W. 505 (1926); Whitla v. Connor, 114 Neb. 526, 208 N.W. 670 (1926).

Where the board failed to find the value of the property or mention damages sustained but did find the benefits and levy tax in that amount, there was to that extent substantial compliance with this section and the assessment was not void. Biggerstaff v. City of Broken Bow, 112 Neb. 4, 198 N.W. 156 (1924).

Railroad properties are assessed on the same basis as other abutting property notwithstanding their use. Chicago & N. W. Ry. Co. v. City of Albion, 109 Neb. 739, 192 N.W. 233 (1923).

Where personal notice is relied upon, it must be given in such time as to allow property owner a reasonable time to prepare for the hearing. Hull v. City of Humboldt, 107 Neb. 326, 186 N.W. 78 (1921).

If it appears the board in levying the assessment did not take into account the benefits and damages resulting from the construction of the sidewalk and levied the total cost thereof without regard to such benefits and damages, the tax is void and may be enjoined. Schneider v. Plum, 86 Neb. 129, 124 N.W. 1132 (1910).

Provisions for engineers' estimates are jurisdictional and such estimates must be submitted and approved before council can levy special assessment for sidewalk against adjacent property. Moss v. City of Fairbury, 66 Neb. 671, 92 N.W. 721 (1902).

Notice of the time and purpose of holding of the meeting is jurisdictional, and equalization and levy, made without notice, is void. Cook v. Gage County, 65 Neb. 611, 91 N.W. 559 (1902).

3. Review of proceedings

This section does not provide for appeal to the district court from action of council sitting as a board of equalization in levying special assessments for paving, and review may be had only by error proceedings. Roberts v. City of Mitchell, 131 Neb. 672, 269 N.W. 515 (1936).

4. Enforcement

Property owner has option to pay assessment in installments as they accrue with interest or to pay balance of assessment at any time with interest to date of payment. State ex rel. Todd v. Thomas, 127 Neb. 891, 257 N.W. 265 (1934).

While there is a distinction between taxes levied for sidewalk construction and taxes for general revenue, there is no difference in the method of enforcement. Wilson v. City of Auburn, 27 Neb. 435, 43 N.W. 257 (1889).

5. Miscellaneous

Cited but not discussed. Campbell v. City of Ogallala, 183 Neb. 238, 159 N.W.2d 574 (1968).

A special assessment can only be enjoined when the record shows some jurisdictional defect in the proceedings. Bemis v. McCloud, 4 Neb. Unof. 731, 97 N.W. 828 (1903).

Where no levy has been made by the council for sidewalk, no lien will be created even though the tax be certified to county board and entered as a tax against the property. Hall v. Moore, 3 Neb. Unof. 574, 92 N.W. 294 (1902).

17-525 Occupation tax; power to levy; exceptions.

Cities of the second class and villages shall have power to raise revenue by levying and collecting a license tax on any occupation or business within the limits of the city or village and regulate such occupation or business by ordinance. After March 27, 2014, any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under section 77-2704.24. The occupation tax shall be imposed in the manner provided in section 18-1208, except that section 18-1208 does not apply to an occupation tax subject to section 86-704. All such taxes shall be uniform in respect to the classes upon which they are imposed. All scientific and literary lectures and entertainments shall be exempt from such taxation, as well as concerts and other musical entertainments given exclusively by the citizens of the city or village.

Source: Laws 1879, § 69, VIII, p. 212; Laws 1881, c. 23, § 8, VIII, p. 174; Laws 1885, c. 20, § 1, VIII, p. 165; Laws 1887, c. 12, § 1, VIII, p.

293; R.S.1913, § 5114; C.S.1922, § 4287; C.S.1929, § 17-436; R.S.1943, § 17-525; Laws 2012, LB745, § 6; Laws 2014, LB474, § 5; Laws 2017, LB133, § 142.

1. Valid ordinance
2. Invalid ordinance
3. Miscellaneous

1. Valid ordinance

Penal provision of an occupation tax ordinance which provides for the enforcement and collection of tax by imposition of a fine is valid and enforceable. Western Union Telegraph Co. v. City of Franklin, 93 Neb. 704, 141 N.W. 819 (1913).

Village board may levy an occupation tax upon the practice of medicine. Village of Dodge v. Guidinger, 87 Neb. 349, 127 N.W. 122 (1910).

Payment of occupation tax under one ordinance did not prevent municipality from requiring a license to transact business of billiard and pool room under another ordinance. McCarter v. City of Lexington, 80 Neb. 714, 115 N.W. 303 (1908).

A village may impose a reasonable occupation tax upon telegraph companies doing business within its limits though such tax should be restricted so as not to include interstate or government business. Western Union Telegraph Co. v. Village of Wakefield, 69 Neb. 272, 95 N.W. 659 (1903).

Validity of an ordinance can be questioned only by one whose rights are directly affected thereby. Flick v. City of Broken Bow, 67 Neb. 529, 93 N.W. 729 (1903).

Village trustees are authorized to raise general revenue by levying and collecting a license tax on persons engaged in the business of conducting billiard and pool rooms. Morgan v. State, 64 Neb. 369, 90 N.W. 108 (1902).

A city may impose an occupation tax by ordinance upon a fire insurance company for the purpose of maintenance of a volunteer fire department. German-American Fire Ins. Co. v. City of Minden, 51 Neb. 870, 71 N.W. 995 (1897).

Cities of second class and villages are empowered to impose occupation tax on saloons in addition to the collecting of fees for license to sell liquor, but such tax cannot be made a condition precedent to the issuing of such license. State ex rel. Sage v. Bennett, 19 Neb. 191, 26 N.W. 714 (1886).

2. Invalid ordinance

Municipalities by ordinance must not make arbitrary classification of business for the purpose of levying occupation tax, and such tax must apply uniformly and not be so high as to be confiscatory. Speier's Laundry Co. v. City of Wilber, 131 Neb. 606, 269 N.W. 119 (1936).

Where salesman took orders for future delivery and later delivered such goods which had been shipped in original packages from outside of state, such acts are incident to interstate commerce and such business is not subject to an occupation tax. Purchase v. State of Nebraska, 109 Neb. 457, 191 N.W. 677 (1922).

Village board by ordinance could regulate but could not suppress billiard and pool halls. State ex rel. McMonies v. McMonies, 75 Neb. 443, 106 N.W. 454 (1906).

3. Miscellaneous

Occupation tax is a civil liability to be collected by levy and sale of property and not by imprisonment. State v. Green, 27 Neb. 64, 42 N.W. 913 (1889).

17-526 Dogs and other animals; license tax; enforcement.

Cities of the second class and villages may, by ordinance, impose a license tax in an amount which shall be determined by the governing body of such city of the second class or village for each dog or other animal, on the owners and harborers of dogs and other animals, and enforce such license tax by appropriate penalties, and cause the destruction of any dog or other animal, for which the owner or harborer shall refuse or neglect to pay such license tax. Any licensing provision shall comply with subsection (2) of section 54-603 for service animals. Such municipality may regulate, license, or prohibit the running at large of dogs and other animals and guard against injuries or annoyances from such animals and authorize the destruction of such animals when running at large contrary to the provisions of any ordinance.

Source: Laws 1879, § 69, X, p. 213; Laws 1881, c. 23, § 8, X, p. 175; Laws 1885, c. 20, § 1, X, p. 165; Laws 1887, c. 12, § 1, X, p. 294; Laws 1899, c. 14, § 1, p. 79; R.S.1913, § 5116; C.S.1922, § 4289; C.S.1929, § 17-438; R.S.1943, § 17-526; Laws 1959, c. 59, § 2, p. 253; Laws 1976, LB 515, § 1; Laws 1981, LB 501, § 4; Laws 1997, LB 814, § 5; Laws 2008, LB806, § 4; Laws 2017, LB133, § 143.

17-527 Elections; rules governing; power to prescribe.

Cities of the second class and villages shall have power to prescribe the manner of conducting all municipal elections and the return of such elections and for holding special elections for any purpose provided by law.

Source: Laws 1879, § 69, XI, p. 213; Laws 1881, c. 23, § 8, XI, p. 175; Laws 1885, c. 20, § 1, XI, p. 166; Laws 1887, c. 12, § 1, XI, p.

294; R.S.1913, § 5117; C.S.1922, § 4290; C.S.1929, § 17-439; R.S.1943, § 17-527; Laws 1959, c. 60, § 55, p. 272; Laws 2017, LB133, § 144.

17-528 Electricity; franchises and contracts; tax; sale by public service company to city.

Cities of the second class and villages shall have power to grant a franchise, for a period of not to exceed twenty-five years, to any person, company, corporation, or association, whether publicly or privately owned, to furnish light and power to the residents, citizens, and corporations doing business in such city or village, and to make contracts, for a period of not to exceed five years, with such person, company, or association for the furnishing of light for the streets, lanes, alleys, and other public places and property of such city or village, and the inhabitants of such city or village, the furnishing of electricity to pump water or similar services for such city or village, and to levy a tax for the purpose of paying the costs of such lighting of streets, lanes, alleys, and other public places and property of such city or village. No public service company, whether publicly or privately owned, shall sell to any city of the second class or village, now generating its own electric current for all or the major portion of its electric requirements, unless first authorized so to do by a vote of the electors of such city or village, in the same manner and subject to the same conditions as are set forth in section 18-412. If no tax or issuance of bonds is required, any city of the second class or village may by resolution of the city council or village board of trustees contract for the furnishing of electricity at retail to such city or village, or to any electric plant within such city or village, with any public power district or an electric cooperative which cooperative has an approved retail service area adjoining such city or village.

Source: Laws 1879, § 69, XIV, p. 214; Laws 1881, c. 23, § 8, XIV, p. 176; Laws 1885, c. 20, § 1, XIV, p. 166; Laws 1887, c. 12, § 1, XIV, p. 295; Laws 1895, c. 16, § 1, p. 111; Laws 1905, c. 27, § 1, p. 252; R.S.1913, § 5118; C.S.1922, § 4291; C.S.1929, § 17-440; Laws 1943, c. 28, § 2, p. 124; R.S.1943, § 17-528; Laws 1965, c. 58, § 2, p. 266; Laws 1969, c. 83, § 2, p. 419; Laws 2017, LB133, § 145.

This section was not applicable to specific contract authorized by the Constitution. City of O'Neill v. Consumers P. P. Dist., 179 Neb. 773, 140 N.W.2d 644 (1966).

17-528.01 Repealed. Laws 1957, c. 33, § 2.

17-528.02 Gas franchises; length; conditions; tax.

Cities of the second class and villages shall have power to grant a franchise, subject to the conditions of this section and section 17-528.03, for a period not exceeding twenty-five years to any person, company, or association, whether publicly or privately owned, and to his, her, or its assigns, to lay and maintain gas mains, pipes, service, and all other necessary structures in the streets, lanes, alleys, and public places of such city or village for the purpose of transporting gas on, under, or along any streets, lanes, alleys, and public places of such city or village and for furnishing gas to the inhabitants of such city or village. The city or village may make any reasonable regulation with reference to any person, firm, or corporation holding such franchise as to charges for

such gas. Such city or village is authorized to contract, lease, or rent the gas plant from any person, firm, or corporation furnishing gas within such city or village. Such contract, lease, or rental agreement shall not be for a period longer than five years. Such city or village may levy a tax to pay the rent under such lease or to pay for any gas used for street lighting or for other necessary purposes.

Source: Laws 1879, § 39, VI, p. 201; Laws 1881, c. 24, § 1, p. 195; Laws 1905, c. 27, § 1, p. 252; Laws 1911, c. 18, § 1, p. 135; R.S.1913, § 5019; Laws 1919, c. 45, § 1, p. 129; C.S.1922, § 4188; C.S. 1929, § 17-127; Laws 1943, c. 28, § 1, p. 123; R.S.1943, § 17-125; Laws 1957, c. 33, § 1(1), p. 196; Laws 1959, c. 49, § 1, p. 237; Laws 2017, LB133, § 146.

Right of regulation of rates to be charged for gas is reserved to municipality. Nebraska Natural Gas Co. v. City of Lexington, 167 Neb. 413, 93 N.W.2d 179 (1958).

Power to regulate rates is delegated to municipality but rates must not be confiscatory. Kansas-Nebraska Natural Gas Co. v. City of St. Edward, 167 Neb. 15, 91 N.W.2d 69 (1958).

City may make regulations with reference to holders of franchise for distribution of gas. City of Bayard v. North Central Gas Co., 164 Neb. 819, 83 N.W.2d 861 (1957).

City council is empowered to fix rates for the term of franchise. Kansas-Nebraska Natural Gas Co. v. City of St. Edward, 134 F.Supp. 809 (D. Neb. 1955).

17-528.03 Electricity franchises; length; conditions; election, when required; exceptions.

Cities of the second class and villages shall have power to grant a franchise subject to the conditions of this section or section 17-528.02. Such franchise may run for a period not exceeding twenty-five years, and it may be granted to any person, company, or association, whether publicly or privately owned, and to his, her, or its assigns. Such franchise may permit the person, company, or association to erect and maintain poles, lines, wires, and conductors for electricity in the streets, lanes, alleys, and public places of such city or village and for furnishing electricity to the inhabitants of such city or village. Such franchise may establish the amount that may be charged during such period for electricity and provide that such city or village may, after such period, make any reasonable regulation with reference to any person, firm, or corporation holding such franchise either as to charges for electricity or otherwise. Such city or village is further authorized to contract, lease, or rent the plant, from any person, firm, or corporation, furnishing electricity, within such city or village, for power or the lighting of streets, lanes, alleys, and public places of such city or village, but not for a period longer than five years. Such city or village may levy a tax for the purpose of paying the cost of such lighting of streets, lanes, alleys, or public places of such city or village or to pay the rent under such lease. No public service company, whether publicly or privately owned, shall sell to any city of the second class or village, generating its own electric energy for all or a major portion of its electric requirements, unless first authorized so to do by a vote of the electors of such city or village, in the same manner and subject to the same conditions as are set forth in section 18-412. If no tax or issuance of bonds is required, any city of the second class or village may by resolution of the city council or village board of trustees contract for the furnishing of electricity at retail to such city or village, or to any electric plant within such city or village, with any public power district or an electric cooperative which cooperative has an approved retail service area adjoining such city or village.

Source: Laws 1879, § 39, VI, p. 201; Laws 1881, c. 24, § 1, p. 195; Laws 1905, c. 27, § 1, p. 252; Laws 1911, c. 18, § 1, p. 135; R.S.1913,

§ 5019; Laws 1919, c. 45, § 1, p. 129; C.S.1922, § 4188; C.S. 1929, § 17-127; Laws 1943, c. 28, § 1, p. 123; R.S.1943, § 17-125; Laws 1957, c. 33, § 1(2), p. 197; Laws 1965, c. 58, § 3, p. 267; Laws 1969, c. 83, § 3, p. 419; Laws 2017, LB133, § 147.

This section was not applicable to specific contract authorized by the Constitution. City of O'Neill v. Consumers P. P. Dist., 179 Neb. 773, 140 N.W.2d 644 (1966).

17-529 Watercourses; aqueducts; wells; regulation.

Cities of the second class and villages shall have power (1) to establish and alter the channel of watercourses and to wall them and cover them over, (2) to establish, regulate, and provide for the filling of wells, cisterns and windmills, aqueducts, and reservoirs of water, and (3) to erect and maintain a dike or dikes as protection against flood or surface waters.

Source: Laws 1879, § 69, XV, p. 214; Laws 1881, c. 23, § 8, XV, p. 176; Laws 1885, c. 20, § 1, XV, p. 167; Laws 1887, c. 12, § 1, XV, p. 295; Laws 1893, c. 8, § 1, p. 133; Laws 1903, c. 21, § 1, p. 250; Laws 1905, c. 30, § 1, p. 256; Laws 1907, c. 17, § 1, p. 126; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 270; Laws 1919, c. 48, § 1, p. 136; Laws 1919, c. 52, § 1, p. 150; Laws 1919, c. 46, § 2, p. 131; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 156; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 141; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-529; Laws 1947, c. 35, § 1(1), p. 146; Laws 2017, LB133, § 148.

City was authorized to erect and maintain a dike as protection against flood or surface waters. Gruntorad v. Hughes Bros. Inc., 161 Neb. 358, 73 N.W.2d 700 (1955).

A village has the right, under police power, to control lateral of irrigation ditch through one of its streets. Thornton v. Kingrey, 100 Neb. 525, 160 N.W. 871 (1916), affirmed on rehearing, 101 Neb. 631, 164 N.W. 561 (1917).

Where a municipality fills a channel with earth and fails to provide a sufficient outlet for passage of natural flood waters, damaging property, it is liable therefore. McClure v. City of Broken Bow, 81 Neb. 384, 115 N.W. 1081 (1908).

17-529.01 Dikes; erection and maintenance; eminent domain; procedure.

In connection with the power to establish and alter the channel of watercourses and the power to erect and maintain dikes against flood waters and surface waters, cities of the second class and villages shall be empowered to exercise the power of eminent domain to acquire easements and rights-of-way over real estate situated either within or not more than two miles outside the corporate limits of such city or village, for the purpose of constructing either a ditch or a dike to prevent flooding of such city or village. The procedure for taking and condemning real estate for such purpose shall be exercised in the manner set forth in sections 76-704 to 76-724. In connection with such condemnation proceedings, the city or village shall be liable not only for the land actually taken but for consequential damages to other lands damaged by the construction of such improvement and shall be authorized to pay such damages out of any available funds on hand or by the issuance of bonds as provided by law.

Source: Laws 1947, c. 35, § 1(2), p. 146; Laws 1949, c. 23, § 1, p. 95; Laws 1951, c. 101, § 56, p. 473; Laws 1953, c. 287, § 16, p. 939; Laws 1965, c. 66, § 1, p. 286; Laws 2017, LB133, § 149.

Cross References

For additional flood control powers and duties of cities of the second class and villages, see section 23-320.07.
For funding provisions, see section 17-529.08.

Exercise of powers of eminent domain and taxation were authorized for flood control project. Gruntorad v. Hughes Bros. Inc., 161 Neb. 358, 73 N.W.2d 700 (1955).

17-529.02 Flood control projects; cooperation with United States; consent to requirements.

Cities of the second class and villages may cooperate with the United States Government in protecting against floods and enter into agreements with such government for that purpose. Such cities and villages may, in order to obtain federal funds for protecting against floods, consent to requirements of the Congress of the United States that such city or village (1) provide without cost to the United States all lands, easements, and rights-of-way necessary for the construction of flood control projects, (2) hold and save the United States free and harmless from damages due to the construction works, and (3) maintain and operate all the flood control works after completion in accordance with regulations prescribed by the Secretary of the Army of the United States.

Source: Laws 1947, c. 35, § 1(3), p. 146; Laws 1972, LB 1047, § 1; Laws 2017, LB133, § 150.

City is authorized to enter into agreements with United States to maintain and operate flood control projects. Gruntorad v. Hughes Bros. Inc., 161 Neb. 358, 73 N.W.2d 700 (1955).

17-529.03 Flood control projects; removal to another site; definitions.

For purposes of sections 17-529.03 to 17-529.07:

(1) The term old city or village shall mean a city of the second class or village at its old location, and is not used in the sense that it is another or different city or village after its removal to a new site;

(2) The term new city or village shall mean a city of the second class or village at its new location, and is not used in the sense that it is another or different city or village than it was before its removal from an old site;

(3) The term county board shall mean the board of county commissioners or board of supervisors of a county; and

(4) The term governing board shall mean the city council of a city of the second class, or the village board of trustees.

Source: Laws 1947, c. 44, § 1, p. 160; Laws 2017, LB133, § 151.

17-529.04 Flood control projects; removal to another site; when authorized.

Whenever the United States Government acquires by purchase or under eminent domain the entire site upon which a city of the second class or a village is located under any flood control project, such city or village may be removed to another site and retain its corporate identity by observing the procedure set out in sections 17-529.05 and 17-529.06.

Source: Laws 1947, c. 44, § 2, p. 160.

17-529.05 Flood control projects; removal to another site; petition; contents; order for hearing; notice.

Whenever a petition is filed with the county clerk of any county, signed by either the governing board of any city of the second class or village or by one hundred or more electors of any city of the second class or village within such county setting forth: (1) That the United States Government has acquired, or is

about to acquire, by purchase or eminent domain or both, the entire site upon which such city or village is located; (2) that the petitioners desire such city or village removed to another site and the corporate identity retained; (3) that a new site has been acquired, or contracted to be acquired, to which the old city or village can be removed; (4) that the petitioners intend to become residents of the new city or village when it is removed to the proposed new site; and (5) offer to pay all costs of the proceedings to effectuate such removal, the county board of such county shall enter an order setting such petition down for hearing not less than thirty nor more than sixty days after the filing of such petition and shall cause notice of such hearing to be given by publication three successive weeks prior to the hearing in a legal newspaper in or of general circulation in such county.

Source: Laws 1947, c. 44, § 3, p. 160; Laws 2017, LB133, § 152.

17-529.06 Flood control projects; removal to another site; hearing; entry of order.

Upon the hearing held pursuant to section 17-529.05, if the county board finds that the statements set forth in the petition are true and that it is in the best interests of the old city or village to authorize such removal, the county board shall enter an order granting such petition.

Source: Laws 1947, c. 44, § 4, p. 161; Laws 2017, LB133, § 153.

17-529.07 Flood control projects; removal to another site; order; effect.

The order granting a petition under section 17-529.05 shall have the following effect:

(1) The name and corporate identity of the old city or village shall be retained by the new city or village.

(2) The officers of the old city or village shall continue to be the officers of the new city or village until their successors are elected and qualified at the time and in the manner provided by law.

(3) The funds and property of the old city or village shall be retained by and belong to the new city or village.

(4) The proceeds from the sale or condemnation of municipally owned property of the old city or village shall accrue and be paid to the new city or village, except that any outstanding bonded indebtedness of or judgments against the old city or village shall be paid to the holders of such bonds or judgments who shall demand payment thereof and are not willing to permit such bonds or judgments to continue as an indebtedness due from the new city or village.

(5) The ordinances of the old city or village shall continue in full force and effect as the ordinances of the new city or village.

(6) The proceeds from the sale or condemnation of any public school buildings and grounds situated within the old city or village shall be used for the purchase and construction of a new school building and grounds at the new site, if the new site is located within the same school district as the old site, and if not, the proceeds shall be apportioned between the school district in which the new city or village is located and the school district in which the old city or village was located in the proportion that the actual valuation of the property purchased and condemned by the United States Government in such school

district bears to the valuation of the property remaining in such school district not condemned or purchased by the United States Government.

(7) The proceeds from the sale or condemnation of any public buildings and grounds of any township in which the old city or village was located shall be used for the purchase and construction of similar buildings and grounds at the new site, if the new site is located within the same township as the old site, and if not, the proceeds shall be apportioned between the township in which the new city or village is located and the township in which the old city or village was located in the proportion that the actual valuation of the property purchased and condemned by the United States Government in such township bears to the actual valuation of the property remaining in such township not condemned or purchased by the United States Government.

Source: Laws 1947, c. 44, § 5, p. 161; Laws 1979, LB 187, § 51; Laws 2017, LB133, § 154.

17-529.08 Flood control projects; bonds; interest; election; tax; levy.

(1) For the purpose of paying the costs and expenses in implementing sections 17-529.01 and 17-529.02, cities of the second class and villages may borrow money or issue bonds in an amount not to exceed five percent of the taxable valuation of all the taxable property within such city or village according to the most recent assessment.

(2) Such cities or villages may levy and collect a general tax in the same manner as other municipal taxes are levied and collected in an amount sufficient to pay the interest and principal of the bonds referred to in subsections (1) and (3) of this section, as the same mature, upon the taxable value of all the taxable property within such city or village as shown upon the assessment roles, in addition to the sum authorized to be levied under section 17-506.

(3) No money shall be borrowed or bonds issued as referred to in subsections (1) and (2) of this section unless authorized by a majority of the legal votes cast for and against the proposition at an election held for that purpose. Notice of the election shall be given by publication in a legal newspaper in or of general circulation in such city or village for at least two weeks prior to the date of such election. The bonds shall be the bonds of such city or village, shall become due in not to exceed twenty years from their date of issue, and shall draw interest payable semiannually or annually.

Source: Laws 1965, c. 73, § 1, p. 296; Laws 1969, c. 51, § 46, p. 300; Laws 1971, LB 534, § 14; Laws 1979, LB 187, § 52; Laws 1992, LB 719A, § 53; Laws 2017, LB133, § 155.

17-530 Waterworks; franchises; terms.

Cities of the second class and villages shall have power to make contracts with and authorize any person, company, or corporation to erect and maintain a system of waterworks and water supply, and to give such contractors the exclusive privilege for a term not exceeding twenty-five years to lay down in the streets and alleys of such city or village water mains and supply pipes, and to furnish water to such city or village, and the residents of such cities or villages, under such regulations as to price, supply, and rent of water meters, as the city council or village board of trustees may from time to time prescribe by

ordinance for the protection of the city or village. The right to supervise and control such person, company, or corporation shall not be waived or set aside.

Source: Laws 1881, c. 23, § 8, XV, p. 176; Laws 1885, c. 20, § 1, XV, p. 167; Laws 1887, c. 12, § 1, XV, p. 295; Laws 1893, c. 8, § 1, p. 133; Laws 1903, c. 21, § 1, p. 250; Laws 1905, c. 30, § 1, p. 256; Laws 1907, c. 17, § 1, p. 126; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 271; Laws 1919, c. 46, § 2, p. 131; Laws 1919, c. 48, § 1, p. 137; Laws 1919, c. 52, § 1, p. 150; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 157; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 141; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-530; Laws 2017, LB133, § 156.

An ordinance, contracting for supply of water and payment therefor with private water company, is valid even though not preceded by an appropriation to meet such water rentals. City of North Platte v. North Platte Water-Works Co., 56 Neb. 403, 76 N.W. 906 (1898).

City of second class is authorized to contract with third persons to erect and maintain a system of waterworks to supply water. North Platte Water-Works Company v. City of North Platte, 50 Neb. 853, 70 N.W. 393 (1897).

An agreement to rent more hydrants than the assessed valuation of property in a municipality will justify does not affect the validity of contract to erect and maintain a waterworks system. State ex rel. Tarr v. City of Crete, 32 Neb. 568, 49 N.W. 272 (1891).

17-531 Waterworks; acquisition or construction authorized.

Cities of the second class and villages shall have power to provide for the purchase of fire-extinguishing apparatus and for a supply of water for the purpose of fire protection and public use and for the use of the inhabitants of such cities and villages by the purchase, erection, or construction of a system of waterworks, water mains, or extensions of any system of waterworks established or situated in whole or in part within such city or village, and for maintaining such fire-extinguishing apparatus or system of waterworks.

Source: Laws 1885, c. 20, § 1, XV, p. 167; Laws 1887, c. 12, § 1, XV, p. 296; Laws 1893, c. 8, § 1, p. 133; Laws 1903, c. 21, § 1, p. 250; Laws 1905, c. 30, § 1, p. 256; Laws 1907, c. 17, § 1, p. 126; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 271; Laws 1919, c. 48, § 1, p. 137; Laws 1919, c. 52, § 1, p. 151; Laws 1919, c. 46, § 2, p. 131; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 157; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 142; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-531; Laws 2017, LB133, § 157.

Contract for construction of waterworks was not ultra vires where city had authority to make it though part of funds were diverted from purpose for which voted. Chicago Bridge & Iron Works v. City of South Sioux City, 108 Neb. 827, 189 N.W. 367 (1922).

City engaged in a commercial enterprise is liable to public for its negligence the same as individuals. Reed v. Village of Syracuse, 83 Neb. 713, 120 N.W. 180 (1909).

There is no grant of power, either to a franchise corporation or to the city, in maintaining its own waterworks, to sell meters, or to compel consumers to supply themselves with meters. Albert v. Davis, 49 Neb. 579, 68 N.W. 945 (1896).

17-532 Waterworks; private companies; compulsory connections.

Cities of the second class and villages shall have power to require any person, firm, or corporation operating any public water supply in such city or village to connect with and furnish water to such city or village from its mains located within such city or village, and to provide by ordinance for connections of such mains with the mains or portion of water system constructed or operated by such city or village, under such regulations and under such penalties as may be prescribed by ordinance.

Source: Laws 1907, c. 17, § 1, p. 126; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 271; Laws 1919, c. 48, § 1, p. 137; Laws 1919, c. 52,

§ 1, p. 151; Laws 1919, c. 46, § 2, p. 131; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 157; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 142; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-532; Laws 2017, LB133, § 158.

17-533 Waterworks; construction; bids.

All contracts for the construction of any work pursuant to sections 17-530 to 17-532, or any portion of such work, shall be let to the lowest responsible bidder, and upon not less than twenty days' published notice of the terms and conditions upon which the contract is to be let having been given by publication in a legal newspaper in or of general circulation in such city or village. In all cases the city council or village board of trustees shall have the right to reject any and all bids that may not be satisfactory.

Source: Laws 1881, c. 23, § 8, XV, p. 177; Laws 1885, c. 20, § 1, XV, p. 167; Laws 1887, c. 12, § 1, XV, p. 296; Laws 1893, c. 8, § 1, p. 133; Laws 1903, c. 21, § 1, p. 250; Laws 1905, c. 30, § 1, p. 256; Laws 1907, c. 17, § 1, p. 127; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 271; Laws 1919, c. 48, § 1, p. 137; Laws 1919, c. 52, § 1, p. 151; Laws 1919, c. 46, § 2, p. 131; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 157; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 142; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-533; Laws 2017, LB133, § 159.

Estimate of costs must be made and submitted by city engineer before council can make contract and such estimate cannot be raised by the engineer after the bids have been opened. Murphy v. City of Plattsmouth, 78 Neb. 163, 110 N.W. 749 (1907).

City is only authorized to contract after advertising for bids and with only such persons as tender a bid in response to such advertisement. Fairbanks, Morse & Co. v. City of North Bend, 68 Neb. 560, 94 N.W. 537 (1903).

17-534 Waterworks; purchase or construction; bonds; interest; limitation; tax; approval of electors required; exception.

(1) Cities of the second class and villages may borrow money or issue bonds in an amount not to exceed twelve percent of the taxable valuation of all the taxable property within such city or village according to the most recent assessment for the purchase of fire-extinguishing apparatus and for the purchase, construction, and maintenance of such waterworks, mains, portion, or extension of any system of waterworks or water supply or to pay for water furnished such city or village under contract, when authorized as is provided for by subsection (3) of this section.

(2) Such cities or villages may levy and collect a general tax in the same manner as other municipal taxes are levied and collected in an amount sufficient to pay the interest and principal of the bonds referred to in subsections (1) and (3) of this section, as the same mature, upon the taxable value of all the taxable property within such city or village, in addition to the sum authorized to be levied under section 17-506. All taxes raised by such a levy shall be retained in a fund known as the water fund.

(3) No money shall be borrowed or bonds issued as referred to in subsections (1) and (2) of this section unless authorized by a majority of the legal voters of such city or village voting on the proposition at an election held for that purpose. Notice of the election shall be given by publication in a legal newspaper in or of general circulation in such city or village for at least two weeks prior to the date of such election. The requirement of this section of a vote of

the electors shall not apply when the proceeds of the bonds will be used solely for the maintenance, extension, improvement, or enlargement of any existing system of waterworks or water supply owned by the city or village and the bonds have been ordered issued by a vote of not less than three-fourths of all the city council or village board of trustees as the case may be. The bonds shall be the bonds of such city or village and be called water bonds. The bonds shall become due in not to exceed forty years from the date of issue and shall draw interest payable semiannually or annually.

Source: Laws 1881, c. 23, § 8, XV, p. 177; Laws 1885, c. 20, § 1, XV, p. 168; Laws 1887, c. 20, § 1, XV, p. 296; Laws 1893, c. 8, § 1, p. 134; Laws 1903, c. 21, § 1, p. 250; Laws 1905, c. 30, § 1, p. 257; Laws 1907, c. 17, § 1, p. 127; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 271; Laws 1919, c. 48, § 1, p. 138; Laws 1919, c. 52, § 1, p. 151; Laws 1919, c. 46, § 2, p. 132; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 158; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 142; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-534; Laws 1945, c. 30, § 1, p. 147; Laws 1949, c. 24, § 1, p. 96; Laws 1955, c. 50, § 1, p. 169; Laws 1969, c. 51, § 47, p. 301; Laws 1971, LB 83, § 1; Laws 1971, LB 982, § 1; Laws 1979, LB 187, § 53; Laws 1992, LB 719A, § 54; Laws 2017, LB133, § 160.

1. Issuance of bonds
2. Levy of tax
3. Miscellaneous

1. Issuance of bonds

City has no power to issue bonds except as expressly authorized by statute. State ex rel. City of O'Neill v. Marsh, 121 Neb. 841, 238 N.W. 760 (1931).

Where council called bond election by resolution, rather than by ordinance, and where the resolution provided the election should be held at ''the regular polling places in the city'', such notice was sufficient as to the location of the polling place. State ex rel. City of O'Neill v. Marsh, 106 Neb. 547, 184 N.W. 135 (1921); Hurd v. City of Fairbury, 87 Neb. 745, 128 N.W. 638 (1910).

Where municipality voted bonds and entered into contract for sale thereof in strict conformity with the statute, and, before the bonds were issued, the Legislature by statute changed the terms of such bonds, the validity of the bonds issued containing the terms as so voted is not affected. State ex rel. City of Seward v. Marsh, 104 Neb. 159, 176 N.W. 92 (1920).

Bonds must be issued in conformity with the statute at the time of their issuance. Morgan v. City of Falls City, 103 Neb. 795, 174 N.W. 421 (1919).

A resolution for submission and notice of election duly passed by council providing ''for the purpose of purchasing or erecting, constructing, etc.,'' of a system of waterworks will not be enjoined as submitting two alternative propositions to the voters. Hurd v. City of Fairbury, 87 Neb. 745, 128 N.W. 638 (1910).

Cities cannot issue bonds to aid private parties in construction of waterworks. Village of Grant v. Sherrill, 71 Neb. 219, 98 N.W. 681 (1904).

A notice for a bond election, published in each issue of a paper for five weeks, is sufficient although the first publication was only thirty-two days before such election. State ex rel. Village of Genoa v. Weston, 67 Neb. 385, 93 N.W. 728 (1903).

Valuation, as fixed by last preceding assessment, on the date when proposition for issuance of bonds is submitted to voters, fixes the maximum amount of bonds authorized to be issued. Chicago, B. & Q. Ry. Co. v. Village of Wilber, 63 Neb. 624, 88 N.W. 660 (1902).

Council of municipality by ordinance has no power to bind the city by the issuance of bonds and guaranteeing their payment beyond the authority expressly given by statute, and such statute should be strictly followed. Painter v. City of Norfolk, 62 Neb. 330, 87 N.W. 31 (1901).

The right to issue water bonds is limited by the assessed valuation as of the date of election thereon. State ex rel. City of Sutton v. Babcock, 24 Neb. 640, 39 N.W. 783 (1888).

Proposition to vote waterworks bonds may be submitted by resolution. State ex rel. City of York v. Babcock, 20 Neb. 522, 31 N.W. 8 (1886).

2. Levy of tax

Powers to levy a tax may be implied from the express power given to incur an obligation where the Legislature must have intended a tax to furnish payments therefrom. Union Pacific R. R. Co. v. Heuer, 97 Neb. 436, 150 N.W. 259 (1914).

City authorities will not be required by mandamus to levy tax for water supply in excess of limit existing at time contract is entered into. State ex rel. Young v. Royse, 71 Neb. 1, 98 N.W. 459 (1904); State ex rel. Young v. Royse, 3 Neb. Unof. 262, 91 N.W. 559 (1902).

3. Miscellaneous

Where a village fails to comply with the requirements essential to borrow money, such borrowing is illegal and void; yet, if the money is retained and subsequently devoted to legitimate municipal purposes, the municipality is liable therefor upon an implied contract, unless barred by statute of limitations. Nebraska State Bank Liquidation Assn. v. Village of Burton, 134 Neb. 623, 279 N.W. 319 (1938).

17-535 Waterworks; construction and maintenance; acquisition of land beyond extraterritorial zoning jurisdiction; procedure.

For the purpose of erecting, constructing, locating, maintaining, or supplying waterworks, mains, portion, or extension of any system of waterworks or water supply as provided in sections 17-530 to 17-532, any city of the second class or village may go beyond its extraterritorial zoning jurisdiction and may take, hold, or acquire rights, property, and real estate by purchase or otherwise, and may for this purpose, take, hold, and condemn any and all necessary property. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1881, c. 23, § 8, XV, p. 178; Laws 1885, c. 20, § 1, XV, p. 169; Laws 1887, c. 12, § 1, XV, p. 297; Laws 1893, c. 8, § 1, p. 135; Laws 1903, c. 21, § 1, p. 251; Laws 1905, c. 30, § 1, p. 257; Laws 1907, c. 17, § 1, p. 128; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 272; Laws 1919, c. 48, § 1, p. 138; Laws 1919, c. 52, § 1, p. 152; Laws 1919, c. 46, § 2, p. 132; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 159; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 143; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-535; Laws 1951, c. 101, § 57, p. 473; Laws 2017, LB133, § 161.

A village is limited to taking only such property as is presently necessary for the purposes described in section 17-531. Engelhaupt v. Village of Butte, 248 Neb. 827, 539 N.W.2d 430 (1995).

17-536 Waterworks; water supply; pollution; power to prevent.

The jurisdiction of a city of the second class or village to prevent any pollution or injury to the stream or source of water for the supply of waterworks constructed under sections 17-530 to 17-532 shall extend fifteen miles beyond its corporate limits.

Source: Laws 1881, c. 23, § 8, XV, p. 178; Laws 1885, c. 20, § 1, XV, p. 169; Laws 1887, c. 12, § 1, XV, p. 298; Laws 1893, c. 8, § 1, p. 135; Laws 1903, c. 21, § 1, p. 251; Laws 1905, c. 30, § 1, p. 258; Laws 1907, c. 17, § 1, p. 128; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 272; Laws 1919, c. 48, § 1, p. 138; Laws 1919, c. 52, § 1, p. 152; Laws 1919, c. 46, § 2, p. 133; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 159; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 143; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-536; Laws 2017, LB133, § 162.

A village is limited to taking only such property as is presently necessary for the purposes described in section 17-531. Engelhaupt v. Village of Butte, 248 Neb. 827, 539 N.W.2d 430 (1995).

17-537 Waterworks; rules and regulations.

The city council of a city of the second class or village board of trustees shall have power to make and enforce all necessary rules and regulations in the construction, use, and management of waterworks, mains, portion, or extension of any system of waterworks or water supply and for the use of the water from such system.

Source: Laws 1881, c. 23, § 8, XV, p. 178; Laws 1885, c. 20, § 1, XV, p. 169; Laws 1887, c. 12, § 1, XV, p. 298; Laws 1893, c. 8, § 1, p. 135; Laws 1903, c. 21, § 1, p. 251; Laws 1905, c. 30, § 1, p. 258; Laws 1907, c. 17, § 1, p. 128; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 272; Laws 1919, c. 48, § 1, p. 139; Laws 1919, c. 52, § 1, p. 152; Laws 1919, c. 46, § 2, p. 133; C.S.1922, § 4292; Laws

1925, c. 41, § 1, p. 159; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 143; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-537; Laws 2017, LB133, § 163.

17-538 Waterworks; use of water; rates or rental; collection.

Cities of the second class and villages shall have the right and power to tax, assess, and collect from the inhabitants of such cities and villages such tax, rent, or rates for the use and benefit of water used or supplied to them by such waterworks, mains, portion, or extension of any system of waterworks or water supply as the city council or village board of trustees shall deem just or expedient. All such water rates, taxes, or rent shall be a lien upon the premises, or real estate, upon or for which such water is used or supplied; and such taxes, rents, or rates shall be paid and collected and such lien enforced in such manner as the city council or village board of trustees shall provide by ordinance.

Source: Laws 1881, c. 23, § 8, XV, p. 179; Laws 1885, c. 20, § 1, XV, p. 169; Laws 1887, c. 12, § 1, XV, p. 298; Laws 1893, c. 8, § 1, p. 135; Laws 1903, c. 21, § 1, p. 252; Laws 1905, c. 30, § 1, p. 258; Laws 1907, c. 17, § 1, p. 128; R.S.1913, § 5118; Laws 1917, c. 103, § 1, p. 273; Laws 1919, c. 48, § 1, p. 139; Laws 1919, c. 52, § 1, p. 152; Laws 1919, c. 46, § 2, p. 133; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 159; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 143; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-538; Laws 2017, LB133, § 164.

The power to fix rates for furnishing water to city and inhabitants is vested in the municipality and such rates are presumed lawful and reasonable unless clearly shown to be confiscatory. McCook Waterworks Co. v. City of McCook, 85 Neb. 677, 124 N.W. 100 (1909).

Where title of ordinance did not refer to contract for ''rental for hydrant'' used in body of ordinance, though the ordinance authorized third party to construct and maintain water system and use the streets, such contract was void as to water rentals. Lincoln Land Co. v. Village of Grant, 57 Neb. 70, 77 N.W. 349 (1898).

17-539 Waterworks; construction; cost; special assessments.

The expense of erecting, locating, and constructing reservoirs and hydrants for the purpose of fire protection and the expense of constructing and laying water mains, pipes, or such parts of such mains or pipes as may be just and lawful, may be assessed upon and collected from the property and real estate specially benefited by such reservoirs, hydrants, mains, or pipes, if any, as a special assessment in such manner as may be provided for the making of special assessments for other public improvements in cities of the second class and villages.

Source: Laws 1881, c. 23, § 8, XV, p. 179; Laws 1885, c. 20, § 1, XV, p. 170; Laws 1887, c. 12, § 1, XV, p. 298; Laws 1893, c. 8, § 1, p. 135; Laws 1903, c. 21, § 1, p. 252; Laws 1905, c. 30, § 1, p. 258; Laws 1907, c. 17, § 1, p. 128; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 273; Laws 1919, c. 48, § 1, p. 139; Laws 1919, c. 52, § 1, p. 153; Laws 1919, c. 46, § 2, p. 133; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 159; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 143; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-539; Laws 2015, LB361, § 32; Laws 2017, LB133, § 165.

Doubts as to meaning of statutory limitations as applied to special assessments to acquire water system should be determined in favor of taxpayer. Futscher v. City of Rulo, 107 Neb. 521, 186 N.W. 536 (1922).

17-540 Waterworks; income; how used; surplus, investment.

All income received by cities of the second class or villages from public utilities and from the payment and collection of water taxes, rents, rates, or assessments shall be applied to the payment of running expenses, interest on bonds or money borrowed, and the erection and construction of public utilities. If there is any surplus income, such income shall be placed into a sinking fund for the payment of public utility bonds or for the improvements of the works, or into the general fund as the city council or village board of trustees may direct. The surplus remaining, if any, may, if the city council or village board of trustees so directs, be invested in interest-bearing bonds or obligations of the United States.

Source: Laws 1881, c. 23, § 8, XV, p. 179; Laws 1885, c. 20, § 1, XV, p. 170; Laws 1887, c. 12, § 1, XV, p. 299; Laws 1893, c. 8, § 1, p. 136; Laws 1903, c. 21, § 1, p. 252; Laws 1905, c. 30, § 1, p. 258; Laws 1907, c. 17, § 1, p. 129; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 273; Laws 1919, c. 48, § 1, p. 139; Laws 1919, c. 52, § 1, p. 153; Laws 1919, c. 46, § 2, p. 133; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 160; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 144; C.S.Supp.,1941, § 17-441; Laws 1943, c. 27, § 1(1), p. 121; R.S.1943, § 17-540; Laws 1969, c. 93, § 1, p. 459; Laws 2017, LB133, § 166.

17-541 Waterworks; water commissioner; appointment; term; bond or insurance; removal; public works commissioner, when.

As soon as a system of waterworks or mains or portion or extension of any system of waterworks or water supply has been established by a city of the second class or village, the mayor of such city or the chairperson of the village board of trustees shall nominate and, by and with the advice and consent of the city council or village board of trustees, shall appoint any competent person who shall be known as the water commissioner of such city or village and whose term of office shall be for one fiscal year or until his or her successor is appointed and qualified. Annually at the first regular meeting of the city council or village board of trustees in December, the water commissioner shall be appointed as provided in this section. The water commissioner may at any time, for sufficient cause, be removed by a two-thirds vote of the city council or village board of trustees. Any vacancy occurring in the office of water commissioner by death, resignation, removal from office, or removal from the city or village may be filled in the manner provided in this section for the appointment of such commissioner.

The water commissioner shall, before he or she enters upon the discharge of his or her duties, execute a bond or provide evidence of equivalent insurance to such city or village in a sum to be fixed by the mayor and city council or the village board of trustees, but not less than five thousand dollars, conditioned upon the faithful discharge of his or her duties, and such bond shall be signed by two or more good and sufficient sureties, to be approved by the mayor and city council or village board of trustees or executed by a corporate surety.

The water commissioner, subject to the supervision of the mayor and city council or village board of trustees, shall have the general management and control of the system of waterworks or mains or portion or extension of any

system of waterworks or water supply in the city or village. In a city of the second class or village where no board of public works exists, and such city or village has other public utilities than its waterworks system, the mayor and city council or the village board of trustees shall by ordinance designate the water commissioner as public works commissioner with authority to manage not only the system of waterworks but also other public utilities, and all of the provisions of this section applying to the water commissioner shall apply to the public works commissioner.

Source: Laws 1881, c. 23, § 8, XV, p. 180; Laws 1885, c. 20, § 1, XV, p. 170; Laws 1887, c. 12, § 1, XV, p. 299; Laws 1893, c. 8, § 1, p. 136; Laws 1903, c. 21, § 1, p. 252; Laws 1905, c. 30, § 1, p. 259; Laws 1907, c. 17, § 1, p. 129; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 273; Laws 1919, c. 48, § 1, p. 139; Laws 1919, c. 52, § 1, p. 153; Laws 1919, c. 46, § 2, p. 134; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 160; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 144; Laws 1937, c. 33, § 1, p. 158; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-541; Laws 1961, c. 51, § 1, p. 193; Laws 2001, LB 484, § 1; Laws 2007, LB347, § 11; Laws 2017, LB133, § 167.

17-542 Waterworks; rates; regulation.

The city council of a city of the second class or village board of trustees is hereby expressly given the power to fix the rates to be paid by water consumers of such city or village for the use of water from the waterworks of such city or village, including the power to require, as a condition precedent to the use of such water, the furnishing of water meters at the expense of such water consumers as may be provided by ordinance of such city or village.

Source: Laws 1881, c. 23, § 8, XV, p. 181; Laws 1885, c. 20, § 1, XV, p. 171; Laws 1887, c. 12, § 1, XV, p. 300; Laws 1893, c. 8, § 1, p. 137; Laws 1903, c. 21, § 1, p. 253; Laws 1905, c. 30, § 1, p. 259; Laws 1907, c. 17, § 1, p. 129; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 274; Laws 1919, c. 48, § 1, p. 140; Laws 1919, c. 52, § 1, p. 154; Laws 1919, c. 46, § 2, p. 134; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 161; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 145; Laws 1937, c. 33, § 1, p. 158; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-542; Laws 2017, LB133, § 168.

17-543 Waterworks; water commissioner; duty to account; report; salary; public works commissioner; duties.

The water commissioner in a city of the second class or village shall collect all money received by such city or village on account of its system of waterworks and shall faithfully account for and pay over such money to the city treasurer or village treasurer, taking his or her receipt for such money in duplicate and filing a receipt with the city clerk or village clerk. The water commissioner shall make a detailed report to the city council or village board of trustees, at least once every six months, of the condition of the water system, of all mains, pipes, hydrants, reservoirs, and machinery, and such improvements, repairs, and extension of such system as he or she may think proper. The report shall show the amount of receipts and expenditures on account of such system for the preceding six months. No money shall be expended for

improvements, repairs, or extension of the waterworks system except upon recommendation of the water commissioner. The water commissioner shall perform such other duties as may be prescribed by ordinance. The water commissioner shall be paid such salary as the city council or village board of trustees may by ordinance provide, and upon his or her written recommendation, the mayor and city council or chairperson and village board of trustees shall employ such laborers and clerks as deemed necessary. Neither the mayor nor any member of the city council in a city of the second class shall be eligible to the office of water commissioner during the term for which he or she was elected. If the city or village involved owns public utilities other than the waterworks system, and the water commissioner has been designated by ordinance as the public works commissioner under the authority of section 17-541, then all provisions of this section in reference to a water commissioner shall apply to the public works commissioner.

Source: Laws 1881, c. 23, § 8, XV, p. 181; Laws 1885, c. 20, § 1, XV, p. 172; Laws 1887, c. 12, § 1, XV, p. 300; Laws 1893, c. 8, § 1, p. 137; Laws 1903, c. 21, § 1, p. 253; Laws 1905, c. 30, § 1, p. 259; Laws 1907, c. 17, § 1, p. 129; R.S.1913, § 5119; Laws 1917, c. 103, § 1, p. 274; Laws 1919, c. 48, § 1, p. 140; Laws 1919, c. 52, § 1, p. 154; Laws 1919, c. 46, § 2, p. 134; C.S.1922, § 4292; Laws 1925, c. 41, § 1, p. 161; C.S.1929, § 17-441; Laws 1935, c. 34, § 1, p. 145; Laws 1937, c. 33, § 1, p. 159; C.S.Supp.,1941, § 17-441; R.S.1943, § 17-543; Laws 1961, c. 51, § 2, p. 194; Laws 1983, LB 310, § 1; Laws 2017, LB133, § 169.

17-544 Repealed. Laws 1947, c. 36, § 1.

17-545 Waterworks; additional tax; when authorized.

Every city of the second class and village in the State of Nebraska which owns its own water plant and a system of hydrants in connection with such water plant is hereby authorized and empowered to provide a fund upon the presentation to the city council or village board of trustees of a petition signed by sixty percent of the legal voters of the city or village, in addition to the general fund of such city or village, by making a levy at the time authorized by law, not to exceed two and one-tenth cents on each one hundred dollars upon the taxable value of all the taxable property of the city or village, for the purpose of paying the expense or aiding in paying the expense of maintaining such system of hydrants and pumping and supplying through them water for public purposes.

Source: Laws 1915, c. 217, § 1, p. 486; C.S.1922, § 4294; C.S.1929, § 17-443; R.S.1943, § 17-545; Laws 1953, c. 287, § 17, p. 939; Laws 1979, LB 187, § 54; Laws 1992, LB 719A, § 55; Laws 2017, LB133, § 170.

17-546 Waterworks; additional tax; provision cumulative.

The right and power to provide the fund mentioned in section 17-545 for purposes of paying the expense of maintaining a system of hydrants shall in no way prevent cities of the second class and villages from providing in whole or

in part for the expense of such hydrants, and of pumping and supplying through them water for public purposes, in any other manner provided by law.

Source: Laws 1915, c. 217, § 2, p. 486; C.S.1922, § 4295; C.S.1929, § 17-444; R.S.1943, § 17-546; Laws 2017, LB133, § 171.

17-547 Animals running at large; regulation.

Cities of the second class and villages shall have power to regulate the running at large of cattle, hogs, horses, mules, sheep, goats, dogs, and other animals and to cause such animals as may be running at large to be impounded and sold to discharge the cost and penalties provided for the violation of such regulations and the expense of impounding and keeping such animals and of such sales.

Source: Laws 1879, § 69, XVI, p. 214; Laws 1881, c. 23, § 8, XVI, p. 182; Laws 1885, c. 20, § 1, XVI, p. 173; Laws 1887, c. 12, § 1, XVI, p. 301; R.S.1913, § 5121; C.S.1922, § 4296; C.S.1929, § 17-445; R.S.1943, § 17-547; Laws 2017, LB133, § 172.

Where a village ordinance provides for impounding of animals running at large and fixes a certain fee which must be paid before the animal will be released, no lien is created for fee or charges permitted not specified in ordinance. Martin v. Foltz, 54 Neb. 162, 74 N.W. 418 (1898).

17-548 Pounds; establishment.

Cities of the second class and villages shall have power to provide for the erection of all needful pens and pounds within or without their corporate limits, to appoint and compensate keepers of such pens and pounds, and to establish and enforce rules governing such pens and pounds.

Source: Laws 1879, § 69, XVII, p. 214; Laws 1881, c. 23, § 8, XVII, p. 182; Laws 1885, c. 20, § 1, XVII, p. 173; Laws 1887, c. 12, § 1, XVII, p. 301; R.S.1913, § 5122; C.S.1922, § 4297; C.S.1929, § 17-446; R.S.1943, § 17-548; Laws 2017, LB133, § 173.

17-549 Fire prevention; regulations.

Cities of the second class and villages shall have power to regulate the construction of and order the suppression and cleaning of fireplaces, chimneys, stoves, stovepipes, ovens, boilers, kettles, forges, or any apparatus used in any building, business, or enterprise which may be dangerous in causing or promoting fires and to prescribe the limits within which no dangerous or obnoxious and offensive business or enterprise may be conducted.

Source: Laws 1879, § 69, XVIII, p. 214; Laws 1881, c. 23, § 8, XVIII, p. 182; Laws 1885, c. 20, § 1, XVIII, p. 173; Laws 1887, c. 12, § 1, XVIII, p. 301; R.S.1913, § 5123; C.S.1922, § 4298; C.S.1929, § 17-447; R.S.1943, § 17-549; Laws 2017, LB133, § 174.

17-550 Buildings; construction; regulation.

Cities of the second class and villages shall have power to prescribe and alter limits within which no buildings shall be constructed except of brick, stone, or other incombustible material, with fireproof roof. After such limits are estab-

lished, no special permits shall be given for the erection of buildings of combustible material within such limits.

Source: Laws 1879, § 69, XIX, p. 214; Laws 1881, c. 23, § 8, XIX, p. 182; Laws 1885, c. 20, § 1, XIX, p. 173; Laws 1887, c. 12, § 1, XIX, p. 301; R.S.1913, § 5124; C.S.1922, § 4299; C.S.1929, § 17-448; R.S.1943, § 17-550; Laws 2017, LB133, § 175.

Injunction will issue against erection of buildings in violation of ordinance, if party shows that their erection will work special injury to him. Bangs v. Dworak, 75 Neb. 714, 106 N.W. 780 (1906).

17-551 Railways; depots; regulation.

Cities of the second class and villages shall have power to regulate levees, depots, depot grounds, and places for storing freight and goods and to provide for and regulate the passage of railways through streets and public grounds of the city or village.

Source: Laws 1879, § 69, XX, p. 215; Laws 1881, c. 23, § 8, XX, p. 182; Laws 1885, c. 20, § 1, XX, p. 173; Laws 1887, c. 12, § 1, XX, p. 302; R.S.1913, § 5125; C.S.1922, § 4300; C.S.1929, § 17-449; R.S.1943, § 17-551; Laws 2017, LB133, § 176.

17-552 Railways; crossings; safety regulations.

Cities of the second class and villages shall have power to regulate the crossing of railway tracks and the running of railway engines, cars, or trucks within the corporate limits of such city or village and to govern the speed of such engines, cars, or trucks, and to make any other and further provisions, rules, and restrictions to prevent accidents at crossings and on the tracks of railways.

Source: Laws 1879, § 69, XXI, p. 215; Laws 1881, c. 23, § 8, XXI, p. 183; Laws 1885, c. 20, § 1, XXI, p. 174; Laws 1887, c. 12, § 1, XXI, p. 302; R.S.1913, § 5126; C.S.1922, § 4301; C.S.1929, § 17-450; R.S.1943, § 17-552; Laws 2017, LB133, § 177.

An ordinance limiting the speed of trains, even though they carry United States mail, within the city limits to ten miles per hour is not void as imposing an unreasonable restraint on interstate commerce. Peterson v. State of Nebraska, 79 Neb. 132, 112 N.W. 306 (1907).

17-553 Repealed. Laws 1991, LB 356, § 36.

17-554 Fuel and feed; inspection and weighing.

Cities of the second class and villages shall have power to (1) provide for the inspection and weighing of hay, grain, and coal, and the measuring of wood and fuel to be used in the city or village, (2) regulate and prescribe the place or places for sale of hay, coal, and wood, and (3) fix the fees and duties of persons authorized to perform inspections under this section.

Source: Laws 1879, § 69, XXIII, p. 215; Laws 1881, c. 23, § 8, XXIII, p. 183; Laws 1885, c. 20, § 1, XXIII, p. 174; Laws 1887, c. 12, § 1, XXIII, p. 302; R.S.1913, § 5128; C.S.1922, § 4303; C.S.1929, § 17-452; R.S.1943, § 17-554; Laws 2017, LB133, § 178.

17-555 Streets and sidewalks; removal of obstructions; trees; declaration of nuisance; procedure; special assessment.

(1) Cities of the second class or villages may remove all obstructions from sidewalks, curbstones, gutters, and crosswalks at the expense of the person placing them there or at the expense of the city or village and require and regulate the planting and protection of shade trees in and along the streets and the trimming and removing of such trees.

(2) Cities of the second class or villages may by ordinance declare it to be a nuisance for a property owner to permit, allow, or maintain any dead or diseased trees within the right-of-way of streets within the corporate limits or within the extraterritorial zoning jurisdiction of the city or village. Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any. 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 the nuisance by filing a written appeal with the office of the city clerk 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 the work done to abate and remove the dead or diseased trees. If the owner or occupant of the lot or piece of ground does not request a hearing with the city or village within five days after receipt of such notice or fails to comply with the order to abate and remove the nuisance, the city or village may have such work done. The city or village may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited as a special assessment.

(3) Cities of the second class or villages may regulate the building of bulkheads, cellar and basement ways, stairways, railways, windows, doorways, awnings, lampposts, awning posts, all other structures projecting upon or over and adjoining, and all other excavations through and under the sidewalks in the city or village.

Source: Laws 1879, § 69, XXIV, p. 215; Laws 1881, c. 23, § 8, XXIV, p. 183; Laws 1885, c. 20, § 1, XXIV, p. 174; Laws 1887, c. 12, § 1, XXIV, p. 303; R.S.1913, § 5129; C.S.1922, § 4304; C.S.1929, § 17-453; R.S.1943, § 17-555; Laws 1994, LB 695, § 6; Laws 2015, LB266, § 11; Laws 2015, LB361, § 33; Laws 2016, LB703, § 2; Laws 2017, LB133, § 179.

City could not authorize use of part of street for private garage purposes. Michelsen v. Dwyer, 158 Neb. 427, 63 N.W.2d 513 (1954).

Where rubbish mixed with ice and snow had been permitted to accumulate and remain on public street, the question of the negligence of the village in failing to remove such obstruction is one for the jury. Pinches v. Village of Dickens, 127 Neb. 239, 254 N.W. 877 (1934).

City of second class has authority by ordinance to regulate and prevent use of sidewalks and streets and to remove obstructions therefrom, but such body cannot act arbitrarily and deny one citizen privileges which it grants to another. City of Pierce v. Schramm, 116 Neb. 263, 216 N.W. 809 (1927).

Where village permitted one party to occupy part of public street in operation of gasoline pump, it could not arbitrarily deny similar privilege to another party. Kenney v. Village of Dorchester, 101 Neb. 425, 163 N.W. 762 (1917).

City ordinance granting franchise to telephone company is not exclusive unless so indicated in ordinance. City of Plattsmouth v. Nebraska Tel. Co., 80 Neb. 460, 114 N.W. 588 (1908).

Abutting property owner is entitled to damages for destruction of trees planted along street in front of his property. Bronson v. Albion Telephone Co., 67 Neb. 111, 93 N.W. 201 (1903).

17-556 Public safety; firearms; explosives; riots; regulation.

Cities of the second class and villages shall have the power to (1) prevent and restrain riots, routs, noises, disturbances, or disorderly assemblages, (2) regu-

late, prevent, restrain, or remove nuisances and to designate what shall be considered a nuisance, (3) regulate, punish, and prevent the discharge of firearms, rockets, powder, fireworks, or any other dangerous combustible material in the streets, lots, grounds, alleys, or about or in the vicinity of any buildings, (4) regulate, prevent, and punish the carrying of concealed weapons, except the carrying of a concealed handgun in compliance with the Concealed Handgun Permit Act, and (5) arrest, regulate, punish, or fine all vagrants.

Source: Laws 1879, § 69, XXV, p. 216; Laws 1881, c. 23, § 8, XXV, p. 184; Laws 1885, c. 20, § 1, XXV, p. 175; Laws 1887, c. 12, § 1, XXV, p. 303; R.S.1913, § 5130; C.S.1922, § 4305; C.S.1929, § 17-454; R.S.1943, § 17-556; Laws 2009, LB430, § 4; Laws 2017, LB133, § 180.

Cross References

Concealed Handgun Permit Act, see section 69-2427.

Cited but not discussed. City of Syracuse v. Farmers Elevator, Inc., 182 Neb. 783, 157 N.W.2d 394 (1968).

Power to ''designate'' what may be a public nuisance does not give a municipality the right to prohibit house-to-house solicitation of sales of merchandise. Jewel Tea Company v. City of Geneva, 137 Neb. 768, 291 N.W. 664 (1940).

17-557 Streets; safety regulations; removal of snow, ice, and other encroachments.

Cities of the second class and villages shall have power to (1) prevent and remove all encroachments, including snow, ice, mud, or other obstructions, into and upon all sidewalks, streets, avenues, alleys, and other city or village property, (2) punish and prevent all horseracing, fast driving, or riding in the streets, highways, alleys, bridges, or places in the city or village, (3) regulate all games, practices, or amusements within the city or village likely to result in damage to any person or property, and (4) regulate and prevent the riding, driving, or passing of horses, mules, cattle, or other animals over, upon, or across sidewalks or along any street of the city or village.

Source: Laws 1879, § 69, XXVI, p. 216; Laws 1881, c. 23, § 8, XXVI, p. 184; Laws 1885, c. 20, § 1, XXVI, p. 175; Laws 1887, c. 12, § 1, XXVI, p. 303; R.S.1913, § 5131; C.S.1922, § 4306; C.S.1929, § 17-455; R.S.1943, § 17-557; Laws 1947, c. 37, § 1, p. 148; Laws 2017, LB133, § 181.

Municipality may be liable for injuries caused pedestrian by reason of the failure to remove rubbish mixed with ice and snow that has been allowed to accumulate in gutter on street. Pinches v. Village of Dickens, 127 Neb. 239, 254 N.W. 877 (1934).

City of second class has authority by ordinance to regulate use of sidewalks and streets and to remove obstructions therefrom, but such body cannot act arbitrarily and deny one citizen privileges which it grants to others. City of Pierce v. Schramm, 116 Neb. 263, 216 N.W. 809 (1927).

Village is required to exercise due care in keeping its streets free from defects, obstructions, or physical conditions immediately connected therewith. Chaney v. Village of Riverton, 104 Neb. 189, 177 N.W. 845 (1920).

Where the city has permitted a sidewalk to be maintained, it is liable for the defects in such walk and such duty is not affected by the fact that under its ordinance a narrower walk might have been erected. City of Chadron v. Glover, 43 Neb. 732, 62 N.W. 62 (1895); Kinney v. City of Tekamah, 30 Neb. 605, 46 N.W. 835 (1890); Foxworthy v. City of Hastings, 25 Neb. 133, 41 N.W. 132 (1888).

17-557.01 Sidewalks; removal of encroachments; cost of removal; special assessments; interest.

If the abutting property owner refuses or neglects, after five days' notice by publication or, in place thereof, personal service of such notice, to remove all encroachments from sidewalks, as provided in section 17-557, the city of the second class or village through the proper officers may cause such encroachments to be removed and the cost of removal shall be paid out of the street

fund. The city council or village board of trustees shall assess the cost of the notice and removal of the encroachment against such abutting property as a special assessment. Such special assessment shall be known as a special sidewalk assessment and, together with the cost of notice, shall be levied and collected as a special assessment in addition to the general revenue taxes and shall be subject to the same penalties as other special assessments and shall draw interest from the date of the assessment. Upon payment of the assessment, the assessment shall be credited to the street fund.

Source: Laws 1947, c. 37, § 2, p. 149; Laws 1969, c. 51, § 48, p. 302; Laws 2015, LB361, § 34; Laws 2017, LB133, § 183.

17-558 Streets; improving; vacating; abutting property; how treated.

(1) Cities of the second class and villages shall have power to open, widen, or otherwise improve or vacate any street, avenue, alley, or lane within the limits of the city or village and also to create, open, and improve any new street, avenue, alley, or lane. All damages sustained by the citizens of the city or village, or by the owners of the property therein, shall be ascertained in such manner as shall be provided by ordinance.

(2) Whenever any street, avenue, alley, or lane is vacated, such street, avenue, alley, or lane shall revert to the owners of the abutting real estate, one-half on each side thereof, and become a part of such property, unless the city or village reserves title in the ordinance vacating such street or alley. If title is retained by the city or village, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city or village.

(3) When a portion of a street, avenue, alley, or lane is vacated only on one side of the center thereof, the title to such land shall vest in the owner of the abutting property and become a part of such property unless the city or village reserves title in the ordinance vacating a portion of such street, avenue, alley, or lane. If title is retained by the city or village, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city or village.

(4) When the city or village vacates all or any portion of a street, avenue, alley, or lane, the city or village shall, within thirty days after the effective date of the vacation, file a certified copy of the vacating ordinance or resolution with the register of deeds for the county in which the vacated property is located to be indexed against all affected lots.

(5) The title to property vacated pursuant to this section shall be subject to the following:

(a) There is reserved to the city or village the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and

(b) There is reserved to the city or village, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the

abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

Source: Laws 1879, § 69, XXVII, p. 216; Laws 1881, c. 23, § 8, XXVII, p. 184; Laws 1885, c. 20, § 1, XXVII, p. 175; Laws 1887, c. 12, § 1, XXVII, p. 304; R.S.1913, § 5132; C.S.1922, § 4307; C.S.1929, § 17-456; R.S.1943, § 17-558; Laws 1969, c. 58, § 3, p. 364; Laws 2001, LB 483, § 6; Laws 2005, LB 161, § 7; Laws 2017, LB133, § 182.

Upon vacation, one-half of street on each side reverts to adjoining landowners. Dell v. City of Lincoln, 170 Neb. 176, 102 N.W.2d 62 (1960).

Possibility of reverter did not operate to deprive city of rentals from oil and gas produced from under its streets. Belgum v. City of Kimball, 163 Neb. 774, 81 N.W.2d 205 (1957).

On vacation of plat, streets and alleys revert to owners of adjacent property. Hoke v. Welsh, 162 Neb. 831, 77 N.W.2d 659 (1956).

Municipality may vacate any street, avenue, or alley. Barger v. City of Tekamah, 128 Neb. 805, 260 N.W. 366 (1935).

Cities of second class and villages, and not Railway Commission, have power and authority to open streets and to regulate and control railway crossings in such municipalities. Chicago, R. I. & P. Ry. Co. v. Nebraska State Railway Commission, 88 Neb. 239, 129 N.W. 539 (1911), rehearing denied, 89 Neb. 853, 132 N.W. 409 (1911).

This section granted village board unlimited power to vacate streets in every possible case and deprives county boards of jurisdiction to vacate such streets. Van Buren v. Village of Elmwood, 83 Neb. 596, 119 N.W. 959 (1909).

Where village board by ordinance vacates streets, etc., and declares such vacation to be expedient for the public's good, such acts have the effect of a judgment and only such irregularities as are jurisdictional will render the proceedings void. Enders v. Friday, 78 Neb. 510, 111 N.W. 140 (1907).

Where village board vacates street, avenue, alley, or lane, the land reverts to owners of adjacent real estate, one-half on each side thereof. Village of Bellevue v. Bellevue Improvement Co., 65 Neb. 52, 90 N.W. 1002 (1902).

17-559 Streets; offstreet parking; markets; public utilities; establishment; eminent domain; procedure.

Cities of the second class and villages shall have power to (1) create, open, widen, or extend any street, avenue, alley, offstreet parking area, or other public way, or annul, vacate, or discontinue such street, avenue, alley, area, or public way, (2) take private property for public use for the purpose of erecting or establishing market houses, market places, parks, swimming pools, airports, gas systems, including distribution facilities, water systems, power plants, including electrical distribution facilities, sewer systems, or for any other needed public purpose, and (3) exercise the power of eminent domain within or without the city or village limits for the purpose of establishing and operating power plants including electrical distribution facilities to supply such city or village with public utility service, and for sewerage purposes, water supply systems, or airports. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724, except as to property specifically excluded by section 76-703 and as to which sections 19-701 to 19-707 or the Municipal Natural Gas System Condemnation Act is applicable. For purposes of this section, electrical distribution facilities shall be located within the retail service area of such city or village as approved by and on file with the Nebraska Power Review Board, pursuant to Chapter 70, article 10.

Source: Laws 1879, § 69, XXVIII, p. 217; Laws 1881, c. 23, § 8, XXVIII, p. 185; Laws 1885, c. 20, § 1, XXVIII, p. 176; Laws 1887, c. 12, § 1, XXVIII, p. 304; Laws 1909, c. 23, § 1, p. 195; R.S.1913, § 5133; Laws 1919, c. 47, § 1, p. 136; C.S.1922, § 4308; Laws 1923, c. 137, § 1, p. 336; C.S.1929, § 17-457; R.S.1943, § 17-559; Laws 1951, c. 101, § 58, p. 473; Laws 1959, c. 50, § 1, p. 240; Laws 1982, LB 875, § 2; Laws 2002, LB 384, § 25; Laws 2017, LB133, § 184.

Cross References

Municipal Natural Gas System Condemnation Act, see section 19-4624.

County and village jointly could not condemn under this section for airport. Spencer v. Village of Wallace, 153 Neb. 536, 45 N.W.2d 473 (1951).

Where city acted irregularly in devoting streets to the location of city water wells, a purpose foreign to the original use, for a period of forty years, courts of equity have inherent power, independent of statute of limitations, to refuse to enjoin such use for wells. Barger v. City of Tekamah, 128 Neb. 805, 260 N.W. 366 (1935).

An ordinance, providing for the appointment of five freeholders to appraise damage in relation to opening and altering street, does not conform to statutory requirement for the election of five householders to assess damages for the vacation of the streets, and any action by the city under such ordinance does not bar abutting owners action for damages. Jones v. City of Aurora, 97 Neb. 825, 151 N.W. 958 (1915).

Where a part of a public street is vacated, only those whose property abuts upon the vacated street or who are cut off from access to street are entitled to damages. Lee v. City of McCook, 82 Neb. 26, 116 N.W. 955 (1908).

Municipality may grant the use of its streets to telephone company for its poles and lines, which use is a public one and not a special privilege. City of Plattsmouth v. Nebraska Telephone Co., 80 Neb. 460, 114 N.W. 588 (1908).

Authority is not conferred to condemn for a gas distribution system only. Village of Walthill v. Iowa Electric Light & Power Co., 125 F.Supp. 859 (D. Neb. 1954).

17-560 Borrowing power; pledges.

Cities of the second class and villages shall have power to borrow money on the credit of the city, and pledge the credit, revenue, and public property of the city for the payment of debts, when authorized in the manner provided by law.

Source: Laws 1879, § 69, XXIX, p. 217; Laws 1881, c. 23, XXIX, p. 185; Laws 1885, c. 20, § 1, XXIX, p. 176; Laws 1887, c. 12, § 1, XXIX, p. 305; R.S.1913, § 5134; C.S.1922, § 4309; C.S.1929, § 17-458; R.S.1943, § 17-560; Laws 2017, LB133, § 185.

17-561 Railway tracks; lighting, city may require; cost; assessment.

Cities of the second class and villages shall have the power to require the lighting of the railroad track of any railway within the city or village in such manner as prescribed by ordinance. If any company owning or operating such railway fails to comply with such requirements, the city council or village board of trustees may cause such lighting to be done and may assess the expense of such lighting against such company. Such assessment shall constitute a lien upon any real estate belonging to such company and lying within such city or village and may be collected in the same manner as taxes for general purposes.

Source: Laws 1911, c. 19, § 1, p. 136; R.S.1913, § 5135; C.S.1922, § 4310; C.S.1929, § 17-501; R.S.1943, § 17-561; Laws 2017, LB133, § 186.

17-562 Repealed. Laws 1980, LB 741, § 1.

17-563 Lots; drainage; weeds or litter; nuisance; noncompliance by owner; notice; hearing; special assessment; violation; penalty; civil action.

(1) A city of the second class or village by ordinance (a) may require lots or pieces of ground within the city or village or within its extraterritorial zoning jurisdiction to be drained or filled so as to prevent stagnant water or any other nuisance accumulating on such lot or piece of ground, (b) may require the owner or occupant of any lot or piece of ground within the city or village or within its extraterritorial zoning jurisdiction to keep the lot or piece of ground and the adjoining streets and alleys free of excessive growth 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 or within its extraterritorial zoning jurisdiction.

(2) Any city of the second class or village may by ordinance declare it to be a nuisance to permit or maintain excessive growth 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. 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 clerk 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, 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 as a special assessment in the same manner as other special assessments 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) 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.) (tourn), hemp plant (Cannabis sativa), and ragweed (Ambrosiaceae).

Source: Laws 1879, § 71, p. 219; R.S.1913, § 5137; C.S.1922, § 4312; C.S.1929, § 17-503; R.S.1943, § 17-563; Laws 1991, LB 330, § 2; Laws 1995, LB 42, § 3; Laws 2004, LB 997, § 2; Laws 2009, LB495, § 8; Laws 2013, LB643, § 2; Laws 2015, LB266, § 12; Laws 2015, LB361, § 35; Laws 2017, LB133, § 187.

17-563.01 Repealed. Laws 1991, LB 330, § 3.

17-564 Fines; actions to recover.

Fines for violation of an ordinance of a city of the second class or village may, in addition to any other mode provided, be recovered by suit or action before a court of competent jurisdiction, in the name of the state. In any such suit or action, where pleading is necessary, it shall be sufficient to declare generally for the amount claimed to be due in respect to the violation of the ordinance, referring to its title and the date of its adoption or passage, and showing as nearly as may be the facts of the alleged violation.

Source: Laws 1879, § 72, p. 220; R.S.1913, § 5138; C.S.1922, § 4313; C.S.1929, § 17-504; R.S.1943, § 17-564; Laws 1972, LB 1032, § 108; Laws 2017, LB133, § 188.

Police judge is authorized to collect fines by execution, or such fines may be recovered by suit. Cleaver v. Jenkins, 84 Neb. 565, 121 N.W. 992 (1909).

A prosecution for a violation of city ordinance, which act does not violate the criminal laws of state, is a civil action to recover a penalty, and is not a debt within the meaning of the constitutional provision prohibiting imprisonment for debt. Peterson v. State, 79 Neb. 132, 112 N.W. 306 (1907).

Although justice of the peace, city attorney, and chief of police acted in excess of jurisdiction in arresting plaintiff and in attaching and selling his hogs for payment of fine and costs, they were immune from civil rights action. Duba v. McIntyre, 501 F.2d 590 (8th Cir. 1974).

17-565 Fines; action to recover; limitation.

All suits for the recovery of any fine, and prosecutions for the commission of any offense made punishable by ordinance of a city of the second class or village, shall be barred in one year after the commission of the offense for which the fine is sought to be recovered, or the prosecution is commenced.

Source: Laws 1879, § 74, p. 220; R.S.1913, § 5139; C.S.1922, § 4314; C.S.1929, § 17-505; R.S.1943, § 17-565; Laws 2017, LB133, § 189.

17-566 County jail; use by city; compensation.

Any city of the second class or village shall have the right to use the county jail in the county in which the city or village is located for the confinement of such persons as may be imprisoned under the ordinances of such city or village. The city or village shall be liable to the county for the cost of keeping such prisoners as provided by section 47-120.

Source: Laws 1879, § 73, p. 220; R.S.1913, § 5140; C.S.1922, § 4315; C.S.1929, § 17-506; Laws 1937, c. 85, § 2, p. 283; C.S.Supp.,1941, § 17-506; R.S.1943, § 17-566; Laws 1961, c. 47, § 2, p. 184; Laws 1989, LB 4, § 2; Laws 2017, LB133, § 190.

The 1969 amendments of sections 15-264 and 47-306 did not affect sections 16-252 and 17-566. City of Grand Island v. County of Hall, 196 Neb. 282, 242 N.W.2d 858 (1976).

Power of municipality to build a jail is necessarily implied and incident to the expressed power to enforce and collect fines, and such jail, properly constructed and suitably situated, is not per se a nuisance. Dunkin v. Blust, 83 Neb. 80, 119 N.W. 8 (1908).

City is not liable to the sheriff but to the county for cost of keeping its prisoners, and the county is liable to the sheriff therefor. County of Douglas v. Coburn, 34 Neb. 351, 51 N.W. 965 (1892).

17-567 Highways, streets, bridges; maintenance and control.

(1) The city council of a city of the second class or village board of trustees shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within such city or village and shall cause such highways, bridges, streets, alleys, public squares, and commons to be kept open and in repair and free from nuisances.

(2) All public bridges exceeding sixty feet in length, over any stream crossing a state or county highway, shall be constructed and kept in repair by the county. When any city of the second class or village has constructed a bridge over sixty feet span, on any county or state highway within the corporate limits of such city or village, and has incurred a debt for such bridge, the county treasurer of the county in which such bridge is located shall pay to the city treasurer or village treasurer seventy-five percent of all bridge taxes collected in the city or village until such debt, and interest thereon, is fully paid.

(3) The city council or village board of trustees may appropriate a sum not exceeding five dollars per linear foot to aid in the construction of any county bridge within the limits of such city or village, or may appropriate a like sum to aid in the construction of any bridge contiguous to the city or village, on a highway leading to the same, or any bridge across any unnavigable river which divides the county, in which the city or village is located, from another state.

(4) No street or alley shall be dedicated to public use, by the proprietor of ground in any city of the second class or village, shall be deemed a public street or alley, or shall be under the use or control of the city council or village board of trustees, unless the dedication shall be accepted and confirmed by an ordinance especially passed for such purpose.

Source: Laws 1879, § 77, p. 221; R.S.1913, § 5141; C.S.1922, § 4316; C.S.1929, § 17-507; R.S.1943, § 17-567; Laws 1957, c. 30, § 2, p. 190; Laws 1959, c. 49, § 2, p. 238; Laws 1982, LB 909, § 6; Laws 2017, LB133, § 191.

1. Duty imposed
2. Liability for neglect of duty
3. Regulation
4. Miscellaneous

1. Duty imposed

A village has right, under police power, to control a lateral irrigation ditch maintained through one of its streets. Thornton v. Kingrey, 100 Neb. 525, 160 N.W. 871 (1916), affirmed on rehearing, 101 Neb. 631, 164 N.W. 561 (1917).

Municipality is not required to keep its streets in an absolutely safe condition for public use, but it must use reasonable diligence to keep them in a reasonably safe condition. Walters v. Village of Exeter, 87 Neb. 125, 126 N.W. 868 (1910).

City council or board of trustees have the right to sell and dispose of streets and apply the money derived to legitimate municipal purposes. Krueger v. Jenkins, 59 Neb. 641, 81 N.W. 844 (1900).

Where snow has caused obstruction on the sidewalks, it is the duty of the city within a reasonable time thereafter to remove such obstruction. Foxworthy v. City of Hastings, 25 Neb. 133, 41 N.W. 132 (1888).

City is required to keep streets in repair and in a cleanly condition. Nebraska City v. Rathbone, 20 Neb. 288, 29 N.W. 920 (1886).

It is the duty of a municipality to protect its streets and alleys from unlawful occupancy and, in the discharge of this duty, it may maintain an action to test the legality of such occupancy. Ray v. Colby and Tenney, 5 Neb. Unof. 151, 97 N.W. 591 (1903).

2. Liability for neglect of duty

In an action for injuries from a defective sidewalk within city limits, a municipality could not escape liability by showing that the sidewalk was on the outskirts of the city. O'Loughlin v. City of Pawnee City, 88 Neb. 244, 129 N.W. 271 (1911).

Cities cannot delegate care and construction of sidewalks and streets and thus escape liability to persons injured by defects therein. Severa v. Village of Battle Creek, 88 Neb. 127, 129 N.W. 186 (1910).

Where suit is brought against city to recover damages for personal injuries, trial court may take judicial notice of the class of cities to which defendant belongs and the laws by which it is governed. Olmstead v. City of Red Cloud, 86 Neb. 528, 125 N.W. 1101 (1910).

City is liable for injuries caused by defective improvements in streets whether made by city or independent contractor. Armstrong v. City of Auburn, 84 Neb. 842, 122 N.W. 43 (1909).

City has exclusive control of streets and ample means to maintain them in a safe condition, and is liable for its failure so to do. Goodrich v. University Place, 80 Neb. 774, 115 N.W. 538 (1908).

City is not liable for defective crossing or walk from private property into street. City of McCook v. Parsons, 77 Neb. 132, 108 N.W. 167 (1906).

Where dedication of a plat is not accepted by ordinance, the streets and alleys of such plat are not under the control of the city, and the city is not liable for accidents in a street not so accepted. Village of Imperial v. Wright, 34 Neb. 732, 52 N.W. 374 (1892).

Until village or city by ordinance accepted and confirmed the dedication, such village or city will not be liable for accidents caused by its negligence in such streets. An ordinance requiring a railroad flagman or a signal at railroad crossings is applicable only to streets duly accepted by the municipality. Steward v. Chicago, B. & Q. Ry. Co., 284 F. 716 (8th Cir. 1922).

3. Regulation

The city is authorized to regulate or prohibit parking on its streets. There is no requirement that such prohibitions be made

by ordinance. Morrow v. City of Ogallala, 213 Neb. 414, 329 N.W.2d 351 (1983).

Use of street for private garage purposes was a nuisance. Michelsen v. Dwyer, 158 Neb. 427, 63 N.W.2d 513 (1954).

Cities of the second class have power to enact ordinances that punish operation of motor vehicles by an intoxicated person on public street. Gembler v. City of Seward, 136 Neb. 196, 285 N.W. 542 (1939), modified on rehearing 136 Neb. 916, 288 N.W. 545 (1939).

Exhibition of a stallion on a street may be declared a nuisance. State v. Iams, 78 Neb. 678, 111 N.W. 604 (1907).

Unauthorized use of streets and alleys of municipal corporation constitutes public nuisance. Nebraska Tel. Co. v. Western Ind. Long Distance Tel. Co., 68 Neb. 772, 95 N.W. 18 (1903).

4. Miscellaneous

City may accept plat of an addition by using the area platted for streets and alleys. City of Ord v. Zlomke, 181 Neb. 573, 149 N.W.2d 747 (1967).

City has no power to pave and levy a special assessment to pay the cost of a public highway, though it is within the corporate limits, unless such highway is formally or impliedly dedicated to and accepted by the city. City of McCook v. Red Willow County, 133 Neb. 380, 275 N.W. 396 (1937).

Where property owner has permitted city to use street adjacent to his property for pump house and well for over forty years without objection, courts will refuse to enjoin city. Barger v. City of Tekamah, 128 Neb. 805, 260 N.W. 366 (1935).

Where street was closed by ordinance giving railroad company right to erect depot therein, and permanent improvements were thereafter made in street, mandamus will not lie to compel opening of street. State ex rel. Cox v. McIlravy, 105 Neb. 651, 181 N.W. 554 (1921).

Municipality under a duly acknowledged and recorded plat has such ownership in streets, alleys, etc., that an abutting owner cannot recover the value of the natural products grown thereon. Carroll v. Village of Elmwood, 88 Neb. 352, 129 N.W. 537 (1911).

''Bridge'', as used in this section, does not include the approaches thereto. City of Central City v. Marquis, 75 Neb. 233, 106 N.W. 221 (1905).

Bonds may be issued by city to build bridge beyond city limits. State ex rel. City of Columbus v. Babcock, 23 Neb. 179, 36 N.W. 474 (1888).

17-568 Employment of special engineer.

The mayor and city council of a city of the second class or village board of trustees may employ a special engineer to make, or assist in making, any estimate necessary or to perform any other duty provided for in section 17-568.01. Any work executed by such special engineer shall have the same validity and serve in all respects as though executed by the city engineer or village engineer.

Source: Laws 1879, § 20, p. 197; R.S.1913, § 5011; Laws 1921, c. 183, § 1, p. 695; C.S.1922, § 4180; Laws 1925, c. 51, § 1, p. 202; C.S.1929, § 17-119; Laws 1943, c. 25, § 1, p. 118; R.S.1943, § 17-568; Laws 1949, c. 25, § 1(1), p. 98; Laws 1951, c. 33, § 1, p. 133; Laws 1983, LB 304, § 3; Laws 2017, LB133, § 192.

1. Estimate of expenditures
2. Miscellaneous

1. Estimate of expenditures

Estimate of proposed improvement and advertisement for bids are jurisdictional requirements. Musser v. Village of Rushville, 122 Neb. 128, 239 N.W. 642 (1931).

Where engineer submits an estimate stating ''cost not to exceed $16,500.00'', the failure of engineer to state a definite amount was at most an irregularity, and such estimate served the statutory purpose. Carr v. Fenstermacher, 119 Neb. 172, 228 N.W. 114 (1929).

The failure to state amount of estimate in published notice for bids will not vitiate the whole proceeding in a collateral attack. Wookey v. City of Alma, 118 Neb. 158, 223 N.W. 953 (1929).

Where municipality has no city engineer to make estimates, a city may secure such necessary services of a competent engineer. Howe v. City of Auburn, 110 Neb. 184, 193 N.W. 352 (1923); Schreifer v. City of Auburn, 110 Neb. 179, 193 N.W. 350 (1923); Diederich v. City of Red Cloud, 103 Neb. 688, 173 N.W. 698 (1919).

Estimate may be upon the unit plan, and may be based on the existing freight rates on material to be used with the provision that if such rates be advanced or lowered, the estimate should be correspondingly increased or lowered. State ex rel. City of McCook v. Marsh, 107 Neb. 637, 187 N.W. 84 (1922).

The provision that the estimate shall be published with the advertisement for bids and no contract shall be let for a price exceeding such estimate cannot be evaded by raising the estimate after the bids have been opened. Murphy v. City of Plattsmouth, 78 Neb. 163, 110 N.W. 749 (1907).

The power to bind a city by contract depends among other things upon an estimate having been first made and submitted to the council by the city engineer which provision is mandatory. City of Plattsmouth v. Murphy, 74 Neb. 749, 105 N.W. 293 (1905).

2. Miscellaneous

A city may ratify an irregular contract made with a special engineer, if the city had the power to contract in first instance. Morearty v. City of McCook, 117 Neb. 113, 219 N.W. 839 (1928).

This section does not apply to construction of temporary sidewalks on ungraded and unimproved streets. Whitla v. Connor, 114 Neb. 526, 208 N.W. 670 (1926).

17-568.01 City engineer or village engineer; public works; prepare estimate of cost; board of public works; powers; contracts; procedure; city council or village board of trustees; powers and duties; public emergency.

(1) The city engineer in a city of the second class or village engineer shall, when requested by the mayor, city council, or village board of trustees, make estimates of the cost of labor and material which may be done or furnished by contract with the city or village and make all surveys, estimates, and calculations necessary to be made for the establishment of grades, the building of culverts, sewers, electric light systems, waterworks, power plants, public heating systems, bridges, curbing, and gutters, the improvement of streets, and the erection and repair of buildings and shall perform such other duties as the city council or village board of trustees may require.

When a city of the second class has appointed a board of public works, and the mayor and city council have by ordinance so authorized, the board of public works may utilize its own engineering staff and may hire consulting engineers for the design and installation of extensions and improvements of the works under the jurisdiction of the board of public works. Whenever the mayor and city council have authorized the same, the board of public works may purchase material and employ labor for the enlargement or improvement of the systems and works under the jurisdiction of the board of public works.

(2) Except as provided in section 18-412.01, no contract for enlargement or general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, costing over thirty thousand dollars shall be made unless it is first approved by the city council or village board of trustees.

(3) Except as provided in section 18-412.01, before the city council or village board of trustees makes any contract in excess of thirty thousand dollars for enlargement or general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, an estimate of the cost shall be made by the city engineer or village engineer and submitted to the city council or village board of trustees. In advertising for bids as provided in subsections (4) and (6) of this section, the city council or village board of trustees may publish the amount of the estimate.

(4) Advertisements for bids shall be required for any contract costing over thirty thousand dollars entered into (a) for enlargement or general improvements, such as water extensions, sewers, public heating systems, bridges, work on streets, or any other work or improvement when the cost of such enlargement or improvement is assessed to the property, or (b) for the purchase of equipment used in the construction of such enlargement or general improvements.

(5) A municipal electric utility may enter into a contract for the enlargement or improvement of the electric system or for the purchase of equipment used for such enlargement or improvement without advertising for bids if the price is: (a) Thirty thousand dollars or less; (b) sixty thousand dollars or less and the municipal electric utility has gross annual revenue from retail sales in excess of one million dollars; (c) ninety thousand dollars or less and the municipal electric utility has gross annual revenue from retail sales in excess of five million dollars; or (d) one hundred twenty thousand dollars or less and the municipal electric utility has gross annual revenue from retail sales in excess of ten million dollars.

(6) The advertisement provided for in subsections (3) and (4) of this section shall be published at least seven days prior to the bid closing in a legal newspaper in or of general circulation in the city or village. In case of a public emergency resulting from infectious or contagious diseases, destructive windstorms, floods, snow, war, or an exigency or pressing necessity or unforeseen need calling for immediate action or remedy to prevent a serious loss of, or serious injury or damage to, life, health, or property, estimates of costs and advertising for bids may be waived in the emergency ordinance authorized by section 17-613 when adopted by a three-fourths vote of the city council or village board of trustees and entered of record.

(7) If, after advertising for bids as provided in subsections (3), (4), and (6) of this section, the city council or village board of trustees receives fewer than two bids on a contract or if the bids received by the city council or village board of trustees contain a price which exceeds the estimated cost, the mayor and the city council or village board of trustees may negotiate a contract in an attempt to complete the proposed enlargement or general improvements at a cost commensurate with the estimate given.

(8) If the materials are of such a nature that, in the opinion of the manufacturer and with the concurrence of the city council, village board of trustees, or board of public works, no cost can be estimated until the materials have been manufactured or assembled to the specific qualifications of the purchasing municipality, the city council, village board of trustees, or board of public works may authorize the manufacture and assemblage of such materials and may thereafter approve the estimated cost expenditure when it is provided by the manufacturer.

Source: Laws 1879, § 20, p. 197; R.S.1913, § 5011; Laws 1921, c. 183, § 1, p. 695; C.S.1922, § 4180; Laws 1925, c. 51, § 1, p. 202; C.S.1929, § 17-119; Laws 1943, c. 25, § 1, p. 118; R.S.1943, § 17-568; Laws 1949, c. 25, § 1(2), p. 98; Laws 1951, c. 34, § 1, p. 134; Laws 1957, c. 32, § 1, p. 195; Laws 1959, c. 61, § 2, p. 277; Laws 1969, c. 78, § 2, p. 409; Laws 1975, LB 171, § 2; Laws 1979, LB 356, § 2; Laws 1983, LB 304, § 4; Laws 1984, LB 540, § 8; Laws 1997, LB 238, § 3; Laws 2008, LB947, § 2; Laws 2017, LB133, § 193.

Engineer's estimate of cost of proposed improvement under this section is jurisdictional. Campbell v. City of Ogallala, 183 Neb. 238, 159 N.W.2d 574 (1968).

Engineer's estimate of cost of proposed sidewalk is jurisdictional, and must be submitted to and approved by council before it may make contract for laying the same. Moss v. City of Fairbury, 66 Neb. 671, 92 N.W. 721 (1902).

Council has no power to contract for grading until it shall have enacted an ordinance therefor after an estimate of the cost has been made by the city engineer. Fulton v. City of Lincoln, 9 Neb. 358, 2 N.W. 724 (1879).

17-568.02 Municipal bidding procedure; waiver; when.

Any municipal bidding procedure may be waived by the city council, village board of trustees, or board of public works (1) when materials or equipment are purchased at the same price and from the same seller as materials or equipment which have formerly been obtained pursuant to the state bidding procedure in sections 81-145 to 81-162, (2) when the contract is negotiated directly with a sheltered workshop pursuant to section 48-1503, or (3) when required to comply with any federal grant, loan, or program.

Source: Laws 1997, LB 238, § 4; Laws 2011, LB335, § 4; Laws 2017, LB133, § 194.

17-569 Abandoned real estate; sale; ordinance.

Before any sale of abandoned real estate is made by a city of the second class or village, the city council or village board of trustees shall by ordinance set forth the date of the purchase, gift, or condemnation, a description of the property, the purpose for which such real estate was acquired, the abandonment of the same, and that a sale is deemed expedient; shall fix the time, place, terms, and manner of sale; and shall reserve the right to reject any and all bids.

Source: Laws 1911, c. 17, § 2, p. 134; R.S.1913, § 5178; C.S.1922, § 4365; C.S.1929, § 17-563; R.S.1943, § 17-569; Laws 2017, LB133, § 195.

17-570 Abandoned real estate; sale; notice.

No sale under section 17-569 shall be had until at least thirty days' notice shall have been given by publication in a legal newspaper in or of general circulation in the city or village.

Source: Laws 1911, c. 17, § 3, p. 134; R.S.1913, § 5179; C.S.1922, § 4366; C.S.1929, § 17-564; R.S.1943, § 17-570; Laws 2017, LB133, § 196.

17-571 Abandoned real estate; sale; sealed bids; deed.

Any sale under section 17-569 shall be by sealed bids; and upon approval of the sale by a two-thirds vote of the city council or village board of trustees, the mayor or chairperson of the village board of trustees shall, in the name of the city or village, execute and deliver a deed to the purchaser, which deed shall be attested by the city clerk or village clerk bearing the seal of the city or village.

Source: Laws 1911, c. 17, § 4, p. 134; R.S.1913, § 5180; C.S.1922, § 4367; C.S.1929, § 17-565; R.S.1943, § 17-571; Laws 2017, LB133, § 197.

17-572 Loans to students; conditions.

Cities of the second class and villages may contract with a person including such person's parent or guardian if such person is a minor to loan money to such person while such person pursues a course of study at an accredited college or university leading to a degree of Doctor of Medicine or Doctor of Dental Surgery in consideration for such person's promise to practice medicine or dentistry in such city or village and repay such city or village for such money loaned during such person's study after such person shall have become established in his or her practice, and upon such other terms and conditions as the city council or village board of trustees may determine are warranted in the premises. If such person shall discontinue his or her course of study before attaining such degree or fail to practice in such city or village after attaining such degree and a license to practice medicine or dentistry, such city or village may pursue any remedy it may have against such person or his or her parent or guardian as in any other commercial transaction.

Source: Laws 1971, LB 497, § 1; Laws 2017, LB133, § 198.

17-573 Litter; removal; notice; action by city or village.

Each city of the second class and village may, by ordinance, prohibit and control the throwing, depositing, or accumulation of litter on any lot or piece of

ground within the city or village or within its extraterritorial zoning jurisdiction and require the removal of such litter so as to abate any nuisance. If the owner fails to remove such litter, after five days' notice by publication and by certified mail, the city or village shall remove the litter or cause it to be removed and shall assess the cost of removal against the property so benefited as provided by ordinance.

Source: Laws 1975, LB 117, § 2; Laws 2015, LB266, § 9; R.S.Supp.,2016, § 17-123.01; Laws 2017, LB133, § 309.

17-574 Sewerage and drainage; districts; regulation.

The mayor and city council of any city of the second class, or the board of trustees of any village, are hereby authorized to lay off such city or village and the territory within the extraterritorial zoning jurisdiction of such city or village into suitable districts for the purpose of establishing a system of sewerage and drainage. Such city or village may (1) provide such system; (2) regulate the construction, repairs, and use of sewers and drains and of all proper house connections and branches; (3) compel all proper connections therewith and branches from other streets, avenues, and alleys, and from private property; and (4) provide penalties for any obstruction of or injury to any sewer or part of such sewer or failure to make connections with such system.

Source: Laws 1903, c. 22, § 1, p. 254; R.S.1913, § 5043; C.S.1922, § 4212; C.S.1929, § 17-151; R.S.1943, § 17-149; Laws 1949, c. 22, § 1(1), p. 94; Laws 1979, LB 136, § 2; R.S.1943, (2012), § 17-149; Laws 2017, LB133, § 310.

17-575 Sewerage and drainage; failure of property owner to connect; notice; cost; special assessment; collection.

If any property owner neglects or fails within a period of ten days after notice has been given to him or her by certified or registered mail or by publication in a legal newspaper published in or of general circulation in a city of the second class or village to make connection with the sewerage system as provided in section 17-574, the governing body of such city or village may cause the connection to be done, assess the cost of such connection against the property as a special assessment, and collect the special assessment in the manner provided for collection of other special assessments.

Source: Laws 1949, c. 22, § 1(2), p. 94; Laws 1987, LB 93, § 4; Laws 2015, LB361, § 28; R.S.Supp.,2016, § 17-149.01; Laws 2017, LB133, § 311.

ARTICLE 6
ELECTIONS, OFFICERS, ORDINANCES

(a) ELECTIONS

Section
17-601. Repealed. Laws 1969, c. 257, § 44.
17-601.01. Caucus; when held; notice.
17-601.02. Caucus; notice to village clerk; contents.
17-601.03. Caucus; additional filings.
17-602. Registered voters; qualifications.
17-603. Officers; canvass; certificates of election; failure to qualify, effect.

(b) OFFICERS

17-604. Officers; powers, duties, and compensation; regulate by ordinance; bond or insurance; premium.

Section
17-605. City clerk or village clerk; duties.
17-606. Treasurer; duties; failure to file account; penalty; continuing education; requirements.
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(a) ELECTIONS

17-601 Repealed. Laws 1969, c. 257, § 44.

17-601.01 Caucus; when held; notice.

In any village the board of trustees may, by ordinance, call a caucus for the purpose of nomination of candidates for offices to be filled in the village election. Such caucus shall be held at least ten days before the filing deadline for such election, and the village board of trustees shall publish notice of such caucus in at least one legal newspaper in or of general circulation in the village at least once each week for two consecutive weeks before such caucus.

Source: Laws 1971, LB 432, § 1; Laws 1972, LB 1047, § 2; Laws 1993, LB 348, § 2; Laws 2017, LB133, § 199.

17-601.02 Caucus; notice to village clerk; contents.

The chairperson of the caucus at which candidates are nominated under section 17-601.01 shall notify the village clerk in writing of the candidates so nominated, not later than two days following the caucus. The village clerk shall then notify the persons so nominated of their nomination, such notification to take place not later than five days after such caucus. No candidate so nominated shall have his or her name placed upon the ballot unless, not more than ten days after the holding of such caucus, he or she files with the village clerk a written statement accepting the nomination of the caucus and pays the filing fee, if any, for the office for which he or she was nominated.

Source: Laws 1971, LB 432, § 2; Laws 1993, LB 348, § 3; Laws 2017, LB133, § 200.

17-601.03 Caucus; additional filings.

The provisions of sections 17-601.01 to 17-601.03 shall not preclude in any manner any person from filing for the offices to which such sections are applicable, either by direct filing or by petition.

Source: Laws 1971, LB 432, § 3.

17-602 Registered voters; qualifications.

All registered voters residing within the corporate limits of any city of the second class or village on or before election day shall be entitled to vote at all city and village elections.

Source: Laws 1879, § 61, p. 208; R.S.1913, § 5144; C.S.1922, § 4319; C.S.1929, § 17-510; R.S.1943, § 17-602; Laws 1963, c. 74, § 1, p. 277; Laws 1973, LB 559, § 8; Laws 1994, LB 76, § 497; Laws 2017, LB133, § 201.

17-603 Officers; canvass; certificates of election; failure to qualify, effect.

At a meeting of the city council of a city of the second class, or the village board of trustees, on the first Monday after any city or village election, the returns, including returns for the election of members of the school board, shall be canvassed, and the city council or village board of trustees shall cause the city clerk or village clerk to make out and deliver certificates of election, under the seal of the city or village, to the persons found to be elected. A neglect of any such elected officer to qualify within ten days after the delivery of such certificate shall be deemed a refusal to accept the office to which he or she may have been elected.

Source: Laws 1879, § 62, p. 208; R.S.1913, § 5145; C.S.1922, § 4320; C.S.1929, § 17-511; R.S.1943, § 17-603; Laws 1951, c. 35, § 1, p. 136; Laws 1959, c. 60, § 56, p. 273; Laws 1994, LB 76, § 498; Laws 2017, LB133, § 202.

Mandamus will compel canvassing board to declare the result of the election and issue certificate to successful parties. Moore v. Keck, 86 Neb. 694, 126 N.W. 388 (1910); Hotchkiss v. Keck, 86 Neb. 322, 125 N.W. 509 (1910).

(b) OFFICERS

17-604 Officers; powers, duties, and compensation; regulate by ordinance; bond or insurance; premium.

A city of the second class or village may enact ordinances or bylaws to regulate and prescribe the powers, duties, and compensation of officers and to require from all officers, elected or appointed, bonds and security or evidence of equivalent insurance for the faithful performance of their duties. The city or village may pay the premium for such bonds or insurance coverage.

Source: Laws 1879, § 69, XIII, p. 214; Laws 1881, c. 23, § 8, XIII, p. 176; Laws 1885, c. 20, § 1, XIII, p. 166; Laws 1887, c. 12, § 1, XIII, p. 295; R.S.1913, § 5146; C.S.1922, § 4321; C.S.1929, § 17-512; R.S.1943, § 17-604; Laws 1965, c. 68, § 1, p. 288; Laws 2007, LB347, § 12; Laws 2017, LB133, § 203.

17-605 City clerk or village clerk; duties.

The city clerk or village clerk shall have the custody of all laws and ordinances and shall keep a correct journal of the proceedings of the city council of a city of the second class or village board of trustees. After the period of time specified by the State Records Administrator pursuant to the Records Management Act, the city clerk or village clerk may transfer such journal of the proceedings of the city council or village board of trustees to the State Archives of the Nebraska State Historical Society for permanent preservation. He or she shall also perform such other duties as may be required by the ordinances of the city or village. If the city clerk or village clerk is acting as the city treasurer

or village treasurer, he or she shall also comply with the requirements of subsection (3) of section 17-606.

Source: Laws 1879, § 63, p. 208; R.S.1913, § 5147; C.S.1922, § 4322; C.S.1929, § 17-513; R.S.1943, § 17-605; Laws 1973, LB 224, § 5; Laws 2013, LB112, § 3; Laws 2017, LB133, § 204; Laws 2020, LB781, § 4.

Cross References

Records Management Act, see section 84-1220.

City has power to appropriate money for an audit of the accounts of the clerk. Campbell Co. v. City of Harvard, 123 Neb. 539, 243 N.W. 653 (1932).

This section does not specifically require the recording of reading of city ordinances. Hull v. City of Humboldt, 107 Neb. 326, 186 N.W. 78 (1921).

17-606 Treasurer; duties; failure to file account; penalty; continuing education; requirements.

(1) The treasurer of each city of the second class or village shall be the custodian of all money belonging to the city or village. He or she shall keep a separate account of each fund or appropriation and the debts and credits belonging thereto. He or she shall give every person paying money into the treasury a receipt for such money, specifying the date of payment and on what account paid. He or she shall also file copies of such receipts with his or her monthly reports, and he or she shall, at the end of every month, and as often as may be required, render an account to the city council or village board of trustees, under oath, showing the state of the treasury at the date of such account and the balance of money in the treasury. He or she shall also accompany such accounts with a statement of all receipts and disbursements, together with all warrants redeemed and paid by him or her, which warrants, with any and all vouchers held by him or her, shall be filed with his or her account in the clerk's office. If the city treasurer or village treasurer fails to render his or her account within twenty days after the end of the month, or by a later date established by the city council or village board of trustees, the mayor of a city of the second class or the chairperson of the village board of trustees with the advice and consent of the trustees may use this failure as cause to remove the city treasurer or village treasurer from office.

(2) The city treasurer or village treasurer shall keep a record of all outstanding bonds against the city or village, showing the number and amount of each bond, for and to whom the bonds were issued, and the date upon which any bond is purchased, paid, or canceled. He or she shall accompany the annual statement submitted pursuant to section 19-1101 with a description of the bonds issued and sold in that year and the terms of sale, with every item of expense thereof.

(3) The city treasurer or village treasurer shall annually complete continuing education through a program approved by the Auditor of Public Accounts, and proof of completion of such program shall be submitted to the Auditor of Public Accounts.

Source: Laws 1879, § 64, p. 209; R.S.1913, § 5148; C.S.1922, § 4323; C.S.1929, § 17-514; R.S.1943, § 17-606; Laws 2005, LB 528, § 2; Laws 2013, LB112, § 4; Laws 2017, LB133, § 205; Laws 2020, LB781, § 5.

Duties of city treasurer were clerical and not such as to preclude participation in proceedings for bond election. Inslee v. City of Bridgeport, 153 Neb. 559, 45 N.W.2d 590 (1951).

Designation of depository and the furnishing of depository bond does not relieve treasurer from duty of exercising reasonable prudence in protection of funds of the municipality. Village of Hampton v. Gausman, 136 Neb. 550, 286 N.W. 757 (1939).

City treasurer, as custodian of city funds, is required to account monthly to the council, which requirement implies the power of the city to contract and to pay for an audit of his accounts. Campbell Co. v. City of Harvard, 123 Neb. 539, 243 N.W. 653 (1932).

Power to remove city treasurer for any reason cannot be exercised until specific charges are preferred against such treasurer, notice is given him thereof, and he has had an opportunity to be heard. State ex rel. Ballmer v. Strever, 93 Neb. 762, 141 N.W. 820 (1913).

Money paid to village treasurer for liquor license as required by municipal ordinance is received by such treasurer in his official capacity and his bondsmen are liable if he fails to account therefor. Hrabak v. Village of Dodge, 62 Neb. 591, 87 N.W. 358 (1901).

17-607 Treasurer; depositories; qualification; bond; exemption of treasurer from liability; conflict of interest.

(1) The treasurer of a city of the second class or village shall deposit, and at all times keep on deposit, for safekeeping, in banks, capital stock financial institutions, or qualifying mutual financial institutions of approved and responsible standing, all money collected, received, or held by him or her as city treasurer or village treasurer. Such deposits shall be subject to all regulations imposed by law or adopted by the city council or village board of trustees for the receiving and holding thereof. The fact that a stockholder, director, or other officer of such bank, capital stock financial institution, or qualifying mutual financial institution is also serving as mayor, as a member of the city council, as a member of the village board of trustees, as a member of a board of public works, or as any other officer of such municipality shall not disqualify such bank, capital stock financial institution, or qualifying mutual financial institution from acting as a depository for such municipal funds. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

(2) The city council or village board of trustees shall require from all banks, capital stock financial institutions, or qualifying mutual financial institutions (a) a bond in such penal sum as may be the maximum amount on deposit at any time less the amount insured or guaranteed by the Federal Deposit Insurance Corporation or, in lieu thereof, (b) security given as provided in the Public Funds Deposit Security Act, to secure the payment of all such deposits and accretions. The city council or village board of trustees shall approve such bond or giving of security. The city treasurer or village treasurer shall not be liable for any loss of any money sustained by reason of the failure of any such depository so designated and approved.

Source: Laws 1879, § 65, p. 209; R.S.1913, § 5149; Laws 1921, c. 304, § 1, p. 961; C.S.1922, § 4324; Laws 1927, c. 38, § 1, p. 168; Laws 1929, c. 45, § 1, p. 193; C.S.1929, § 17-515; Laws 1931, c. 33, § 1, p. 124; Laws 1935, c. 140, § 2, p. 515; Laws 1937, c. 31, § 1, p. 155; C.S.Supp.,1941, § 17-515; Laws 1943, c. 27, § 2(1), p. 121; R.S.1943, § 17-607; Laws 1957, c. 54, § 3, p. 264; Laws 1989, LB 33, § 22; Laws 1992, LB 757, § 19; Laws 1996, LB 1274, § 22; Laws 2001, LB 362, § 24; Laws 2003, LB 175, § 1; Laws 2009, LB259, § 10; Laws 2017, LB133, § 206.

Cross References

Public Funds Deposit Security Act, see section 77-2386.

A municipal treasurer is required to deposit its funds in a bank selected by the village board. Village of Hampton v. Gausman, 136 Neb. 550, 286 N.W. 757 (1939).

Where village treasurer deposits funds in bank duly designated by board as its depository and, after insolvency of such bank, sureties confess their liability and to recoup part of their loss

sold bonds pledged with them by bank, such sureties are not entitled to a preferred claim against assets of such bank for balance of their loss. Shumway v. Department of Banking, 131 Neb. 246, 267 N.W. 469 (1936).

A village treasurer is not authorized to deposit village funds in a bank not designated by board of trustees as a depository. Village of Overton v. Nagel, 128 Neb. 264, 258 N.W. 461 (1935); State ex rel. Sorensen v. Bank of Otoe, 125 Neb. 414, 250 N.W. 547 (1933); State ex rel. Sorensen v. Bank of Otoe, 125 Neb. 383, 250 N.W. 254 (1933).

Deposit of funds in duly designated depository by city treasurer, where he received them for the specific purpose of investing them in securities designated by ordinance, does not make such funds trust funds. State ex rel. Sorensen v. Fidelity State Bank, 127 Neb. 529, 255 N.W. 781 (1934).

Where a bank, not designated as a depository by village board, accepts village funds from its treasurer, with knowledge of their character, such bank holds such funds as trustee, and on bank's insolvency, the village is entitled to a preferred claim therefor. State ex rel. Sorensen v. Plateau State Bank, 126 Neb. 407, 253 N.W. 433 (1934).

Designation of bank as a depository does not relieve treasurer and his bondsmen from liability for funds of municipality lost in bank failure, where treasurer was officer, director, and stockholder of the bank and knew bank was unsafe. City of Cozad v. Thompson, 126 Neb. 79, 252 N.W. 606 (1934).

Treasurer is liable on his official bond for loss of funds deposited by him in a bank not duly designated as a depository. City of South Sioux City v. Mullins, 125 Neb. 410, 250 N.W. 549 (1933).

City treasurer is bound to deposit city money in bank which has made application and been accepted as city depository by the city council. Luikart v. City of Aurora, 125 Neb. 263, 249 N.W. 590 (1933).

17-608 Treasurer; surplus funds; investments authorized; interest.

When the treasurer of any city of the second class or village holds funds of any such city or village in excess of the amount required for maintenance or set aside for betterments and improvements, the mayor and city council or the village board of trustees may, by resolution, direct and authorize the treasurer to invest such surplus funds in the outstanding bonds or registered warrants of such city or village, in bonds and debentures issued either singly or collectively by any of the twelve federal land banks, the twelve intermediate credit banks, or the thirteen banks for cooperatives under the supervision of the Farm Credit Administration, or in interest-bearing bonds or the obligations of the United States. The interest on such bonds or warrants shall be credited to the fund out of which such bonds or warrants were purchased.

Source: Laws 1927, c. 38, § 1, p. 169; Laws 1929, c. 45, § 1, p. 193; C.S.1929, § 17-515; Laws 1931, c. 33, § 1, p. 125; Laws 1935, c. 140, § 2, p. 516; Laws 1937, c. 31, § 1, p. 155; C.S.Supp.,1941, § 17-515; Laws 1943, c. 27, § 2(2), p. 122; R.S.1943, § 17-608; Laws 1959, c. 263, § 6, p. 927; Laws 2017, LB133, § 207.

17-609 Treasurer; utility funds; retirement of bonds or warrants.

The mayor and city council of a city of the second class or village board of trustees may, by resolution, direct and authorize the city treasurer or village treasurer to dispose of the surplus electric light, water, or gas funds, or the funds arising from the sale of electric light, water, or natural gas distribution properties, by the payment of outstanding electric light, water, or gas distribution bonds or water warrants then due. The excess, if any, after such payments may be transferred to the general fund of such city or village.

Source: Laws 1929, c. 45, § 1, p. 194; C.S.1929, § 17-515; Laws 1931, c. 33, § 1, p. 125; Laws 1935, c. 140, § 2, p. 516; Laws 1937, c. 31, § 1, p. 156; C.S.Supp.,1941, § 17-515; Laws 1943, c. 27, § 2(3), p. 122; R.S.1943, § 17-609; Laws 1967, c. 77, § 1, p. 247; Laws 2017, LB133, § 208.

17-610 City attorney or village attorney; duties.

The city attorney or village attorney shall be the legal advisor of the city council in a city of the second class or village board of trustees. He or she shall commence, prosecute, and defend all suits and actions necessary to be commenced, prosecuted, or defended on behalf of the city or village, or that may be

ordered by the city council or village board of trustees. When requested, he or she shall attend meetings of the city council or village board of trustees and give them his or her opinion upon any matters submitted to him or her, either orally or in writing, as may be required. He or she shall draft or review for legal correctness ordinances, contracts, franchises, and other instruments as may be required, and he or she shall perform such other duties as may be imposed upon him or her by general law or ordinance. The city council or village board of trustees of the city or village shall have the right to pay the city or village attorney compensation for legal services performed by him or her for such city or village on such terms as the city council or village board of trustees and attorney may agree, and to employ additional legal assistance and to pay for such legal assistance out of the funds of the city or village.

Source: Laws 1879, § 67, p. 210; R.S.1913, § 5150; C.S.1922, § 4325; C.S.1929, § 17-516; R.S.1943, § 17-610; Laws 1969, c. 94, § 1, p. 461; Laws 2017, LB133, § 209.

City attorney is city's legal advisor, and as such he is required to commence, prosecute, and defend all suits on behalf of the city. Darnell v. City of Broken Bow, 139 Neb. 844, 299 N.W. 274 (1941).

City attorney is the legal advisor of the council, and has the duty to prosecute or defend all actions in which it is a party. Meeske v. Baumann, 122 Neb. 786, 241 N.W. 550 (1932), 83 A.L.R. 131 (1932).

17-611 Officer; extra compensation prohibited.

No officer shall receive any pay or perquisites from a city of the second class or village other than his or her salary. Neither the city council nor village board of trustees shall pay or appropriate any money or other valuable thing to any person not an officer for the performance of any act, service, or duty, the doing or performance of which shall come within the proper scope of the duties of any officer of such municipality.

Source: Laws 1879, § 68, p. 210; R.S.1913, § 5151; C.S.1922, § 4326; C.S.1929, § 17-517; R.S.1943, § 17-611; Laws 1957, c. 38, § 3, p. 208; Laws 1959, c. 62, § 2, p. 280; Laws 1961, c. 283, § 3, p. 831; Laws 1971, LB 494, § 4; Laws 1971, LB 549, § 1; Laws 1983, LB 370, § 8; Laws 2017, LB133, § 210.

Payments made by village under void contract may be recovered. Heese v. Wenke, 161 Neb. 311, 73 N.W.2d 223 (1955).

Under former law, interest of members of council in other contracts did not invalidate ordinance. Freeman v. City of Neligh, 155 Neb. 651, 53 N.W.2d 67 (1952).

An officer who has made a contract with a city or village for salary, additional to that provided by law, cannot recover in quantum meruit. Neisius v. Henry, 142 Neb. 29, 5 N.W.2d 291 (1942).

Where, under this section, the making of a contract is prohibited, a recovery quantum meruit cannot be had. Village of Bellevue v. Sterba, 140 Neb. 744, 1 N.W.2d 820 (1942).

Where a city attorney resigns, but still acts as legal advisor to the city and is allowed compensation at the rate provided by ordinance for salary of city attorney, he remains de facto city attorney and cannot enter into legal contract with city for collection of taxes. Darnell v. City of Broken Bow, 139 Neb. 844, 299 N.W. 274 (1941).

City, having a regular salaried attorney, is not for that reason prevented from employing a special attorney when the city attorney is absent, ill, or disqualified. Meeske v. Baumann, 122 Neb. 786, 241 N.W. 550 (1932), 83 A.L.R. 131 (1932).

17-612 Elective officers, salary; increase during term of office prohibited; exception.

The salary of any elective officer in a city of the second class or village shall not be increased or diminished during the term for which he or she has been elected except when there has been a combination and merger of offices as provided by sections 17-108.02 and 17-209.02, and except that when there are officers elected to the city council or a board or commission having more than one member and the terms of one or more members commence and end at different times, the compensation of all members of such city council, board, or

commission may be increased or diminished at the beginning of the full term of any member thereof. No person who resigned or vacated any office shall be eligible for the same office during the time for which he or she was elected if during the same time the salary was increased.

Source: Laws 1879, § 75, p. 220; R.S.1913, § 5152; C.S.1922, § 4327; C.S.1929, § 17-518; R.S.1943, § 17-612; Laws 1945, c. 25, § 3, p. 136; Laws 1969, c. 89, § 3, p. 452; Laws 1972, LB 942, § 1; Laws 2017, LB133, § 211.

City attorney who resigns cannot be rehired by council to perform same duties under the designation of "special counsel" at an increase in pay. Darnell v. City of Broken Bow, 139 Neb. 844, 299 N.W. 274 (1941).

When, at time of election of city officers, no ordinance had fixed their salaries, this section does not prevent the city council and mayor from fixing such salaries thereafter by ordinance. Wheelock v. McDowell, 20 Neb. 160, 29 N.W. 291 (1886); State ex rel. Wagner v. McDowell, 19 Neb. 442, 27 N.W. 433 (1886).

(c) ORDINANCES

17-613 Ordinances; style; publication; proof.

The style of all ordinances of a city of the second class or village shall be: Be it ordained by the mayor and city council of the city of . . . . . , or the chairperson and board of trustees of the village of . . . . All ordinances of a general nature shall, before they take effect, be published, within fifteen days after they are passed, (1) in a legal newspaper in or of general circulation in such city or village or (2) by publishing the same in book, pamphlet, or electronic form. In case of riot, infectious or contagious diseases, or other impending danger, failure of public utility, or any other emergency requiring its immediate operation, such ordinance shall take effect upon the proclamation of the mayor or chairperson of the village board of trustees, posted in at least three of the most public places in the city or village. Such emergency ordinance shall recite the emergency, be passed by a three-fourths vote of the city council or village board of trustees, and be entered of record on the minutes of the city or village. The passage, approval, and publication of all ordinances shall be sufficiently proved by a certificate under seal of the city or village from the city clerk or village clerk, showing that such ordinance was passed and approved and when and in what legal newspaper the ordinance was published. When ordinances are printed in book, pamphlet, or electronic form, purporting to be published by authority of the village board of trustees or city council, the ordinance need not be otherwise published, and such book, pamphlet, or electronic form shall be received as evidence of the passage and legal publication of such ordinances as of the dates mentioned in such book, pamphlet, or electronic form in all courts without further proof.

Source: Laws 1879, § 59, p. 207; Laws 1881, c. 23, § 7, p. 171; R.S.1913, § 5153; C.S.1922, § 4328; C.S.1929, § 17-519; R.S.1943, § 17-613; Laws 1951, c. 36, § 1, p. 137; Laws 1969, c. 95, § 1, p. 462; Laws 1971, LB 282, § 2; Laws 2017, LB133, § 212; Laws 2021, LB159, § 5.

Cross References

For other provisions applicable to ordinances, see sections 18-131, 18-132, 18-1724, and 19-3701.

Generally, ordinances do not go into effect until published. City of Milford v. Schmidt, 175 Neb. 12, 120 N.W.2d 262 (1963).

Ordinances of a general nature are required to be published. Chicago, St. P., M. & O. Ry. Co. v. City of Randolph, 163 Neb. 687, 81 N.W.2d 159 (1957).

Paving ordinance was properly published. Freeman v. City of Neligh, 155 Neb. 651, 53 N.W.2d 67 (1952).

Where an ordinance was printed in pamphlet form by the village, it was regularly published, and a village cannot question its validity on the ground that it was not validly adopted. Village of Deshler v. Southern Nebraska Power Co., 133 Neb. 778, 277 N.W. 77 (1938).

There is no requirement that the newspaper be printed within the city and, where there is no paper printed in the city, if an ordinance is published in a newspaper printed elsewhere and circulated generally in the city to local subscribers, the publication is sufficient. Hadlock v. Tucker, 93 Neb. 510, 141 N.W. 192 (1913).

Certificate of village clerk, attached to an ordinance, attested by official seal, stating when passed and approved, and when and in what paper published, is sufficient. Bailey v. State, 30 Neb. 855, 47 N.W. 208 (1890).

Ordinance calling election became effective when publication was complete. Central Electric & Gas Co. v. City of Stromsburg, 289 F.2d 217 (8th Cir. 1961).

17-614 Ordinances; how enacted; title; revised election district boundary; ordinance.

(1)(a) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members elected to the city council in a city of the second class or village board of trustees. The mayor of a city of the second class may vote when his or her vote would provide the additional vote required to attain the number of votes equal to a majority of the number of members elected to the city council, and the mayor shall, for the purpose of such vote, be deemed to be a member of the city council.

(b) Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the city council or village board of trustees vote to suspend this requirement. Such requirement shall not be suspended (i) for any ordinance for the annexation of territory or the redrawing of boundaries for city council or village board of trustees election districts or wards except as otherwise provided in subsection (3) of this section or (ii) as otherwise provided by law.

(c) In case such requirement is suspended, the ordinances shall be read by title and then moved for final passage.

(d) Three-fourths of the city council or village board of trustees may require a reading of any such ordinance in full before enactment under either procedure set out in this section.

(2) Ordinances shall contain no subject which is not clearly expressed in the title, and, except as provided in section 19-915, no ordinance or section of such ordinance shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that:

(a) For an ordinance revising all the ordinances of the city of the second class or village, the title need only state that the ordinance revises all the ordinances of the city or village. Under such title all the ordinances may be revised in sections and chapters or otherwise, may be corrected, added to, and any part suppressed, and may be repealed with or without a saving clause as to the whole or any part without other title; and

(b) For an ordinance used solely to revise ordinances or code sections or to enact new ordinances or code sections in order to adopt statutory changes made by the Legislature which are specific and mandatory and bring the ordinances or code sections into conformance with state law, the title need only state that the ordinance revises those ordinances or code sections affected by or enacts ordinances or code sections generated by legislative changes. Under such title, all such ordinances or code sections may be revised, repealed, or

enacted in sections and chapters or otherwise by a single ordinance without other title.

(3) Following the release of the 2020 Census of Population data by the United States Department of Commerce, Bureau of the Census, as required by Public Law 94-171, the city council of any city of the second class or village board of trustees requesting the adjustment of the boundaries of election districts shall provide to the election commissioner or county clerk (a) written notice of the need and necessity of his or her office to perform such adjustments and (b) a revised election district boundary map that has been approved by the requesting city council or village board of trustees and subjected to all public review and challenge ordinances of the city or village by December 30, 2021. The revised election district boundary map shall be adopted by ordinance. Such ordinance shall be read by title on three different days unless three-fourths of the members of the city council or village board of trustees vote to suspend this requirement.

Source: Laws 1879, § 79, p. 223; R.S.1913, § 5154; C.S.1922, § 4329; Laws 1929, c. 47, § 1, p. 202; C.S.1929, § 17-520; R.S.1943, § 17-614; Laws 1969, c. 108, § 3, p. 510; Laws 1972, LB 1235, § 2; Laws 1994, LB 630, § 3; Laws 2001, LB 484, § 2; Laws 2003, LB 365, § 2; Laws 2013, LB113, § 2; Laws 2017, LB133, § 213; Laws 2018, LB865, § 4; Laws 2021, LB131, § 14; Laws 2021, LB285, § 4.

1. Title and subject requirements
2. Vote required
3. Miscellaneous

1. Title and subject requirements

A city of the second class can repeal an ordinance only by enacting a later ordinance which contains the entire text, as amended, of the earlier ordinance or section being amended, along with a statement that the earlier version is repealed. Hammond v. City of Broken Bow, 239 Neb. 437, 476 N.W.2d 822 (1991).

Title need not be an index or abstract of the powers intended to be given. Gembler v. City of Seward, 136 Neb. 196, 285 N.W. 542 (1939), modified on rehearing 136 Neb. 916, 288 N.W. 545 (1939).

Where the minutes show ordinance was adopted, the presumption is that the ordinance was read as required. Provision that ordinance shall contain no subject, not clearly expressed in its title, is mandatory. Village of Deshler v. Southern Nebraska Power Co., 133 Neb. 778, 277 N.W. 77 (1938).

Where ordinance was passed and the vote recorded, it will be presumed it was duly read before passage, since this section does not affirmatively declare that the reading thereof on three different days must be recorded. Hull v. City of Humboldt, 107 Neb. 326, 186 N.W. 78 (1921).

Where title provides ''*** and ordinance authorizing and granting the right *** to construct and maintain an electric light power or gas plant or both'', such title is broad enough to grant the right to erect poles and wires in the city streets and to operate, extend, and repair them. City of York v. Iowa-Nebraska Light & Power Co., 109 F.2d 683 (8th Cir. 1940).

2. Vote required

Term ''three-fourths majority'' means three-fourths of quorum present and acting. City of North Platte v. North Platte Water-Works Co., 56 Neb. 403, 76 N.W. 906 (1898).

Council of city of second class may present and pass an ordinance of general nature on the same day if the rules are suspended by three-fourths vote of the council. Brown v. Lutz, 36 Neb. 527, 54 N.W. 860 (1893).

Final passage of ordinance requires favorable vote of members of city council, exclusive of mayor. State ex rel. Grosshans v. Gray, 23 Neb. 365, 36 N.W. 577 (1888).

3. Miscellaneous

Publication of a resolution is not required. Chicago, St. P., M. & O. Ry. Co. v. City of Randolph, 163 Neb. 687, 81 N.W.2d 159 (1957).

Section as complied with in passage of paving ordinance. Freeman v. City of Neligh, 155 Neb. 651, 53 N.W.2d 67 (1952).

Village ordinance, requiring construction of temporary sidewalk, on ungraded and unimproved street, is not ordinance of general or permanent nature and this section does not apply. Whitla v. Connor, 114 Neb. 526, 208 N.W. 670 (1926); Gibson v. Troupe, 96 Neb. 770, 148 N.W. 944 (1914).

This section does not permit issuance of warrant where only two members of a four-member council vote in favor thereof, although only one member votes against issuance. State ex rel. Katz-Craig Contracting Co. v. Darner, 95 Neb. 39, 144 N.W. 1048 (1914).

Ordinance, whose main object is to license and regulate, is not wholly void because a provision imposes an occupation tax not clearly expressed in the title. Morgan v. State, 64 Neb. 369, 90 N.W. 108 (1902).

17-615 Ordinances; passage; rules and regulations; proof.

All ordinances of a city of the second class or village shall be passed pursuant to such rules and regulations as the city council or village board of trustees may

provide. All such ordinances may be proved by the certificate of the city clerk or village clerk, under the seal of the city or village.

Source: Laws 1879, § 69, XXX, p. 217; Laws 1881, c. 23, § 8, XXX, p. 185; Laws 1885, c. 20, § 1, XXX, p. 176; Laws 1887, c. 12, § 1, XXX, p. 305; R.S.1913, § 5155; C.S.1922, § 4330; C.S.1929, § 17-521; R.S.1943, § 17-615; Laws 2017, LB133, § 214.

Where ordinance in question is printed in pamphlet form by authority of the city or village, it is entitled to be read and received as evidence in all courts. Village of Deshler v. Southern Nebraska Power Co., 133 Neb. 778, 277 N.W. 77 (1938).

17-616 Ordinances; contracts; appointments; vote; record.

On the passage or adoption of every bylaw or ordinance, and every resolution or order to enter into a contract by the city council of a city of the second class or village board of trustees, the yeas and nays shall be called and recorded. To pass or adopt any bylaw, any ordinance, or any such resolution or order, a concurrence of a majority of the whole number of members elected to the city council or village board of trustees shall be required. All appointments of the officers by the city council or village board of trustees shall be made viva voce; and the concurrence of a like majority shall be required, and the names of those, and for whom they voted, on the vote resulting in an appointment, shall be recorded. The requirements of a roll call or viva voce vote shall be satisfied by a city or village which utilizes an electronic voting device which allows the yeas and nays of each city council member or member of the village board of trustees to be readily seen by the public.

Source: Laws 1879, § 76, p. 221; R.S.1913, § 5156; C.S.1922, § 4331; C.S.1929, § 17-522; R.S.1943, § 17-616; Laws 1978, LB 609, § 2; Laws 2017, LB133, § 215.

Where no record of the proceedings of the city council with reference to a purported contract can be shown, there is a presumption that no such contract was entered into. Wightman v. City of Wayne, 144 Neb. 871, 15 N.W.2d 78 (1944).

Where the record of a city council does not show the mayor signed an ordinance or that the yea and nay vote was taken and recorded at the time enacted, a nunc pro tunc order by new council eighteen months later cannot be permitted. Beverly Land Co. v. City of South Sioux City, 117 Neb. 47, 219 N.W. 385 (1928).

Where record shows that ordinance was passed and shows the vote thereon, and does not show it was not read, it will be presumed that the ordinance was duly read before adoption, though record does not affirmatively so show. Hull v. City of Humboldt, 107 Neb. 326, 186 N.W. 78 (1921).

Provisions of this section are mandatory. Payne v. Ryan, 79 Neb. 414, 112 N.W. 599 (1907).

Where half the members voted for and the remaining members failed to vote, the mayor's vote added nothing and the ordinance is invalid. State ex rel. Grosshans v. Gray, 23 Neb. 365, 36 N.W. 577 (1888).

ARTICLE 7

FISCAL MANAGEMENT

Section
17-701. Fiscal year; commencement.
17-702. Property tax; general levy authorized; sale for delinquent taxes; additional levies.
17-703. Special assessments; relevy or reassess tax limit; refunding; when authorized; how paid.
17-704. Repealed. Laws 1965, c. 70, § 1.
17-705. Repealed. Laws 1978, LB 847, § 4.
17-706. Annual appropriation bill; contents.
17-707. Repealed. Laws 1971, LB 634, § 1.
17-708. Funds; expenditure; appropriation condition precedent.
17-709. Contracts; appropriation condition precedent.
17-710. Special assessments; expenditure; limitations.
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Section
17-713. Road tax; amount; when authorized.
17-714. Claims and accounts payable; filing; requirements; disallowance; notice; costs.
17-715. Claims; allowance; payment.
17-716. Transferred to section 19-3201.
17-717. Intersection paving bonds; tax authorized.
17-718. Voluntary fire departments; maintenance; tax; limitation.
17-719. Repealed. Laws 1969, c. 79, § 2.
17-720. Certificates of deposit; time deposits; security required.

17-701 Fiscal year; commencement.

The fiscal year of each city of the second class and village and of any public utility of a city of the second class or village commences on October 1 and extends through the following September 30 except as provided in the Municipal Proprietary Function Act.

Source: Laws 1879, § 85, p. 225; R.S.1913, § 5181; C.S.1922, § 4368; Laws 1927, c. 46, § 1, p. 194; C.S.1929, § 17-566; R.S.1943, § 17-701; Laws 1967, c. 78, § 1, p. 248; Laws 1969, c. 257, § 12, p. 937; Laws 1995, LB 194, § 5; Laws 2017, LB133, § 216.

Cross References

Municipal Proprietary Function Act, see section 18-2801.

17-702 Property tax; general levy authorized; sale for delinquent taxes; additional levies.

(1) The city council or village board of trustees of each city of the second class or village shall, at the time and in the manner provided by law, cause to be certified to the county clerk the amount of tax to be levied upon the taxable value of all the taxable property of the city or village which the city or village requires for the purposes of the adopted budget statement for the ensuing year, including all special assessments and taxes assessed as provided by law. The county clerk shall place the same on the property tax lists to be collected in the manner provided by law for the collection of county taxes in the county where such city or village is situated. In all sales for any delinquent taxes for municipal purposes, if there are other delinquent taxes due from the same person or a lien on the same property, the sale shall be for all the delinquent taxes. Such sales and all sales made under or by virtue of this section or the provision of law herein referred to shall be of the same validity and in all respects be deemed and treated as though such sales had been made for the delinquent county taxes exclusively. Subject to section 77-3442, the maximum amount of tax which may be so certified, assessed, and collected shall not require a tax levy in excess of one dollar and five cents on each one hundred dollars upon the taxable value of all the taxable property within the corporate limits of such city or village for the purposes of the adopted budget statement, together with any special assessments or special taxes or amounts assessed as taxes and such sum as may be authorized by law for the payment of outstanding bonds and debts.

(2) Within the limitation of section 77-3442, the city council or village board of trustees of each city of the second class or village may certify an amount to be levied not to exceed ten and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property within such city or village for the purpose of establishing the sinking fund or funds authorized by sections

19-1301 to 19-1304. Nothing contained in subsection (1) or (2) of this section shall be construed to authorize an increase in the amount of levies for any specific municipal purpose or purposes elsewhere limited by law, whether limited in specific sums or by tax levies.

(3) When required by section 18-501, an additional levy of seven cents on each one hundred dollars upon the taxable value of all the taxable property within the city of the second class or village may be imposed.

Source: Laws 1879, § 82, p. 224; R.S.1913, § 5182; Laws 1915, c. 93, § 1, p. 235; Laws 1919, c. 61, § 2, p. 149; C.S.1922, § 4369; C.S.1929, § 17-567; Laws 1933, c. 30, § 1, p. 208; Laws 1937, c. 176, § 6, p. 697; Laws 1939, c. 12, § 6, p. 84; Laws 1941, c. 157, § 21, p. 623; C.S.Supp.,1941, § 17-567; R.S.1943, § 17-702; Laws 1945, c. 28, § 2, p. 140; Laws 1945, c. 29, § 2, p. 144; Laws 1953, c. 287, § 18, p. 940; Laws 1957, c. 39, § 2, p. 211; Laws 1965, c. 69, § 1, p. 289; Laws 1967, c. 79, § 1, p. 251; Laws 1969, c. 145, § 19, p. 683; Laws 1979, LB 187, § 55; Laws 1992, LB 719A, § 56; Laws 1996, LB 1114, § 31; Laws 2017, LB133, § 217.

Tax levy for payment of outstanding bonds is authorized. Talbott v. City of Lyons, 171 Neb. 186, 105 N.W.2d 918 (1960).

Lien of special assessments is not dependent upon certification to county clerk. Belza v. Village of Emerson, 159 Neb. 651, 68 N.W.2d 272 (1955).

Where taxpayer seeks to recover special assessments paid to city in improvement district later held illegal, statute of limitations begins to run from date such assessments were paid. Dorland v. City of Humboldt, 129 Neb. 477, 262 N.W. 22 (1935).

Municipalities have authority to levy taxes to pay judgments on all taxable property within their boundaries. Dawson County v. Clark, 58 Neb. 756, 79 N.W. 822 (1899).

Special assessments, certified to county clerk for payment of an improvement before any work is done, before any contract is made for the performance of the work, or before any estimate of the cost of the improvement is made, are void and may be enjoined. Bellevue Improvement Co. v. Village of Bellevue, 39 Neb. 876, 58 N.W. 446 (1894).

17-703 Special assessments; relevy or reassess tax limit; refunding; when authorized; how paid.

(1) Whenever any special assessment upon any lot or lots, lands, or parcels of land in any city of the second class or village is found to be invalid and uncollectible, is adjudged to be void by a court of competent jurisdiction, or is paid under protest and recovered by suit, because of any defect, irregularity, or invalidity in any of the proceedings or on account of the failure to observe and comply with any of the conditions, prerequisites, and requirements of any statute or ordinance, the mayor and city council or chairperson and village board of trustees may relevy or reassess the special assessment upon the lot or lots, lands, or parcels of land in the same manner as other special assessments are levied, without regard to whether the formalities, prerequisites, or conditions prior to equalization have been had or not.

(2) If any city of the second class or village has levied special assessments for part or all of the cost of any public work or improvement, if the assessments have been finally held by the courts to be invalid and unenforceable, if the defects rendering such assessments invalid and unenforceable are of such character that they cannot be remedied by reassessment, and if part of the special assessments has been paid under mistake of law or fact into such city or village prior to such final holding, the mayor and city council or chairperson and village board of trustees shall establish a special fund in the budget statement annually which is sufficient to refund and repay over a period of consecutive years such special assessments erroneously paid, without interest to the person or persons entitled to receive the same, any and all such assessments or parts thereof as may have been so paid into the treasury of such city or village, as the case may be. The amount of tax annually budgeted for this

special fund shall not require a tax levy in excess of ten and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such city or village in any one year, and the additional levy shall be continued only for as many years as may be necessary to raise the total amount required for such purpose. Such assessments shall be refunded out of the special fund upon proper claims filed by the person or persons entitled to reimbursement. Such claim shall be audited, allowed, and ordered paid in the same manner as other claims against such city or village. All such reimbursements shall be made pro rata if there is not sufficient money on hand to repay them all at one time. Such amount of tax for the special fund shall be specified in the adopted budget statement.

Source: Laws 1933, c. 30, § 1, p. 209; Laws 1937, c. 176, § 6, p. 698; Laws 1939, c. 12, § 6, p. 85; Laws 1941, c. 157, § 21, p. 624; C.S.Supp.,1941, § 17-567; R.S.1943, § 17-703; Laws 1945, c. 28, § 3, p. 141; Laws 1945, c. 29, § 3, p. 145; Laws 1953, c. 287, § 19, p. 941; Laws 1969, c. 145, § 20, p. 685; Laws 1979, LB 187, § 56; Laws 1992, LB 719A, § 57; Laws 2017, LB133, § 218; Laws 2017, LB317, § 1.

17-704 Repealed. Laws 1965, c. 70, § 1.

17-705 Repealed. Laws 1978, LB 847, § 4.

17-706 Annual appropriation bill; contents.

The city council of a city of the second class and the village board of trustees shall adopt a budget statement pursuant to the Nebraska Budget Act, to be termed ''The Annual Appropriation Bill'', in which the city or village may appropriate such sums of money as may be deemed necessary to defray all necessary expenses and liabilities of such municipality.

Source: Laws 1879, § 86, p. 225; R.S.1913, § 5184; C.S.1922, § 4371; C.S.1929, § 17-569; R.S.1943, § 17-706; Laws 1967, c. 78, § 2, p. 249; Laws 1972, LB 1423, § 1; Laws 1993, LB 734, § 26; Laws 1995, LB 194, § 6; Laws 2017, LB133, § 219.

Cross References

Nebraska Budget Act, see section 13-501.

Contract by city council for repairing and rebuilding city hall involving sum in excess of that authorized by vote of people is void. Moore v. City of Central City, 118 Neb. 326, 224 N.W. 690 (1929).

Where proposition to issue bonds to fund indebtedness incurred without appropriation therefor is approved by majority of voters, action of city authorities is ratified and indebtedness is validated. State ex rel. City of Tekamah v. Marsh, 108 Neb. 835, 189 N.W. 381 (1922).

This section does not apply to borrowed money on hand for a specific purpose, sanctioned by majority of the legal voters, as such sanction is an appropriation. State ex rel. Fuller v. Martin, 27 Neb. 441, 43 N.W. 244 (1889).

17-707 Repealed. Laws 1971, LB 634, § 1.

17-708 Funds; expenditure; appropriation condition precedent.

The mayor and city council of a city of the second class or village board of trustees shall have no power to appropriate or to issue or draw any order or warrant on the city treasurer or village treasurer for money, unless the same has been appropriated or ordered by ordinance, or the claim for the payment of which such order or warrant is issued has been allowed according to the provisions of sections 17-714 and 17-715, and funds for the class or object out

of which such claim is payable have been included in the adopted budget statement or transferred according to law.

Source: Laws 1879, § 88, p. 226; R.S.1913, § 5186; C.S.1922, § 4373; C.S.1929, § 17-571; Laws 1935, Spec. Sess., c. 10, § 10, p. 77; Laws 1941, c. 130, § 18, p. 502; C.S.Supp.,1941, § 17-571; R.S. 1943, § 17-708; Laws 1959, c. 63, § 2, p. 283; Laws 1961, c. 47, § 3, p. 185; Laws 1967, c. 78, § 3, p. 249; Laws 1969, c. 145, § 21, p. 685; Laws 1972, LB 1423, § 2; Laws 2017, LB133, § 220.

An appropriation is not necessary where funds to meet expenditures are not raised by taxation, the obligation being payable alone out of funds on hand and the net earnings of light plant purchased. Carr v. Fenstermacher, 119 Neb. 172, 228 N.W. 114 (1929).

17-709 Contracts; appropriation condition precedent.

No contract shall be made by the city council of a city of the second class or village board of trustees or any committee or member of such city council or village board of trustees, and no expense shall be incurred by any of the officers or departments of the municipality, whether the object of the expenditures shall have been ordered by the city council or village board of trustees or not, unless an appropriation shall have been previously made concerning such expense, except as otherwise expressly provided in section 17-708.

Source: Laws 1879, § 89, p. 227; R.S.1913, § 5187; C.S.1922, § 4374; C.S.1929, § 17-572; R.S.1943, § 17-709; Laws 1967, c. 78, § 4, p. 251; Laws 2017, LB133, § 221.

The power of city authorities to contract is determined by the amounts appropriated plus such unexpended funds of previous levies and appropriations on hand on date of such contract, and the power is not diminished by the failure to assess taxes to the extent authorized. LeBarron v. City of Harvard, 129 Neb. 460, 262 N.W. 26 (1935).

When there is unused and unappropriated money in the general fund at the time of employment of an auditor, such contract is valid and a subsequent depletion of such funds does not void such contract. Campbell Co. v. City of Harvard, 123 Neb. 539, 243 N.W. 653 (1932).

Municipality had authority to contract for the construction of a waterworks though no estimate or appropriation was made prior to such contract. Chicago Bridge & Iron Works v. City of South Sioux City, 108 Neb. 827, 189 N.W. 367 (1922).

This section prohibits council from making any contract or incurring expense unless an appropriation shall have been made previously concerning such expense. Ballard v. Cerney, 83 Neb. 606, 120 N.W. 151 (1909).

Where no previous appropriation is made for fire hydrant rentals, a contract therefor is void, but, where village retains the benefits of such contract and has authority to make a valid contract, such village is liable in quantum meruit for benefits conferred. Lincoln Land Company v. Village of Grant, 57 Neb. 70, 77 N.W. 349 (1898).

When an ordinance is duly passed, city may contract for water rentals and the payments thereof with private party, and such contract is good though not preceded by an appropriation to meet such rentals. City of North Platte v. North Platte Water-Works Co., 56 Neb. 403, 76 N.W. 906 (1898).

Ultra vires contract can be ratified only upon condition essential to valid contract in first instance. Gutta Percha & Rubber Mfg. Co. v. Village of Ogallala, 40 Neb. 775, 59 N.W. 513 (1894).

City council cannot incur or contract indebtedness until an annual appropriation ordinance has been passed or the expenditures have been sanctioned by a majority of the voters. McElhinney v. City of Superior, 32 Neb. 744, 49 N.W. 705 (1891); City of Blair v. Lantry, 21 Neb. 247, 31 N.W. 790 (1887).

Contract for the purchase of a waterworks plant was not invalid because no provision for payment thereunder had been previously made under an appropriation bill. Slocum v. City of North Platte, 192 F. 252 (8th Cir. 1911).

17-710 Special assessments; expenditure; limitations.

All money received on special assessments shall be held by the city treasurer of a city of the second class or village treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made, and such money shall be used for no other purpose whatever, unless to reimburse such municipality for money expended for such improvement.

Source: Laws 1879, § 90, p. 227; R.S.1913, § 5188; C.S.1922, § 4375; C.S.1929, § 17-573; R.S.1943, § 17-710; Laws 2017, LB133, § 222.

17-711 Warrants; how executed.

All warrants drawn upon the city treasurer of a city of the second class or village treasurer must be signed by the mayor or chairperson of the village board of trustees and countersigned by the city clerk or village clerk, stating the particular fund to which the same is chargeable, the person to whom payable, and for what particular object. No money shall be otherwise paid than upon such warrants so drawn. Each warrant shall specify the amount included in the adopted budget statement for such fund upon which it is drawn and the amount already expended of such fund.

Source: Laws 1879, § 66, p. 210; R.S.1913, § 5190; C.S.1922, § 4380; C.S.1929, § 17-578; R.S.1943, § 17-711; Laws 1969, c. 145, § 22, p. 686; Laws 2017, LB133, § 223.

Where warrants were drawn by the mayor and city clerk for the purchase of an addition to a cemetery, the title to which was later refused by the city council, without a prior appropriation therefor or without the sanction of a majority of the legal voters, the mayor and clerk who drew such warrant are liable to the city for the funds of the city so withdrawn through such warrant. City of Blair v. Lantry, 21 Neb. 247, 31 N.W. 790 (1887).

17-712 Repealed. Laws 1967, c. 58, § 2.

17-713 Road tax; amount; when authorized.

The city council or village board of trustees of a city of the second class or village shall, upon petition being filed with the city clerk or village clerk signed by a majority of the resident property owners of such city or village requesting such city council or village board of trustees to levy a tax upon the taxable valuation of the property in the city or village, make a levy as in such petition requested, not exceeding eighty-seven and five-tenths cents on each one hundred dollars of taxable valuation, and shall certify the same to the county board as other taxes are levied by the city or village, or certified, for the purpose of creating a fund. The fund shall be expended solely in the improvement of the public highways adjacent to the city or village and within five miles of such city or village, shall at all times be under the control and direction of the city council or village board of trustees, and shall be expended under the authority and direction of the city council or village board of trustees. The city council or village board of trustees is hereby granted the power and authority to employ such person or persons as it may select for the performance of such work under such rules and regulations as it may by ordinance provide.

Source: Laws 1905, c. 32, § 1, p. 263; R.S.1913, § 5191; C.S.1922, § 4381; Laws 1925, c. 166, § 5, p. 438; C.S.1929, § 17-579; R.S.1943, § 17-713; Laws 1979, LB 187, § 57; Laws 1992, LB 719A, § 58; Laws 2017, LB133, § 224.

17-714 Claims and accounts payable; filing; requirements; disallowance; notice; costs.

(1) All liquidated and unliquidated claims and accounts payable against a city of the second class or village shall (a) be presented in writing, (b) state the name and address of the claimant and the amount of the claim, and (c) fully and accurately identify the items or services for which payment is claimed or the time, place, nature, and circumstances giving rise to the claim.

(2) As a condition precedent to maintaining an action for a claim, other than a tort claim as defined in section 13-903, the claimant shall file such claim

within ninety days of the accrual of the claim in the office of the city clerk or village clerk.

(3) The city clerk or village clerk shall notify the claimant or his or her agent or attorney by letter mailed to the claimant's address within five days if the claim is disallowed by the city council or village board of trustees.

(4) No costs shall be recovered against such city or village in any action brought against it for any claim or for any claim allowed in part which has not been presented to the city council or village board of trustees to be audited, unless the recovery is for a greater sum than the amount allowed with the interest due.

Source: Laws 1879, § 80, p. 223; R.S.1913, § 5192; C.S.1922, § 4382; C.S.1929, § 17-580; R.S.1943, § 17-714; Laws 1955, c. 42, § 1, p. 157; Laws 1990, LB 1044, § 2; Laws 2017, LB133, § 225.

Presentation of claim to municipal utility board, where that board had no power to consider claims nor any duty to forward claims to the city council, does not constitute compliance with this section. Hammond v. City of Broken Bow, 239 Neb. 437, 476 N.W.2d 822 (1991).

The word "claim" as used in this section applies alone to those arising upon contract and not in tort. Bayard v. City of Franklin, 87 Neb. 57, 127 N.W. 113 (1910); Butterfield v. City of Beaver City, 84 Neb. 417, 121 N.W. 592 (1909); Village of Ponca v. Crawford, 18 Neb. 551, 26 N.W. 365 (1886); Nance v. Falls City, 16 Neb. 85, 20 N.W. 109 (1884).

The requirement that no costs can be recovered unless the claim has been first presented to the mayor and council to be audited does not make their action judicial, and their decision does not have the force and effect of a judgment. State ex rel. Minden Edison E. L. & P. Co. v. City of Minden, 84 Neb. 193, 120 N.W. 913 (1909), 21 L.R.A.N.S. 289 (1909).

Fact that claim was filed with council need not be proved in personal injury cases. City of Lexington v. Fleharty, 74 Neb. 626, 104 N.W. 1056 (1905); City of Lexington v. Kreitz, 73 Neb. 770, 103 N.W. 444 (1905).

The failure to present a claim to council where the action is for personal injuries does not affect the right of recovery. City of Chadron v. Glover, 43 Neb. 732, 62 N.W. 62 (1895).

Failure to present claim to council prevents the recovery of costs but does not affect recovery otherwise. City of Crete v. Childs, 11 Neb. 252, 9 N.W. 55 (1881).

17-715 Claims; allowance; payment.

Upon the allowance of claims by the city council of a city of the second class or village board of trustees, the order for their payment shall specify the particular fund or appropriation out of which they are payable as specified in the adopted budget statement; and no order or warrant shall be drawn in excess of eighty-five percent of the current levy for the purpose for which it is drawn, unless there shall be sufficient money in the treasury at the credit of the proper fund for its payment. In the event there exists at the time such warrant is drawn, obligated funds from the federal government or the State of Nebraska, or both from the federal government and the State of Nebraska, for the general purpose or purposes of such warrant, then such warrant may be drawn in excess of eighty-five percent of the current levy for the purpose for which it is drawn to the additional extent of one hundred percent of such obligated federal or state funds. No claim shall be audited or allowed unless an order or warrant for the payment thereof may legally be drawn.

Source: Laws 1879, § 81, p. 223; Laws 1885, c. 18, § 1, p. 160; R.S.1913, § 5193; C.S.1922, § 4383; C.S.1929, § 17-581; R.S.1943, § 17-715; Laws 1969, c. 145, § 23, p. 686; Laws 1972, LB 693, § 1; Laws 2017, LB133, § 226.

Where warrant is drawn in excess of eighty-five per cent of the current levy, unless sufficient money is in the treasury to credit of the proper fund for the payment thereof, the warrant is void and the payment thereof may be enjoined. Ballard v. Cerney, 83 Neb. 606, 120 N.W. 151 (1909).

Where warrant was issued by reason of fraudulent representations of payee's agent, mandamus will not force city treasurer to pay the same in third person's hands. State ex rel. First Nat. Bank of York v. Cook, 43 Neb. 318, 61 N.W. 693 (1895).

17-716 Transferred to section 19-3201.

17-717 Intersection paving bonds; tax authorized.

Any city of the second class or village is hereby authorized, annually, to levy a tax upon all the taxable property thereof, sufficient to pay the principal and interest of any intersection paving bonds issued by such municipality.

Source: Laws 1921, c. 199, § 3, p. 721; C.S.1922, § 4389; C.S.1929, § 17-587; R.S.1943, § 17-717.

17-718 Voluntary fire departments; maintenance; tax; limitation.

The city council in cities of the second class and board of trustees in villages having only voluntary fire departments or companies may levy a tax annually of not more than seven cents on each one hundred dollars upon the taxable value of all the taxable property within such cities or villages for the maintenance and benefit of such fire departments or companies. The amount of such tax shall be established at the beginning of the year and shall be included in the adopted budget statement. Upon collection of such tax, the city treasurer or village treasurer shall disburse the same upon the order of the chief of the fire department with the approval of the city council or village board of trustees.

Source: Laws 1921, c. 198, § 1, p. 720; C.S.1922, § 4391; C.S.1929, § 17-589; R.S.1943, § 17-718; Laws 1947, c. 38, § 1, p. 150; Laws 1953, c. 287, § 21, p. 943; Laws 1969, c. 96, § 1, p. 464; Laws 1969, c. 145, § 24, p. 687; Laws 1979, LB 187, § 58; Laws 1992, LB 719A, § 59; Laws 2017, LB133, § 227.

17-719 Repealed. Laws 1969, c. 79, § 2.

17-720 Certificates of deposit; time deposits; security required.

The city treasurer or village treasurer of cities of the second class and villages may, upon resolution of the mayor and city council or village board of trustees authorizing the same, purchase certificates of deposit from and make time deposits in any bank, capital stock financial institution, or qualifying mutual financial institution in the State of Nebraska to the extent that such certificates of deposit or time deposits are insured or guaranteed by the Federal Deposit Insurance Corporation. Deposits may be made in excess of the amounts so secured by the municipality, and the amount of the excess deposit shall be secured by a bond or by security given in the same manner as is provided for cities of the first class in sections 16-714 to 16-716 as of the time the deposit is made. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1969, c. 84, § 1, p. 424; Laws 1987, LB 440, § 8; Laws 1990, LB 825, § 1; Laws 1993, LB 157, § 3; Laws 1996, LB 1274, § 23; Laws 2001, LB 362, § 25; Laws 2009, LB259, § 11; Laws 2017, LB133, § 228.

ARTICLE 8

BOARD OF PUBLIC WORKS IN CITIES OF THE SECOND CLASS

Section

17-801. Board of public works; how created; members; appointment; removal; qualifications; terms.
17-802. Board of public works; powers and duties; city council; approve budget.

Section
17-802.01. Board of public works; insurance plan; cooperation and participation.
17-803. Board of public works; surplus funds; investment.
17-804. Water commissioner and light commissioner; compensation; removal.
17-805. Board of public works; organization; meetings; records.
17-806. Board members; oath; bond.
17-807. Board members; interest in contracts prohibited.
17-808. Bookkeeper and city clerk.
17-809. Repealed. Laws 1971, LB 32, § 5; Laws 1971, LB 435, § 1.
17-810. Rates; power to fix.

17-801 Board of public works; how created; members; appointment; removal; qualifications; terms.

Whenever any city of the second class has or is about to establish or acquire any system of waterworks, power plant, ice plant, gas plant, sewerage, heating, or lighting plant, or distribution system, the city council of such city may, by ordinance, create a board of public works, which shall consist of not less than three, nor more than six members, residents of such city, to be appointed by the mayor, subject to the approval of the city council. Members of the board of public works may be removed by the mayor and a majority of the members elected to the city council at any time. The term of the first members of the board of public works shall be one, two, three, or four years in the manner designated by the mayor, as the case may be, after which the term of each member shall be four years; and the terms of not more than two members shall expire at any one time.

Source: Laws 1935, c. 33, § 1, p. 138; C.S.Supp.,1941, § 17-701; R.S. 1943, § 17-801; Laws 1975, LB 162, § 1; Laws 2017, LB133, § 229.

17-802 Board of public works; powers and duties; city council; approve budget.

The city council of a city of the second class may, by ordinance, confer upon a board of public works the active direction and supervision of any or all of the utility systems owned or operated by such city. The city council shall approve the budget of each proprietary function as provided in the Municipal Proprietary Function Act. Such board of public works shall have the power to operate any utility referred to it and to exercise all powers conferred by law upon such city for the operation and government of such utility to the same extent, in the same manner, and under the same restrictions as the city council could do if no such board of public works existed, except that such board of public works shall not make any expenditure or contract any indebtedness other than for ordinary running expenses, exceeding an amount established by the city council, without first obtaining the approval of the city council. The board of public works shall report to the city council at regular intervals as the city council may require.

Source: Laws 1935, c. 33, § 2, p. 139; Laws 1937, c. 34, § 1, p. 160; C.S.Supp.,1941, § 17-702; R.S.1943, § 17-802; Laws 1949, c. 29, § 2(1), p. 113; Laws 1983, LB 304, § 5; Laws 1993, LB 734, § 27; Laws 2017, LB133, § 230.

Cross References

Municipal Proprietary Function Act, see section 18-2801.

17-802.01 Board of public works; insurance plan; cooperation and participation.

The mayor and city council of a city of the second class may, by ordinance, authorize and empower the board of public works to cooperate and participate in a plan of insurance designed and intended for the benefit of the employees of any public utility operated by the city. For that purpose the board of public works may make contributions to pay premiums or dues under such plan, authorize deductions from salaries of employees, and take such other steps as may be necessary to effectuate such plan of insurance.

Source: Laws 1949, c. 29, § 2(2), p. 113; Laws 2017, LB133, § 231.

17-803 Board of public works; surplus funds; investment.

Any surplus funds arising out of the operation of any municipal utilities by the board of public works, or by the city council of a city of the second class, where any of such utilities are not being operated by such a board, may be invested, if not invested pursuant to the provisions of any other law upon the subject, in like manner and subject to the same conditions as the investment of similar funds of cities of the first class, as provided in section 16-691.01.

Source: Laws 1937, c. 34, § 1, p. 160; C.S.Supp.,1941, § 17-702; R.S. 1943, § 17-803; Laws 1959, c. 51, § 1, p. 242; Laws 1961, c. 47, § 5, p. 187; Laws 2017, LB133, § 232.

17-804 Water commissioner and light commissioner; compensation; removal.

If a city of the second class has created a board of public works as provided in section 17-801, the water commissioner and light commissioner shall, subject to confirmation by the mayor and city council, be employed by such board at such reasonable compensation as may be agreed upon at the time of such employment and shall thereafter be under the jurisdiction of such board, any of the provisions of sections 17-501 to 17-560 to the contrary notwithstanding. Any water commissioner or light commissioner, under the jurisdiction and control of the board of public works, may be removed by the board, after an opportunity to be heard before the mayor and city council if he or she shall so request, for malfeasance, misfeasance, or neglect in office.

Source: Laws 1935, c. 33, § 2, p. 139; Laws 1937, c. 34, § 1, p. 161; C.S.Supp.,1941, § 17-702; R.S.1943, § 17-804; Laws 2017, LB133, § 233.

17-805 Board of public works; organization; meetings; records.

The members of the board of public works in a city of the second class shall organize as soon as practicable after their appointment, by electing a chairperson and secretary, who shall serve until the first meeting in June next following; and thereafter such board shall elect a chairperson and secretary at the first meeting in June each year. In the absence of the regular officers, temporary officers to serve in their places may be chosen by the members present at any meeting. The board of public works shall establish regular times for meetings and may adopt such rules as may be necessary or desirable for the conduct of business. The board of public works shall keep a record of its proceedings and, if there is a legal newspaper in or of general circulation in the city of the

second class, shall publish the minutes of each meeting in such legal newspaper within thirty days after the meeting is held.

Source: Laws 1935, c. 33, § 3, p. 139; C.S.Supp.,1941, § 17-703; R.S. 1943, § 17-805; Laws 2017, LB133, § 234.

17-806 Board members; oath; bond.

Each of the members of a board of public works of a city of the second class shall take an oath to discharge faithfully the duties of his or her office before entering upon the discharge of such office. Each of the members of such board before entering upon the duties of his or her office shall be required to give bond to the city with corporate surety. Such bond shall be in the sum of five thousand dollars and shall be conditioned for the faithful performance of the duties of member of the board of public works; and the surety on such bond shall be approved by the mayor and city council and shall be filed with the city treasurer. The premium on such bond shall be paid out of any public utility fund designated by the mayor and city council.

Source: Laws 1935, c. 33, § 4, p. 140; C.S.Supp.,1941, § 17-704; R.S. 1943, § 17-806; Laws 2017, LB133, § 235.

17-807 Board members; interest in contracts prohibited.

No member of the board of public works of a city of the second class shall ever be financially interested, directly or indirectly, in any contract entered into by the board on behalf of the city for more than ten thousand dollars in one year.

Source: Laws 1935, c. 33, § 5, p. 140; C.S.Supp.,1941, § 17-705; R.S. 1943, § 17-807; Laws 1973, LB 24, § 3; Laws 2017, LB133, § 236.

17-808 Bookkeeper and city clerk.

If the board of public works determines that the best interests of the city of the second class and the patrons of the utility will be better or more economically served, the board may employ the duly elected city clerk as ex officio bookkeeper and collector for the utility or utilities, and he or she may be paid a reasonable salary for the extra services required of him or her in such position in addition to his or her salary as city clerk.

Source: Laws 1935, c. 33, § 6, p. 140; C.S.Supp.,1941, § 17-706; R.S. 1943, § 17-808; Laws 2017, LB133, § 237.

17-809 Repealed. Laws 1971, LB 32, § 5; Laws 1971, LB 435, § 1.

17-810 Rates; power to fix.

Rates or charges for service by a board of public works for a city of the second class may be fixed or changed by resolution duly adopted by such board of public works.

Source: Laws 1935, c. 33, § 8, p. 140; C.S.Supp.,1941, § 17-708; R.S. 1943, § 17-810; Laws 2017, LB133, § 238.

ARTICLE 9
PARTICULAR MUNICIPAL ENTERPRISES

(a) PUBLIC UTILITIES SERVICE

Section
17-901. Utilities; service; contracts for sale; when authorized.
17-902. Utilities; contracts for service; transmission lines authorized.
17-903. Utilities; contracts for service; approval of electors; bonds; interest; taxes.
17-904. Transmission line outside city prohibited.
17-905. Utilities; acquisition; revenue bonds; issuance; when authorized.
17-905.01. Gas distribution system or bottled gas plant; lease by city; terms; submission to election.
17-906. Power plant; construction; eminent domain; procedure.
17-907. Power plant; transmission lines; right-of-way.
17-908. Power plant; construction; election; bonds; interest; redemption.
17-909. Power plant; operation and extension; tax authorized.
17-910. Joint power plant; construction; approval of electors.
17-911. Joint power plant; bonds; election; interest.
17-912. Joint power plant; operation and extension; tax.

(b) SEWERAGE SYSTEM

17-913. Sewers; resolution to construct, purchase, or acquire; contents; estimate of cost; special assessment.
17-914. Sewers; resolution to construct; publication; hearing.
17-915. Repealed. Laws 2017, LB133, § 331.
17-916. Sewers; resolution to construct; petition in opposition; effect.
17-917. Sewers; resolution to construct, purchase, or acquire; vote required.
17-918. Sewers; construction; contracts; notice; bids; acceptance.
17-919. Sewers; acceptance by engineer; approval; cost; assessments; notice.
17-920. Sewers; assessments; hearing; equalization; payable in installments; interest.
17-921. Sewers; special assessments; levy; collection.
17-922. Sewers; assessments; interest; exempt property; cost; how paid.
17-923. Sewers; assessments; when due; interest.
17-924. Sewers; assessments; sinking fund; purpose.
17-925. Sewers; bonds; term; rate of interest; partial payments; final payment; contractor; interest; special assessments; tax authorized.
17-925.01. Sewers; water utilities; maintenance and repair; tax authorized; service rate in lieu of tax; lien.
17-925.02. Sewers; rental charges; collection.
17-925.03. Sewers; rental charges; reduction in taxes.
17-925.04. Sewers; rental charges; cumulative to service rate for maintenance and repair.

(c) CEMETERIES

17-926. Cemetery; acquisition; condemnation; procedure.
17-927. Repealed. Laws 1951, c. 101, § 127.
17-928. Repealed. Laws 1951, c. 101, § 127.
17-929. Repealed. Laws 1951, c. 101, § 127.
17-930. Repealed. Laws 1951, c. 101, § 127.
17-931. Repealed. Laws 1951, c. 101, § 127.
17-932. Repealed. Laws 1951, c. 101, § 127.
17-933. Cemetery; acquisition; title.
17-934. Cemetery; existing cemetery association; transfer to; conditions.
17-935. Existing cemetery association; transfer; deeds; how executed.
17-936. Existing cemetery association; transfer of funds.
17-937. Existing cemetery association; trustees; oath; bond; vacancy; how filled.
17-938. Cemetery; maintenance; tax; forfeiture of lot; resale; reclamation of lot; procedure.
17-939. Cemetery; acquisition; bonds; interest; approval of electors required.
17-940. Cemetery; improvement.

Section
17-941. Cemetery; lots; conveyance.
17-942. Cemetery; lots; ownership and use; regulations.
17-943. Cemetery; protection; rules and regulations.
17-944. Cemetery association; formation; when authorized.
17-945. Cemetery association; trustees; conveyances.
17-946. Cemetery association; powers of board of trustees; income; use.
17-947. Cemetery association; formation; funds; transfer to.

(d) RECREATION CENTERS

17-948. Recreation and conservation; real estate; acquisition by gift or purchase; title.
17-949. Recreation and conservation; real estate; regulation and control; penalties authorized.
17-950. Recreation and conservation; real estate; acquisition; purposes; bonds; interest; approval of electors required.
17-951. Facilities; maintenance and improvement; tax authorized.
17-952. Board of commissioners; members; duties.

(e) PUBLIC BUILDINGS

17-953. Public buildings; acquisition or construction; approval of electors required; exception.
17-953.01. Purchase or construction of public buildings without bond issue; remonstrance petition; procedure.
17-954. Public buildings; purchase or construction; bonds; approval of electors required; exception.
17-955. Public buildings; maintenance; tax.

(f) REFRIGERATION

17-956. Cold storage plants; construction and operation; power.
17-957. Cold storage plants; construction; cost; tax; bonds.
17-958. Cold storage plants; bonds; approval of electors; interest; redemption.
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(g) MEDICAL AND HOUSING FACILITIES

17-961. Facility; acquisition or construction; management; facility, defined.
17-962. Gift or devise; approval by city council or village board of trustees.
17-963. Facility; acquisition or construction; issuance of bonds; interest; election.
17-964. Facility; maintenance; tax.
17-965. Facility fund; established; custodian.
17-966. Facility board; members; duties; powers; warrants.

(h) LIBRARIES

17-967. Bonds; city of the second class or village; municipal library; issuance; interest; conditions; limitations; tax levy.
17-968. Bonds; issuance; record.
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(i) WATER SERVICE DISTRICT

17-970. Water service districts; establishment; ordinance.
17-971. Water service districts; improvements; protest; effect; special assessments.
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17-973. Water service district; assessments; lien; date due; payable.
17-974. Water service district; assessments; delinquent; interest; rate; payment.
17-975. Water service districts; cost of improvements; partial payments; final payment; contractor; interest.
17-976. Water service districts; cost of improvements; bonds; interest; issuance; tax; levy.

(a) PUBLIC UTILITIES SERVICE

17-901 Utilities; service; contracts for sale; when authorized.

Any city of the second class or village is hereby authorized and empowered to enter into a contract for the furnishing of electricity, power, steam or other product of any system or plant, owned and operated by such city or village, to any person or corporation, if the furnishing of such electricity, power, steam or other product shall not interfere with the proper purposes for which the lighting, heating, waterworks or other plant of such city or village was intended.

Source: Laws 1907, c. 19, § 1, p. 132; R.S.1913, § 5142; Laws 1917, c. 104, § 1, p. 275; Laws 1919, c. 49, § 1, p. 142; C.S.1922, § 4317; C.S.1929, § 17-508; R.S.1943, § 17-901.

Where village without authority makes a contract with power company to furnish electric current to village and its people by ordinance, at a definite rate for twenty-five years, and thereafter the Legislature empowered it to make such contracts, the company is estopped to claim the contracts were ultra vires when made. Village of Davenport v. Meyer Hydro-Electric Power Co., 110 Neb. 367, 193 N.W. 719 (1923).

Where city without statutory authority makes contract with power company for electric current for a definite time and rate, and thereafter Legislature empowers it to make such contracts, the power company is estopped to claim such contract is ultra vires, and will be compelled to complete it. Central Power Co. v. Central City, 282 F. 998 (8th Cir. 1922).

17-902 Utilities; contracts for service; transmission lines authorized.

Any city of the second class or village is hereby authorized and empowered to enter into a contract with any person or corporation either within or without the corporate limits of such city or village for the furnishing of electricity, power, steam or other product to such city or village or to any electric, power, steam or other system or plant owned and operated by such city or village. Such city of the second class or village is hereby authorized and empowered for the purpose of carrying out the provisions of sections 17-901 to 17-904, to have a right-of-way for and to maintain transmission lines upon, within and across any of the public highways of this state as is provided by law for persons, firms, associations and corporations engaged in generating and transmitting electric current within this state.

Source: Laws 1919, c. 49, § 1, p. 142; C.S.1922, § 4317; C.S.1929, § 17-508; R.S.1943, § 17-902.

17-903 Utilities; contracts for service; approval of electors; bonds; interest; taxes.

Before any city of the second class or village shall make any contract with any person or corporation within or without such city or village for the furnishing of electricity, power, steam, or other product to such city or village, or any such municipal plant within such city or village, the question shall be submitted to the electors voting at any regular or special election upon the proposition. Such city of the second class or village may, by a majority vote at such election, vote bonds or taxes for the purpose of defraying the cost of such transmission line and connection with any person, firm, corporation, or other city or village with which it may enter into a contract for the purchasing of electricity, power, steam, or other product. The question of issuing bonds for any of the purposes provided in this section shall be submitted to the electors at an election held for that purpose, after not less than twenty days' notice thereof shall have been given by publication in a legal newspaper in or of general circulation in such municipality. Such bonds may be issued only when a majority of the electors voting on the question favor their issuance. Such bonds

shall bear interest, payable annually or semiannually, and shall be payable any time the municipality may determine at the time of their issuance, but in not more than twenty years after their issuance. The city council or village board of trustees shall levy annually a sufficient tax to maintain, operate, and extend any system or plant and to provide for the payment of the interest on, and the principal of, any bonds that may have been issued as provided in this section. If no tax or issuance of bonds is required, any city of the second class or village may by resolution of the city council or village board of trustees contract for the furnishing of electricity at retail to such city or village, or to any electric plant within such city or village, with any public power district, or an electric cooperative which cooperative has an approved retail service area adjoining such city or village.

Source: Laws 1917, c. 104, § 1, p. 275; Laws 1919, c. 49, § 1, p. 143; C.S.1922, § 4317; C.S.1929, § 17-508; R.S.1943, § 17-903; Laws 1965, c. 58, § 4, p. 268; Laws 1969, c. 83, § 4, p. 420; Laws 1969, c. 51, § 49, p. 302; Laws 2017, LB133, § 239.

Village could abandon contract without authorization by electors. Babson v. Village of Ulysses, 155 Neb. 492, 52 N.W.2d 320 (1952).

17-904 Transmission line outside city prohibited.

Nothing contained in sections 17-901 to 17-903 shall be construed as granting power to any city of the second class or village to construct and maintain transmission lines outside of such city or village for the purpose of selling electricity, power, steam or other product of its plant to another municipality or the residents therein.

Source: Laws 1919, c. 49, § 1, p. 144; C.S.1922, § 4317; C.S.1929, § 17-508; R.S.1943, § 17-904.

17-905 Utilities; acquisition; revenue bonds; issuance; when authorized.

Supplemental to any existing law on the subject and in lieu of the issuance of general obligation bonds, or the levying of taxes upon property, as by law provided, any city of the second class or any village may construct, purchase, or otherwise acquire a waterworks plant or a water system, or a gas plant or a gas system, including a natural or bottled gas plant, gas distribution system, or gas pipelines, either within or without the corporate limits of the city or village, and real and personal property needed or useful in connection therewith, and pay the cost thereof by pledging and hypothecating the revenue and earnings of any waterworks plant or water system, or gas plant or gas system, including a natural or bottled gas plant, gas distribution system, or gas pipelines, owned or to be owned by the city or village. In the exercise of the authority granted in this section, the city or village may issue and sell revenue bonds or debentures and enter into such contracts in connection therewith as may be proper and necessary. Such revenue bonds or debentures shall be a lien only upon the revenue and earnings of the waterworks plant or water system, gas plant or gas system, including a natural or bottled gas plant, gas distribution system, or gas pipelines, owned or to be owned by the city or village. No such city or village shall pledge or hypothecate the revenue and earnings of any waterworks plant or water system, or gas plant or gas system, including a natural or bottled gas plant, gas distribution system or gas pipelines, nor issue revenue bonds or debentures, as authorized in this section, until the proposition relating thereto

has been submitted in the usual manner to the qualified voters of such city or village at a general or special election and approved by a majority of the electors voting on the proposition submitted. Such proposition shall be submitted, whenever requested, within thirty days after a sufficient petition signed by the qualified voters of such city or village equal in number to twenty percent of the vote cast at the last general municipal election held in such city or village is filed with the city clerk or village clerk, as the case may be. Three weeks' notice of the submission of the proposition shall be given by publication in a legal newspaper in or of general circulation in such city or village. The requirement for a vote of the electors shall not apply when such city or village seeks to pledge or hypothecate such revenue or earnings or issue revenue bonds or debentures solely for the maintenance, extension, or enlargement of any waterworks plant or water system, or any gas plant or any gas system, including a natural or bottled gas plant, a gas distribution system, or gas pipelines, owned by such city or village.

Source: Laws 1941, c. 22, § 2, p. 113; C.S.Supp.,1941, § 17-596; R.S. 1943, § 17-905; Laws 2017, LB133, § 240.

Issuance of revenue bonds is authorized. Talbott v. City of Lyons, 171 Neb. 186, 105 N.W.2d 918 (1960).

Power to acquire gas distribution system by eminent domain was not conferred. Village of Walthill v. Iowa Electric Light & Power Co., 125 F.Supp. 859 (D. Neb. 1954).

17-905.01 Gas distribution system or bottled gas plant; lease by city; terms; submission to election.

Any city of the second class or any village which constructs a gas distribution system, or purchases or otherwise acquires a bottled gas plant, within the corporate limits of the city or village as provided in section 17-905, may lease any such facility or facilities to any such person, persons, corporation, or corporations as the city council or village board of trustees may select, upon such terms and conditions as it shall deem advisable. If there are any revenue bonds outstanding or to be outstanding at the time the lease becomes effective, for which the revenue and earnings of such facility or facilities are or shall be pledged and hypothecated, the net lease payments shall be sufficient to pay the principal and interest on such revenue bonds as the same become due. Such proposition shall be first submitted to the qualified voters of such city of the second class or village in the manner set forth in section 17-905, to be submitted either independently of or in conjunction with the proposition set forth in section 17-905.

Source: Laws 1963, c. 69, § 1, p. 270; Laws 2017, LB133, § 241.

17-906 Power plant; construction; eminent domain; procedure.

Any city of the second class or village is hereby authorized and empowered to erect a power plant, electric or other light works outside the corporate limits of such city or village and to acquire real estate required for such power plant, electric or other light works. Such city or village in establishing and erecting such power plant, electric or other light works shall have the right to purchase or take private property for the purpose of erecting such power plant, electric or other light works and constructing, running, and extending its transmission line. In all cases such city or village shall pay to such person or persons whose property shall be taken or injured thereby such compensation therefor as may be agreed upon or as shall be allowed by lawful condemnation proceedings. The procedure to condemn property shall be exercised in the manner set forth

in sections 76-704 to 76-724, except as to property specifically excluded by section 76-703 and as to which sections 19-701 to 19-707 are applicable.

Source: Laws 1921, c. 192, § 1, p. 711; C.S.1922, § 4394; C.S.1929, § 17-601; R.S.1943, § 17-906; Laws 1951, c. 101, § 59, p. 474; Laws 2017, LB133, § 242.

Power is conferred upon municipality to erect electric or other light works outside the corporate limits of the municipality, and to raise funds therefor. Interstate Power Co. v. City of Ainsworth, 125 Neb. 419, 250 N.W. 649 (1933).

17-907 Power plant; transmission lines; right-of-way.

A city of the second class or village is hereby given, for the purpose of erecting and operating a power plant, electric or other light works as provided in section 17-906, a right-of-way over and the right to erect and maintain transmission lines upon, within, and across any of the public highways of the state, subject to sections 75-709 to 75-724.

Source: Laws 1921, c. 192, § 1, p. 711; C.S.1922, § 4394; C.S.1929, § 17-601; R.S.1943, § 17-907; Laws 1992, LB 866, § 1; Laws 2017, LB133, § 243.

17-908 Power plant; construction; election; bonds; interest; redemption.

Before any city of the second class or village makes any contract with any person or corporation relating in any manner whatever to the erection of a proposed power plant, electric or other light works as provided in section 17-906, the question as to whether such power plant, electric or other light works shall be erected shall be duly submitted to the electors voting at any regular or special election upon the proposition, and such city of the second class or village may by a majority of the votes cast at such election vote bonds in an amount not in excess of seven percent of the taxable valuation of such city or village for the purpose of defraying the cost of such plant. The question of issuing such bonds shall be submitted to the electors at an election held for that purpose after not less than thirty days' notice thereof has been given by publication in a legal newspaper in or of general circulation in such city or village. Such bonds shall bear interest, payable annually or semiannually, and shall be payable any time the city or village may determine at the time of their issuance but in not more than twenty years after their issuance. The city or village shall have the option of paying any or all of such bonds at any time after five years from their date.

Source: Laws 1921, c. 192, § 1, p. 712; C.S.1922, § 4394; C.S.1929, § 17-601; R.S.1943, § 17-908; Laws 1969, c. 51, § 50, p. 304; Laws 1971, LB 534, § 15; Laws 1992, LB 719A, § 60; Laws 2017, LB133, § 244.

17-909 Power plant; operation and extension; tax authorized.

The city council or village board of trustees of a city of the second class or village shall levy annually a sufficient tax to maintain, operate, and extend any power plant, electric or other light works as provided in section 17-906 and to provide for the payment of the interest on the principal of any bonds that may have been issued as provided in section 17-908.

Source: Laws 1921, c. 192, § 1, p. 712; C.S.1922, § 4394; C.S.1929, § 17-601; R.S.1943, § 17-909; Laws 2017, LB133, § 245.

17-910 Joint power plant; construction; approval of electors.

Two or more cities of the second class or villages may jointly erect a power plant, electric or other light works as provided in section 17-906 which shall serve such respective cities or villages, and such power plant, electric or other light works may be owned and operated jointly by such respective cities or villages. Such cities or villages shall have the same rights and privileges as are in sections 17-906 to 17-909 granted to any single city or village. Before such cities or villages shall make any contract with any person or corporation relating in any manner whatever to the erection of such proposed power plant, electric or other light works, the question as to whether such jointly owned and operated power plant, electric or other light works shall be erected shall first be duly submitted to the electors of the respective cities or villages contemplating the erection of such power plant, electric or other light works and be approved by a sixty percent majority of the voters in each of such cities or villages in the manner provided in section 17-908.

Source: Laws 1921, c. 192, § 2, p. 712; C.S.1922, § 4395; C.S.1929, § 17-602; R.S.1943, § 17-910; Laws 2017, LB133, § 246.

Electric or other light works may be constructed by a municipality outside its corporate limits. Interstate Power Co. v. City of Ainsworth, 125 Neb. 419, 250 N.W. 649 (1933).

17-911 Joint power plant; bonds; election; interest.

Cities of the second class or villages contemplating the erection of a joint power plant, electric or other light works under section 17-910 may vote joint bonds in an amount not in excess of seven percent of the valuation of such cities or villages for the purpose of defraying the cost of such power plant, electric or other light works. The question of issuing such joint bonds for the purpose contemplated shall be submitted to the electors of the respective cities or villages interested at an election held for that purpose in each of such cities or villages after notice of such election for not less than twenty days shall have been given by publication in the manner provided in section 17-908. Such bonds may be issued only when a majority of the electors in each of the cities or villages interested and voting on the question favor their issuance. If in any one of such cities or villages voting on such question a majority of the electors voting in such city or village shall fail to favor the issuance of such joint bonds then the entire election in all of the cities or villages voting shall be deemed void and of no effect. Such joint bonds shall bear interest payable annually or semiannually and shall be payable any time the cities or villages may determine at the time of their issuance, but in not more than twenty years after their issuance, with the option of paying any or all of such bonds at any time after five years from their date.

Source: Laws 1921, c. 192, § 2, p. 713; C.S.1922, § 4395; C.S.1929, § 17-602; R.S.1943, § 17-911; Laws 1969, c. 51, § 51, p. 304; Laws 1971, LB 534, § 16; Laws 2017, LB133, § 247.

17-912 Joint power plant; operation and extension; tax.

The city councils or village boards of trustees of the cities of the second class or villages issuing joint bonds under section 17-911 shall levy annually a sufficient tax to maintain and operate and extend the power plant, electric or

other light work and to provide for the payment of interest on, and principal of, any bonds that may have been issued as provided in section 17-911.

Source: Laws 1921, c. 192, § 2, p. 713; C.S.1922, § 4395; C.S.1929, § 17-602; R.S.1943, § 17-912; Laws 2017, LB133, § 248.

(b) SEWERAGE SYSTEM

17-913 Sewers; resolution to construct, purchase, or acquire; contents; estimate of cost; special assessment.

When the city council of any city of the second class or the village board of trustees deems it advisable or necessary to build, reconstruct, purchase, or otherwise acquire a sanitary sewer system, a sanitary or storm water sewer, a sewage disposal plant, or pumping stations or sewer outlets for any such city or village, constructed or to be constructed in whole or in part inside or outside of such city or village, it shall declare the advisability and necessity for such system, sewer, plant, station, or outlet in a proposed resolution, which, in the case of pipe sewer construction, shall state the kinds of pipe proposed to be used, and shall state the size or sizes and kinds of sewers proposed to be constructed, and shall designate the location and terminal points thereof. If it is proposed to construct disposal plants, pumping stations, or outlet sewers, the resolution shall refer to the plans and specifications which shall have been made and filed before the publication of such resolution by the city engineer or village engineer or by the engineer who has been employed by any such city or village for such purpose. If it is proposed to purchase or otherwise acquire a sanitary sewer system, a sanitary or storm water sewer, a sewage disposal plant, or pumping stations or sewer outlets, the resolution shall state the price and conditions of the purchase or how the system, sewer, plant, station, or outlet is being acquired. Such engineer shall also make and file, prior to the publication of such resolution, an estimate of the total cost of the proposed improvement. The proposed resolution shall state the amount of such estimated cost. The city council or village board of trustees may assess, to the extent of special benefits, the cost of such portions of the improvements as are local improvements, upon properties found specially benefited thereby as a special assessment. The resolution shall state the outer boundaries of the district or districts in which it is proposed to make special assessments.

Source: Laws 1919, c. 189, § 1, p. 427; Laws 1921, c. 281, § 1, p. 926; C.S.1922, § 4337; Laws 1923, c. 143, § 1, p. 355; C.S.1929, § 17-528; R.S.1943, § 17-913; Laws 1947, c. 39, § 1, p. 151; Laws 2015, LB361, § 36; Laws 2017, LB133, § 249.

Notice by mail need not be given of passage of resolution of necessity declaring advisability of constructing sewer system. Jones v. Village of Farnam, 174 Neb. 704, 119 N.W.2d 157 (1963).

Resolution of necessity should state outer boundaries of district. Hutton v. Village of Cairo, 159 Neb. 342, 66 N.W.2d 820 (1954).

Where sewer improvements are made, special assessments to pay therefor may be levied by resolution of the council and an ordinance therefor is not mandatory. Weilage v. City of Crete, 110 Neb. 544, 194 N.W. 437 (1923).

Special assessments, levied by the frontage rule, must not exceed the local benefits conferred. Hurd v. Sanitary Sewer District No. 1 of Harvard, 109 Neb. 384, 191 N.W. 438 (1922).

17-914 Sewers; resolution to construct; publication; hearing.

Notice of the time when any resolution under section 17-913 shall be set for consideration before the city council or village board of trustees shall be given by at least two publications in a legal newspaper in or of general circulation in the city or village, which publication shall contain the entire wording of the

resolution. The last publication shall be not less than five days nor more than two weeks prior to the time set for hearing of objections to the passage of any such resolution, at which hearing the owners of the property which might become subject to assessment for the contemplated improvement may appear and make objections to the proposed improvement. Following the publication, the resolution may be amended and passed or passed as proposed.

Source: Laws 1919, c. 189, § 1, p. 428; C.S.1922, § 4338; C.S.1929, § 17-529; R.S.1943, § 17-914; Laws 2017, LB133, § 250.

Compliance was had with the requirements of this section. Jones v. Village of Farnam, 174 Neb. 704, 119 N.W.2d 157 (1963).

Resolution of necessity may be amended. Hutton v. Village of Cairo, 159 Neb. 342, 66 N.W.2d 820 (1954).

17-915 Repealed. Laws 2017, LB133, § 331.

17-916 Sewers; resolution to construct; petition in opposition; effect.

If a petition opposing a resolution proposed under section 17-913, signed by property owners representing a majority of the front footage which may become subject to assessment for the cost in any proposed lateral sewer district, be filed with the city clerk or village clerk within three days before the date of the meeting for the hearing on such resolution, such resolution shall not be passed.

Source: Laws 1919, c. 189, § 4, p. 428; C.S.1922, § 4340; C.S.1929, § 17-531; R.S.1943, § 17-916; Laws 2017, LB133, § 251.

Ample opportunity is given to make objections to the creation of a sanitary sewer system. Jones v. Village of Farnam, 174 Neb. 704, 119 N.W.2d 157 (1963).

Special assessments, levied by the frontage rule, must be uniform and levied on abutting property only and must not exceed the local benefits conferred. Hurd v. Sanitary Sewer District No. 1 of Harvard, 109 Neb. 384, 191 N.W. 438 (1922).

17-917 Sewers; resolution to construct, purchase, or acquire; vote required.

Upon compliance with sections 17-913 to 17-916, the city council or village board of trustees may by resolution order the making, reconstruction, purchase, or otherwise acquiring of any of the improvements provided for in section 17-913. The vote upon any such resolution shall be as required by section 17-616.

Source: Laws 1919, c. 189, § 5, p. 429; C.S.1922, § 4341; C.S.1929, § 17-532; R.S.1943, § 17-917; Laws 1947, c. 39, § 2, p. 152; Laws 2017, LB133, § 252.

17-918 Sewers; construction; contracts; notice; bids; acceptance.

After ordering any improvements as provided for in section 17-917, the city council or village board of trustees may enter into a contract for the construction of such improvements in one or more contracts, but no work shall be done or contract let until notice to contractors has been published in a legal newspaper in or of general circulation in such city or village. The notice shall be published in at least two issues of such newspaper and shall state the extent of the work, and the kinds of material to be bid upon, including in such notice all kinds of material mentioned in the resolution specified in section 17-913, the amount of the engineer's estimate of the cost of such improvements, and the time when bids will be received. The work shall be done under written contract with the lowest responsible bidder on the material selected after the bids are opened and in accordance with the requirements of the plans and specifica-

tions. The city council or village board of trustees may reject any or all bids received and advertise for new bids in accordance with this section.

Source: Laws 1919, c. 189, § 6, p. 429; Laws 1921, c. 281, § 2, p. 926; C.S.1922, § 4342; C.S.1929, § 17-533; R.S.1943, § 17-918; Laws 1975, LB 112, § 3; Laws 2017, LB133, § 253.

A public body has discretion to award the contract to one other than the lowest of the responsible bidders whenever a submitted bid contains a relevant advantage. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

By mandating that contracts be awarded to the lowest responsible bidder, the Nebraska Legislature is seeking to protect taxpayers, prevent favoritism and fraud, and increase competition in the bidding process by placing bidders on equal footing. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

Determining the lowest responsible bidder is a two-step process. The first step is for the public body to determine which bidders are responsible to perform the contract. The second step focuses on which of the responsible bidders has submitted the lowest bid. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

Determining the responsibility of bidders is a job for elected officials, and a court's only role is to review those decisions to make sure the public officials did not act arbitrarily, or from favoritism, ill will, or fraud. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

In addition to a bidder's pecuniary ability, responsibility pertains to a bidder's ability and capacity to carry on the work, the bidder's equipment and facilities, the bidder's promptness, the quality of work previously done by him or her, the bidder's suitability to the particular task, and such other qualities as are found necessary to consider in order to determine whether or not, if awarded the contract, he or she could perform it strictly in accordance with its terms. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

Public bodies do not act ministerially only, but exercise an official discretion when passing upon the question of the responsibility of bidders. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

When responsible bidders submit identical bids, the public body must award the contract to the lowest of the responsible bidders. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

Engineer's estimate of cost of improvements must be stated in notice. Hutton v. Village of Cairo, 159 Neb. 342, 66 N.W.2d 820 (1954).

17-919 Sewers; acceptance by engineer; approval; cost; assessments; notice.

After the completion of any work or purchase or otherwise acquiring the improvements authorized pursuant to section 17-913, the engineer shall file with the city clerk or village clerk a certificate of acceptance, which acceptance shall be approved by the city council or village board of trustees by resolution. The city council or village board of trustees shall then require the engineer to make a complete statement of all the costs of any such improvement and a plat of the property in the district and a schedule of the amount proposed to be assessed against each separate piece of property in such district, which shall be filed with the city clerk or village clerk within ten days from date of acceptance of the work, purchase, or otherwise acquiring the system. The city council or village board of trustees shall then order the city clerk or village clerk to give notice that such plat and schedules are on file in his or her office and that all objections thereto, or to prior proceedings on account of errors, irregularities, or inequalities, not made in writing and filed with the city clerk or village clerk within twenty days after the first publication of such notice, shall be deemed to have been waived. Such notice shall be given by two publications in a legal newspaper in or of general circulation in such city or village. Such notice shall state the time and place where objections, filed as provided for in this section, shall be considered by the city council or village board of trustees.

Source: Laws 1919, c. 189, § 7, p. 430; C.S.1922, § 4343; C.S.1929, § 17-534; R.S.1943, § 17-919; Laws 1947, c. 39, § 3, p. 152; Laws 1963, c. 75, § 1, p. 278; Laws 2017, LB133, § 254.

17-920 Sewers; assessments; hearing; equalization; payable in installments; interest.

The hearing on the proposed assessment under section 17-919 shall be held by the city council or village board of trustees, sitting as a board of adjustment and equalization, at the time specified in the notice which shall be not less than twenty days nor more than thirty days after the date of first publication unless

adjourned. Such session may be adjourned, with provisions for proper notice of such adjournment. At such meeting, the proposed assessment shall be adjusted and equalized with reference to benefits resulting from the improvement and shall not exceed such benefits. If any special assessment be payable in installments, each installment shall draw interest payable semiannually or annually from the date of levy until due. Such delinquent installments shall draw interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, until paid.

Source: Laws 1919, c. 189, § 8, p. 430; C.S.1922, § 4344; C.S.1929, § 17-535; Laws 1935, c. 136, § 21, p. 534; C.S.Supp.,1941, § 17-535; R.S.1943, § 17-920; Laws 1949, c. 27, § 1, p. 100; Laws 1957, c. 34, § 1, p. 198; Laws 1959, c. 64, § 4, p. 288; Laws 1969, c. 51, § 52, p. 305; Laws 1980, LB 933, § 19; Laws 1981, LB 167, § 20; Laws 2017, LB133, § 255.

Levy of special benefits, by the frontage rule, should be equal and uniform and levied on abutting property only. Such levy must not exceed the benefits to such property. Hurd v. Sanitary Sewer District No. 1 of Harvard, 109 Neb. 384, 191 N.W. 438 (1922).

17-921 Sewers; special assessments; levy; collection.

After the equalization of special assessments as required by section 17-920, the special assessments shall be levied by the mayor and city council or the village board of trustees, upon all lots or parcels of ground within the district specified which are benefited by reason of the improvement. The special assessments may be relevied if, for any reason, the levy thereof is void or not enforceable and in an amount not exceeding the previous levy. Such levy shall be enforced as a special assessment, and any payments thereof under previous levies shall be credited to the person or property making the same. All special assessments made for such purposes shall be collected in the same manner as other special assessments.

Source: Laws 1919, c. 189, § 9, p. 430; C.S.1922, § 4345; C.S.1929, § 17-536; R.S.1943, § 17-921; Laws 2015, LB361, § 37; Laws 2017, LB133, § 256.

Special assessments are a lien when levied and assessed. Belza v. Village of Emerson, 159 Neb. 651, 68 N.W.2d 272 (1955).

Where improvements are made, and property owner had opportunity to object when special assessments were determined by board, he cannot, after the levy is made, attack such levy collaterally, except for a jurisdictional defect in proceedings. Weilage v. City of Crete, 110 Neb. 544, 194 N.W. 437 (1923).

17-922 Sewers; assessments; interest; exempt property; cost; how paid.

No city council or village board of trustees shall cause to be assessed for any of the improvements authorized pursuant to section 17-913, property by law not assessable, or property not included within the district defined in the preliminary resolution, and shall not assess property not benefited. The cost of sewers at the intersection of streets and alleys and opposite property belonging to the United States Government, or other property not assessable, may be included with the cost of the rest of the work and may be assessed on the property within the district, if benefited by the improvement to such extent, or may be paid from unappropriated money in the general fund. The cost of the improvements shall draw interest from the date of acceptance thereof by the city council or village board of trustees.

Source: Laws 1919, c. 189, § 10, p. 431; C.S.1922, § 4346; C.S.1929, § 17-537; R.S.1943, § 17-922; Laws 1969, c. 51, § 53, p. 305; Laws 2017, LB133, § 257.

In absence of a jurisdictional defect in proceedings, where property owner had opportunity but failed to present his objections to the municipal body making assessments for local improvements, he cannot thereafter attack collaterally the levy so made. Weilage v. City of Crete, 110 Neb. 544, 194 N.W. 437 (1923).

In levying special assessments for construction of sewers, they should be confined to abutting property only. Hurd v. Sanitary Sewer District No. 1 of Harvard, 109 Neb. 384, 191 N.W. 438 (1922).

17-923 Sewers; assessments; when due; interest.

All special assessments provided for in section 17-921 shall become due in fifty days after the date of the levy and may be paid within that time without interest, but if not so paid they shall bear interest thereafter until delinquent. Such assessment shall become delinquent in equal annual installments over such period of years as the city council or village board of trustees may determine at the time of making the levy. Delinquent installments shall bear interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, until paid and shall be collected in the usual manner for the collection of taxes.

Source: Laws 1919, c. 189, § 11, p. 431; C.S.1922, § 4347; Laws 1923, c. 143, § 2, p. 356; C.S.1929, § 17-538; R.S.1943, § 17-923; Laws 1949, c. 27, § 2, p. 100; Laws 1953, c. 35, § 1, p. 126; Laws 1959, c. 64, § 5, p. 288; Laws 1969, c. 51, § 54, p. 306; Laws 1980, LB 933, § 20; Laws 1981, LB 167, § 21; Laws 2017, LB133, § 258.

17-924 Sewers; assessments; sinking fund; purpose.

All the special assessments provided for in section 17-921 shall, when levied, constitute a sinking fund for the purpose of paying the cost of the improvements authorized pursuant to section 17-913 with allowable interest thereon, and shall be solely and strictly applied to such purpose to the extent required. Any excess assessments may be transferred to such other fund or funds as the city council or village board of trustees may deem advisable after fully discharging the purposes for which they were levied.

Source: Laws 1919, c. 189, § 13, p. 432; C.S.1922, § 4349; C.S.1929, § 17-539; R.S.1943, § 17-924; Laws 2017, LB133, § 259.

17-925 Sewers; bonds; term; rate of interest; partial payments; final payment; contractor; interest; special assessments; tax authorized.

For the purpose of paying the cost of the improvements authorized pursuant to section 17-913, the city council of any city of the second class or village board of trustees of any village, after such improvements have been completed and accepted, shall have the power to issue negotiable bonds of such city or village, to be called Sewer Bonds, payable in not exceeding twenty years and bearing interest payable annually or semiannually, which may either be sold by the city or village or delivered to the contractor in payment for the work, but in either case for not less than their par value. For the purpose of making partial payments as the work progresses, warrants may be issued by the mayor and city council or by the village board of trustees upon certificates of the engineer in charge showing the amount of work completed and materials necessarily purchased and delivered for the orderly and proper continuation of the project, in a sum not exceeding ninety-five percent of the cost of such project and upon the completion and acceptance of the work issue a final warrant for a balance of the amount due the contractor, which warrants shall be redeemed and paid upon the sale of the bonds issued and sold. The city or village shall pay to the

contractor interest at the rate of eight percent per annum on the amounts due on partial and final payments beginning forty-five days after the certification of the amounts due by the engineer in charge and approval by the governing body and running until the date that the warrant is tendered to the contractor. All special assessments which may be levied upon property specially benefited by such work or improvements shall, when collected, be set aside and constitute a sinking fund for the payment of the interest and principal of such bonds. There shall be levied annually upon all the taxable property in such city or village a tax, which, together with such sinking fund derived from special assessments, shall be sufficient to meet payments of interest and principal as the same become due. Such tax shall be known as the sewer tax and shall be payable annually in money.

Source: Laws 1919, c. 189, § 14, p. 432; C.S.1922, § 4350; C.S.1929, § 17-540; Laws 1931, c. 34, § 1, p. 126; Laws 1935, c. 35, § 1, p. 146; C.S.Supp.,1941, § 17-540; R.S.1943, § 17-925; Laws 1963, c. 70, § 2, p. 272; Laws 1969, c. 51, § 55, p. 306; Laws 1974, LB 636, § 4; Laws 2017, LB133, § 260.

Cost of main sewers in excess of special benefits can only be paid for by means of general taxation. Hurd v. Sanitary Sewer District No. 1 of Harvard, 109 Neb. 384, 191 N.W. 438 (1922).

17-925.01 Sewers; water utilities; maintenance and repair; tax authorized; service rate in lieu of tax; lien.

The mayor and city council of any city of the second class or the village board of trustees is hereby authorized, after the establishment of a system of sewerage and at the time of levying other taxes for city or village purposes, to levy a tax of not more than three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such city or village for the purpose of creating a fund to be used for the maintenance and repairing of any sewer or water utilities in such city or village. In lieu of the levy of such tax, the mayor and city council or the village board of trustees may establish by ordinance such rates for such sewer service as may be deemed to be fair and reasonable, to be collected from either the owner or the person, firm, or corporation requesting the services at such times, either monthly, quarterly, or otherwise, as may be specified in the ordinance. All sewer charges shall be a lien upon the premises or real estate for which the same is used or supplied. Such lien shall be enforced in such manner as the city council or village board of trustees provides by ordinance. The charges thus made when collected shall be placed either in a separate fund or in a combined water and sewer fund and used exclusively for the purpose of maintenance and repairs of the sewer system, or the water and sewer system, in such city or village.

Source: Laws 1903, c. 22, § 9, p. 258; R.S.1913, § 5048; C.S.1922, § 4217; Laws 1923, c. 188, § 1, p. 432; C.S.1929, § 17-156; Laws 1943, c. 33, § 2, p. 151; R.S.1943, § 17-925.01; Laws 1947, c. 51, § 2, p. 172; Laws 1951, c. 37, § 1, p. 138; Laws 1953, c. 287, § 22, p. 944; Laws 1979, LB 187, § 59; Laws 1992, LB 719A, § 61; Laws 1997, LB 67, § 1; Laws 2017, LB133, § 261.

17-925.02 Sewers; rental charges; collection.

Any city of the second class or village may make rental charges for the use of an established municipal sewerage system on a fair and impartial basis for

services rendered. Such rental charges shall be collected at the same time and in the same manner as water charges by the same city or village.

Source: Laws 1947, c. 43, § 1, p. 159; Laws 2017, LB133, § 262.

17-925.03 Sewers; rental charges; reduction in taxes.

The revenue from rental charges under section 17-925.02 shall only be used for the abatement or the reduction of ad valorem taxes being levied or to be levied for the payment of bonds outstanding or to be issued for the construction of or additions to the sewerage system described in section 17-925.02.

Source: Laws 1947, c. 43, § 2, p. 159; Laws 2017, LB133, § 263.

17-925.04 Sewers; rental charges; cumulative to service rate for maintenance and repair.

The charges permitted by sections 17-925.02 to 17-925.04 shall be in addition to the charges permitted by section 17-925.01 for the maintenance and repair of a sewer system.

Source: Laws 1947, c. 43, § 3, p. 159; Laws 2017, LB133, § 264.

(c) CEMETERIES

17-926 Cemetery; acquisition; condemnation; procedure.

Any city of the second class or village through its mayor and city council or village board of trustees may, by eminent domain, condemn, purchase, hold, and pay for land not exceeding one hundred sixty acres outside the corporate limits of any city of the second class or village for the purpose of the burial of the dead. The mayor and city council or chairperson and village board of trustees are also empowered and authorized to receive by gift or devise real estate for cemetery purposes. In the event any city of the second class or village through its mayor and city council or chairperson and village board of trustees desires to purchase any cemetery belonging to any corporation, partnership, limited liability company, association, or individual, which cemetery has already been properly surveyed and platted, and is used for cemetery purposes, then the mayor and city council or chairperson and village board of trustees are hereby authorized and empowered to purchase the cemetery. In the event the owner or owners of such cemetery desired to be purchased by any city of the second class or village will not or cannot sell and convey such cemetery to the city or village or in the event the owner or owners of such cemetery cannot agree upon the price to be paid for the cemetery, the mayor and city council or the village board of trustees shall by resolution declare the necessity for the acquisition of such cemetery by exercise of the power of eminent domain. The adoption of the resolution shall be deemed conclusive evidence of such necessity. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1929, c. 46, § 1, p. 195; C.S.1929, § 17-541; R.S.1943, § 17-926; Laws 1951, c. 101, § 60, p. 474; Laws 1963, c. 70, § 3, p. 273; Laws 1993, LB 121, § 136; Laws 2017, LB133, § 265.

17-927 Repealed. Laws 1951, c. 101, § 127.

17-928 Repealed. Laws 1951, c. 101, § 127.

17-929 Repealed. Laws 1951, c. 101, § 127.

17-930 Repealed. Laws 1951, c. 101, § 127.

17-931 Repealed. Laws 1951, c. 101, § 127.

17-932 Repealed. Laws 1951, c. 101, § 127.

17-933 Cemetery; acquisition; title.

Where real estate for a cemetery under section 17-926 is acquired by gift or devise, the title shall vest in the city or village upon the conditions imposed by the donor and upon acceptance by the mayor and city council or chairperson and village board of trustees. Where such real estate is acquired by purchase or by virtue of exercise of the right of eminent domain, the title shall vest absolutely in such city or village. Nothing in sections 17-933 to 17-937 shall be construed in any manner to affect cemeteries belonging to any religious organization or society, lodge, or fraternal society.

Source: Laws 1929, c. 46, § 8, p. 197; C.S.1929, § 17-548; R.S.1943, § 17-933; Laws 2017, LB133, § 266.

17-934 Cemetery; existing cemetery association; transfer to; conditions.

In any city of the second class or village in which there exists a duly perfected cemetery association as defined in section 12-501, if the cemetery association proposes to the mayor and city council or to the chairperson and village board of trustees by means of a resolution duly enacted by such cemetery association, signed by its president and attested by its secretary, signifying the willingness of the cemetery association to exercise control and management of any cemetery belonging to such city or village, then the mayor and city council or chairperson and village board of trustees shall submit at the next regular municipal election the question of the management and control over the cemetery under the conveyance made by the proper authorities of such city or village. If a majority of the votes cast at such election are in favor of the transfer of the management and control of the cemetery belonging to such city or village to the cemetery association, the management and control of such cemetery shall be relinquished forthwith by the proper authorities of such city or village to the cemetery association. If the real estate of the cemetery of such city or village has been acquired by gift or devise, the relinquishment of the management and control to the cemetery association shall be subject to the conditions imposed by the donor; and upon acceptance by the president and secretary of the cemetery association, the conditions shall be binding upon the cemetery association.

Source: Laws 1929, c. 46, § 8, p. 198; C.S.1929, § 17-548; R.S.1943, § 17-934; Laws 2014, LB863, § 13; Laws 2017, LB133, § 267.

17-935 Existing cemetery association; transfer; deeds; how executed.

Subsequent to the relinquishment by the mayor and city council of a city of the second class or the chairperson and village board of trustees of a village to the proper officers of a cemetery association, as provided in section 17-934, the deeds to all burial lots executed by the trustees of such cemetery association, through its president and secretary, shall as a matter of course be signed, sealed, acknowledged, and delivered by the proper officers of such city or

village as other real property of such city or village is conveyed, except that the transfer of such burial lots shall not require a vote of a majority of the electors of such city or village to make title to the same valid and legal in the purchaser or purchasers thereof.

Source: Laws 1929, c. 46, § 8, p. 198; C.S.1929, § 17-548; R.S.1943, § 17-935; Laws 2017, LB133, § 268.

17-936 Existing cemetery association; transfer of funds.

In case of the transfer of the management and control of a city cemetery or a village cemetery, as provided in sections 17-934 and 17-935, the cemetery board erected under section 12-401 shall have no jurisdiction over the management and control of such cemetery after the transfer. In the event of such transfer, any funds or any money to the credit of the cemetery fund or any perpetual fund created under section 12-402 shall be paid over by the city treasurer of such city or by the village treasurer of such village to the treasurer of the cemetery association; and all endowments contemplated under section 12-301 to such city cemetery or village cemetery shall vest absolutely in the cemetery association to whom the control and management of such cemetery shall have been transferred.

Source: Laws 1929, c. 46, § 8, p. 199; C.S.1929, § 17-548; R.S.1943, § 17-936; Laws 1959, c. 49, § 3, p. 239; Laws 2009, LB500, § 3; Laws 2017, LB133, § 269.

17-937 Existing cemetery association; trustees; oath; bond; vacancy; how filled.

In the case of the transfer of the management and control of a city cemetery or village cemetery as provided in sections 17-934 and 17-935, each of the trustees of the cemetery association shall qualify by subscribing to an oath in the office of the city clerk or village clerk, as the case may be, substantially as follows: That he or she will faithfully, impartially, and honestly perform his or her duties as such trustee. Whenever the trustees of any cemetery association organized under sections 17-926 to 17-939 shall receive the gift of any property, real or personal, in trust, for the perpetual care of such cemetery, or anything connected therewith, such trustees shall, upon the enactment of bylaws by the association to that effect, require the treasurer of such association to give a bond to such association in a sum equal to the amount of such trust fund and other personal property, conditioned for the faithful administration of such trust and for the care of such funds and property. Such bonds shall be approved by the mayor of the city or by the chairperson of the village board of trustees and shall remain on file with and in the custody of the city clerk or the village clerk. The premium on the bond of the treasurer shall be paid from available cemetery funds credited to or in the hands of such cemetery association. In the event of a vacancy occurring among the members of the board of trustees of such cemetery association, such vacancy shall be filled in the like manner as the original member of such board of trustees was elected in accordance with the provisions of section 12-501. Each trustee elected to fill such vacancy shall subscribe to the oath as provided in this section. Such appointment to fill such vacancy shall continue until the successor of such trustee shall be duly elected and qualified.

Source: Laws 1929, c. 46, § 8, p. 199; C.S.1929, § 17-548; R.S.1943, § 17-937; Laws 2017, LB133, § 270.

17-938 Cemetery; maintenance; tax; forfeiture of lot; resale; reclamation of lot; procedure.

(1) The mayor and city council or the village board of trustees of a city of the second class or village are hereby empowered to levy a tax not to exceed five and two-tenths cents on each one hundred dollars upon the taxable value of all taxable property in such city or village for any one year for improving, adorning, protecting, and caring for a cemetery as provided in section 17-926.

(2) Except as provided in subsection (3) of this section, all certificates to any lot or lots upon which no interments have been made and which have been sold for burial purposes under the provisions of section 17-941 may be declared forfeited and subject to resale if, for more than three consecutive years, all charges and liens as provided under sections 17-926 to 17-947 or by any of the rules, regulations, or bylaws of the association are not promptly paid by the holders of such certificates. All certificates to any lot or lots sold shall contain a forfeiture clause to the effect that if no interment has been made on the lot or lots and all liens and charges have not been paid as provided in this subsection, by ordinance, or in the bylaws of the association, such certificate and the rights under the same may, at the option of the cemetery board, with the approval of the mayor and city council or of the chairperson and village board of trustees, be declared null and void and the lot or lots shall be subject to resale as in the first instance.

(3) When any lot has been transferred by warranty deed or by a deed conveying a fee simple title, but there has been no burial in any such lot or subdivision thereof and no payment of annual assessments for a period of three years, the cemetery board, with the approval of the mayor and city council or of the chairperson and village board of trustees, may reclaim the unused portion of such lot or subdivision after notifying the record owner or his or her heirs or assigns, if known, by certified mail and publishing notice of its intention to do so. Such notice shall be published once each week for four weeks in a legal newspaper in or of general circulation throughout the county in which the cemetery is located, shall describe the lot or subdivision proposed to be reclaimed, and shall be addressed to the person in whose name such portion stands of record or, if there is no owner of record, to all persons claiming any interest in such lot or subdivision. If no person appears to claim such lot or subdivision and pay all delinquent assessments with interest within fifteen days after the last date of such publication, the cemetery board may by resolution reclaim such lot or subdivision. Such reclamation shall be complete upon a filing of a verified copy of such resolution, together with proof of publication, in the office of the register of deeds.

Source: Laws 1929, c. 46, § 9, p. 200; C.S.1929, § 17-549; R.S.1943, § 17-938; Laws 1953, c. 287, § 23, p. 944; Laws 1955, c. 43, § 1, p. 158; Laws 1971, LB 38, § 1; Laws 1979, LB 249, § 1; Laws 1979, LB 187, § 60; Laws 1980, LB 599, § 7; Laws 1986, LB 808, § 1; Laws 1992, LB 719A, § 62; Laws 2017, LB133, § 271.

17-939 Cemetery; acquisition; bonds; interest; approval of electors required.

The mayor and city council of any city of the second class or the village board of trustees of any village is hereby authorized to issue bonds in a sum not exceeding ten thousand dollars for the purpose of acquiring title by purchase or by virtue of eminent domain to land used for cemetery purposes and that may

be acquired for any necessary addition to any existing cemetery. No such bonds shall be issued until the question of issuing the same shall be submitted to the electors of any such city or village at a general election thereof, or at a special election called for the purpose of submitting the proposition of issuing such bonds, and unless at such election a majority of the electors voting on the proposition shall have voted in favor of issuing such bonds. Such bonds shall be payable in not exceeding ten years from date and shall bear interest payable annually or semiannually. Notice of such election shall be given by publication in a legal newspaper in or of general circulation in the city or village for three successive weeks, the final publication to be not more than ten days prior to the date of such election. The election shall be governed by the Election Act.

Source: Laws 1929, c. 46, § 10, p. 200; C.S.1929, § 17-550; R.S.1943, § 17-939; Laws 1969, c. 51, § 56, p. 307; Laws 1971, LB 534, § 17; Laws 1996, LB 299, § 14; Laws 2017, LB133, § 272.

Cross References

Election Act, see section 32-101.

17-940 Cemetery; improvement.

The mayor and city council of a city of the second class or village board of trustees may survey, plat, map, grade, fence, ornament, and otherwise improve all burial and cemetery grounds and avenues leading to any cemetery owned by such city or village. Such city or village may construct walks and protect ornamental trees therein and provide for paying the expenses thereof.

Source: Laws 1879, § 69, XXXIII, p. 218; Laws 1881, c. 23, § 8, XXXIII, p. 186; Laws 1885, c. 20, § 1, XXXIII, p. 177; Laws 1887, c. 12, § 1, XXXIII, p. 305; R.S.1913, § 5167; C.S.1922, § 4354; C.S.1929, § 17-552; R.S.1943, § 17-940; Laws 2017, LB133, § 273.

17-941 Cemetery; lots; conveyance.

The mayor and city council of a city of the second class or village board of trustees may convey cemetery lots by certificate signed by the mayor or chairperson of the village board of trustees, and countersigned by the city clerk or village clerk, under the seal of the city or village, specifying that the person to whom the same is issued is the owner of the lot or lots described therein by number as laid down on such map or plat, for the purpose of interment; and such certificate shall vest in the proprietor, his or her heirs and assigns, a right in fee simple to such lot for the sole purpose of interment, under the regulation of the city council or village board of trustees.

Source: Laws 1879, § 69, XXXIV, p. 218; Laws 1881, c. 23, § 8, XXXIV, p. 186; Laws 1885, c. 20, § 1, XXXIV, p. 177; Laws 1887, c. 12, § 1, XXXIV, p. 306; R.S.1913, § 5168; C.S.1922, § 4355; C.S.1929, § 17-553; R.S.1943, § 17-941; Laws 1971, LB 32, § 4; Laws 2015, LB241, § 3; Laws 2017, LB133, § 274.

17-942 Cemetery; lots; ownership and use; regulations.

The mayor and city council of a city of the second class or village board of trustees may limit the number of cemetery lots which shall be owned by the same person at the same time. The city or village may prescribe rules for enclosing, adorning, and erecting monuments and tombstones on cemetery lots

and may prohibit any diversion of the use of such lots and any improper adornment thereof; but no religious test shall be made as to the ownership of lots, the burial therein, or the ornamentation of graves or of such lots.

Source: Laws 1879, § 69, XXXV, p. 218; Laws 1881, c. 23, § 8, XXXV, p. 187; Laws 1885, c. 20, § 1, XXXV, p. 178; Laws 1887, c. 12, § 1, XXXV, p. 306; R.S.1913, § 5169; C.S.1922, § 4356; C.S.1929, § 17-554; R.S.1943, § 17-942; Laws 2017, LB133, § 275.

17-943 Cemetery; protection; rules and regulations.

The mayor and city council of a city of the second class or village board of trustees may pass rules and ordinances imposing penalties and fines not exceeding one hundred dollars, regulating, protecting, and governing the cemetery, the owners of lots, visitors, and trespassers. The officers of such city or village shall have as full jurisdiction and power in the enforcing of such rules and ordinances as though they related to the municipality itself.

Source: Laws 1879, § 69, XXXVI, p. 218; Laws 1881, c. 23, § 8, XXXVI, p. 187; Laws 1885, c. 20, § 1, XXXVI, p. 178; Laws 1887, c. 12, § 1, XXXVI, p. 306; R.S.1913, § 5170; C.S.1922, § 4357; C.S.1929, § 17-555; R.S.1943, § 17-943; Laws 2017, LB133, § 276.

17-944 Cemetery association; formation; when authorized.

Whenever, in cities of the second class and villages, one-fifth of the resident lot owners of any cemetery under the control of such city or village shall so desire it, it shall be lawful for such lot owners to associate themselves into and form a cemetery association as defined in section 12-501.

Source: Laws 1887, c. 15, § 1, p. 330; R.S.1913, § 5171; C.S.1922, § 4358; C.S.1929, § 17-556; R.S.1943, § 17-944; Laws 2014, LB863, § 14.

The section does not apply to cities having over five thousand inhabitants. State ex rel. Wyuka Cemetery Assn. v. Bartling, 23 Neb. 421, 36 N.W. 811 (1888).

17-945 Cemetery association; trustees; conveyances.

Upon the formation of a cemetery association under section 17-944, the lot owners in such cemetery shall elect five of their number as trustees, to whom shall be given the general care, management, and supervision of such cemetery. The mayor of the city of the second class or chairperson of the village board of trustees shall, by virtue of his or her office, be a member of the board of trustees of the cemetery association, and it shall be his or her duty to make, execute, and deliver to purchasers of lots deeds for the lots, when requested by the board of trustees of the cemetery association. Such deeds shall be executed under the corporate seal of such city or village, and countersigned by the city clerk or village clerk, specifying that the person to whom such deed is issued is the owner, for the purposes of interment, of the lot or lots described therein by numbers, as laid down on the map or plat of such cemetery. Such deed shall vest in the proprietor, his or her heirs or assigns, a right in fee simple to such lot for the sole purpose of interment, under the regulations of the board of trustees of the cemetery association.

Source: Laws 1887, c. 15, § 2, p. 330; R.S.1913, § 5172; C.S.1922, § 4359; C.S.1929, § 17-557; R.S.1943, § 17-945; Laws 2015, LB241, § 4; Laws 2017, LB133, § 277.

17-946 Cemetery association; powers of board of trustees; income; use.

(1) The board of trustees of a cemetery association formed pursuant to section 17-944 shall have power:

(a) To limit the number of cemetery lots that shall be owned by the same person at the same time;

(b) To prescribe rules for enclosing, adorning, and erecting monuments and tombstones on cemetery lots;

(c) To prohibit any diversions of the use of such lots, and any improper adornment thereof, but no religious tests shall be made as to the ownership of lots, the burial therein, or the ornamentation of graves or of such lots; and

(d) To pass rules and ordinances imposing penalties and fines, not exceeding one hundred dollars, regulating, governing, and protecting the cemetery, the owners of lots, visitors, and trespassers.

(2) The officers of a city of the second class or village in which a cemetery association has been formed pursuant to section 17-944 shall have as full jurisdiction and power in the enforcing of rules and ordinances passed pursuant to subsection (1) of this section as though such rules and ordinances related to such city or village itself.

(3) All money received from sale of lots in any such cemetery, or which may come to it by donation, bequest, or otherwise, shall be devoted exclusively to the care, management, adornment, and government of such cemetery itself and shall be expended exclusively for such purposes under the direction of the association's board of trustees, except that in addition, and notwithstanding any provision of Chapter 12, article 5, the principal of the fund that is attributable to money received from the sale of lots, or attributable to money which has come to the fund by donation, bequest, or otherwise that does not prohibit such use, may be used for the purchase and development of additional land to be used for cemetery purposes as long as no more than twenty-five percent of such principal is so used in any fiscal year and no more than thirty-five percent of such principal is so used in any period of ten consecutive fiscal years.

(4) This section does not limit the use of any money that comes to the city or village by donation, bequest, or otherwise that is not designated to be credited to the perpetual fund or that allows greater use for purchase or development of additional land to be used for cemetery purposes.

Source: Laws 1887, c. 15, §§ 3, 4, 5, p. 331; R.S.1913, §§ 5173, 5174, 5175; C.S.1922, §§ 4360, 4361, 4362; C.S.1929, §§ 17-558, 17-559, 17-560; R.S.1943, § 17-946; Laws 2005, LB 262, § 3; Laws 2017, LB133, § 278.

17-947 Cemetery association; formation; funds; transfer to.

Upon the organization of a cemetery association as provided in section 17-944, all property and money under the control of the city council or village board of trustees shall vest in such cemetery association for the purposes provided for in sections 17-926 to 17-947, and all money in the control of such city council or village board of trustees shall be turned over to the board of trustees of such cemetery association.

Source: Laws 1887, c. 15, § 6, p. 332; R.S.1913, § 5176; C.S.1922, § 4363; C.S.1929, § 17-561; R.S.1943, § 17-947; Laws 2017, LB133, § 279.

(d) RECREATION CENTERS

17-948 Recreation and conservation; real estate; acquisition by gift or purchase; title.

Cities of the second class and villages are empowered and authorized to receive, by gift or devise, and to purchase real estate within or without their corporate limits, for the purpose of parks, public grounds, swimming pools, or dams, either for recreational or conservational purposes. If such real estate is acquired by gift or devise, the title shall be vested in the city or village, upon the conditions imposed by the donor and upon the acceptance by the mayor and city council or the village board of trustees; and if such real estate is acquired by purchase, the title shall vest absolutely in such city or village.

Source: Laws 1937, c. 35, § 1, p. 162; C.S.Supp.,1941, § 17-590; R.S. 1943, § 17-948; Laws 1969, c. 86, § 3, p. 432; Laws 2017, LB133, § 280.

17-949 Recreation and conservation; real estate; regulation and control; penalties authorized.

Whether the title to real estate under section 17-948 shall be acquired by gift, devise, or purchase, the jurisdiction of the city council, park board, or the village board of trustees shall at once be extended over such real estate; and the city council, park board, or village board of trustees shall have power to enact bylaws, rules, or ordinances for the protection and preservation of any real estate acquired, and to provide rules and regulations for the closing of such park or swimming pool, in whole or in part, to the general public, and charge admission thereto during such closing, either by the municipality or by any person, persons, or corporation leasing the same. The city or village may provide suitable penalties for the violation of such bylaws, rules, or ordinances, and the police power of any such city or village shall be at once extended over the same.

Source: Laws 1937, c. 35, § 2, p. 162; C.S.Supp.,1941, § 17-591; R.S. 1943, § 17-949; Laws 1961, c. 52, § 1, p. 195; Laws 2017, LB133, § 281.

17-950 Recreation and conservation; real estate; acquisition; purposes; bonds; interest; approval of electors required.

The mayor and city council of any city of the second class or the village board of trustees of any village are hereby authorized to issue bonds for the purpose of acquiring title to real estate, as contemplated by sections 17-948 and 17-949, and for the purpose of improving, equipping, and furnishing such real estate as parks and recreational grounds and for the purpose of building swimming pools and dams. No such bonds shall be issued until the question of issuing the same shall have been submitted to the electors of such city or village at a general election therein, or at a special election called for the purpose of submitting a proposition to issue such bonds, and unless at such election a majority of the electors voting on such proposition shall have voted in favor of issuing such bonds. The question of bond issues in such cities and villages, when defeated, shall not be resubmitted in substance for a period of six months from and after the date of such election. Such bonds shall be payable in not

exceeding twenty years from their date and shall bear interest payable annually or semiannually.

Source: Laws 1937, c. 35, § 3, p. 163; C.S.Supp.,1941, § 17-592; R.S. 1943, § 17-950; Laws 1955, c. 44, § 1, p. 159; Laws 1965, c. 71, § 1, p. 292; Laws 1969, c. 51, § 57, p. 308; Laws 1971, LB 534, § 18; Laws 1979, LB 187, § 61; Laws 1982, LB 692, § 2; Laws 2017, LB133, § 282.

17-951 Facilities; maintenance and improvement; tax authorized.

The mayor and city council of any city of the second class or the village board of trustees of any village which has already acquired or hereafter acquires land for park purposes or recreational facilities or which has already built or hereafter builds swimming pools, recreational facilities, or dams may each year make and levy a tax upon the taxable value of all the taxable property in such city or village. The levy shall be collected and put into the city or village treasury and shall constitute the park and recreation fund of such city or village. The funds so levied and collected shall be used for amusements, for laying out, improving, and beautifying such parks, for maintaining, improving, managing, and beautifying such swimming pools, recreational facilities, or dams, and for the payment of salaries and wages of persons employed in the performance of such labor.

Source: Laws 1937, c. 35, § 4, p. 163; C.S.Supp.,1941, § 17-593; R.S. 1943, § 17-951; Laws 1953, c. 36, § 1, p. 127; Laws 1969, c. 86, § 4, p. 432; Laws 1979, LB 187, § 62; Laws 1992, LB 719A, § 63; Laws 2017, LB133, § 283.

17-952 Board of commissioners; members; duties.

In each city of the second class or village, where land for park purposes or recreational facilities is acquired, or swimming pools, recreational facilities, or dams may be built, the mayor and city council of the city or the village board of trustees may provide by ordinance for the creation of a board of park commissioners, or board of park and recreation commissioners, which, in either case, shall be composed of not less than three members, who shall be residents of the city or village, and who shall have charge of all parks and recreational facilities belonging to the city or village, and shall have the power to establish rules for the management, care, and use of the same. Where such board of park commissioners or board of park and recreation commissioners has been appointed and qualified, all accounts against the park fund or park and recreation fund shall be audited by such board, and warrants against the fund shall be drawn by the chairperson of such board, and warrants so drawn shall be paid by the city treasurer or village treasurer out of such fund.

Source: Laws 1937, c. 35, § 5, p. 163; C.S.Supp.,1941, § 17-594; R.S. 1943, § 17-952; Laws 1969, c. 86, § 5, p. 432; Laws 2005, LB 626, § 4; Laws 2017, LB133, § 284.

(e) PUBLIC BUILDINGS

17-953 Public buildings; acquisition or construction; approval of electors required; exception.

Cities of the second class and villages are hereby authorized and empowered to (1) purchase, (2) accept by gift or devise, (3) purchase real estate upon which

to erect, and (4) erect a building or buildings for an auditorium, fire station, municipal building, or community house for housing municipal enterprises and social and recreation purposes, and other public buildings, including the construction of buildings authorized to be constructed by Chapter 72, article 14, and including construction of buildings to be leased in whole or in part by the city or village to any other political or governmental subdivision of the State of Nebraska authorized by law to lease such buildings, and maintain, manage, and operate the same for the benefit of the inhabitants of such cities or villages. Except as provided in section 17-953.01, before any such purchase can be made or building erected, the question shall be submitted to the electors of such city or village at a general municipal election or at an election duly called for that purpose, or as set forth in section 17-954, and be adopted by a majority of the electors voting on such question.

Source: Laws 1935, c. 37, § 1, p. 151; C.S.Supp.,1941, § 17-167; R.S. 1943, § 17-953; Laws 1947, c. 40, § 1, p. 153; Laws 1955, c. 45, § 2, p. 162; Laws 1969, c. 97, § 1, p. 465; Laws 1981, LB 220, § 1; Laws 2017, LB133, § 285.

17-953.01 Purchase or construction of public buildings without bond issue; remonstrance petition; procedure.

If the funds to be used to finance the purchase or construction of a building under section 17-953 are available other than through a bond issue, then either:

(1) Notice of the proposed purchase or construction shall be published in a legal newspaper in or of general circulation in the city or village and no election shall be required to approve the purchase or construction unless within thirty days after the publication of the notice a remonstrance petition against the purchase or construction is signed by registered voters of the city or village equal in number to fifteen percent of the registered voters of the city or village voting at the last regular municipal election held therein and is filed with the governing body of the city or village. If the date for filing the petition falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the thirty-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. If a petition with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the city or village at a general municipal election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within one year following the election, be purchased or constructed; or

(2) The governing body may proceed without providing the notice and right of petition required in subdivision (1) of this section if the property can be purchased below the fair market value as determined by an appraisal, and there is a willing seller, and the purchase price is less than twenty-five thousand dollars. Such purchase shall be approved by the governing body after notice and public hearing as provided in section 18-1755.

Source: Laws 1981, LB 220, § 2; Laws 1993, LB 59, § 3; Laws 1995, LB 197, § 2; Laws 2017, LB133, § 286.

17-954 Public buildings; purchase or construction; bonds; approval of electors required; exception.

The mayor and city council of a city of the second class or the chairperson and village board of trustees adopting the proposition to make a purchase or erect a building or buildings for the purposes set forth in section 17-953 shall have the power to borrow money and pledge the property and credit of the city or village upon its negotiable bonds. No such bonds shall be issued until after the same have been authorized by a majority vote of the electors voting on the proposition of their issuance, at a general municipal election or at a special election called for the submission of such proposition. The question of such purchase or erection of such a building or buildings, as set forth in section 17-953, and the question of the issuance of the negotiable bonds referred to in this section may be submitted as one question at a general municipal or special election if so ordered by resolution or ordinance. Notice of the time and place of such election shall be given by publication in a legal newspaper in or of general circulation in such city or village three successive weeks immediately prior thereto. No such election for the issuance of such bonds shall be called until a petition for the election signed by at least ten percent of the legal voters of such city or village has been presented to the city council or to the village board of trustees. The number of voters voting at the last regular municipal election prior to the presenting of such petition shall be deemed the number of votes in such city or village for the purpose of determining the sufficiency of such petition. The question of bond issues for such purpose in such cities or villages when defeated shall not be resubmitted for six months from and after the date of such election. When the building to be constructed is to be used by the State of Nebraska or its agency or agencies under a lease authorized by Chapter 72, article 14, or the building is to be leased by any other political or governmental subdivision of the State of Nebraska, when the combined area of the building to be leased by the state or its agency or agencies and the political or governmental subdivision of the State of Nebraska is more than fifty percent of the area of the building, and when such sum does not exceed two million dollars, then no such vote of the electors will be required.

Source: Laws 1935, c. 37, § 2, p. 151; C.S.Supp.,1941, § 17-168; R.S. 1943, § 17-954; Laws 1947, c. 40, § 2, p. 154; Laws 1969, c. 97, § 2, p. 466; Laws 2017, LB133, § 287.

17-955 Public buildings; maintenance; tax.

The mayor and city council of cities of the second class and chairperson and village board of trustees of villages shall have the power to levy an annual tax not to exceed seven cents on each one hundred dollars upon the taxable value of the taxable property in such cities or villages for the purpose of maintaining an auditorium, municipal building, or community house and shall, by ordinance, determine and declare how such auditorium, municipal building, or community house shall be managed.

Source: Laws 1935, c. 37, § 3, p. 152; C.S.Supp.,1941, § 17-169; R.S. 1943, § 17-955; Laws 1947, c. 40, § 3, p. 155; Laws 1953, c. 287, § 24, p. 930; Laws 1957, c. 35, § 1, p. 199; Laws 1979, LB 187, § 63; Laws 1992, LB 1063, § 9; Laws 1992, Second Spec. Sess., LB 1, § 9; Laws 2017, LB133, § 288.

(f) REFRIGERATION

17-956 Cold storage plants; construction and operation; power.

Cities of the second class and villages shall have the power to purchase, construct, maintain and improve cold storage or refrigeration plants for the use of their respective municipalities and the inhabitants thereof.

Source: Laws 1941, c. 24, § 1, p. 118; C.S.Supp.,1941, § 17-801; R.S. 1943, § 17-956.

17-957 Cold storage plants; construction; cost; tax; bonds.

The cost of cold storage or refrigeration plants under section 17-956 may be defrayed by the levy of a tax of not to exceed three and five-tenths cents on each one hundred dollars upon the taxable value of the taxable property within the corporate limits of such city or village in any one year or, when such tax is insufficient for the purpose, by the issuance of bonds of the municipality.

Source: Laws 1941, c. 24, § 2, p. 118; C.S.Supp.,1941, § 17-802; R.S. 1943, § 17-957; Laws 1953, c. 287, § 25, p. 945; Laws 1979, LB 187, § 64; Laws 1992, LB 1063, § 10; Laws 1992, Second Spec. Sess., LB 1, § 10; Laws 2017, LB133, § 289.

17-958 Cold storage plants; bonds; approval of electors; interest; redemption.

The question of issuing bonds for any purpose contemplated by sections 17-956 to 17-960 shall be submitted to the electors at any election held for that purpose after not less than thirty days' notice has been given by publication in a legal newspaper in or of general circulation in such municipality. Such bonds may be issued only when a majority of the electors voting on the question favor their issuance. Such bonds shall bear interest, payable annually or semiannually, and shall be payable any time the municipality may determine at the time of their issuance but in not more than twenty years after their issuance. The aggregate amount of bonds that may be issued for the construction or purchase of a cold storage or refrigeration plant shall not exceed five percent of the taxable valuation of all the property in such city or village subject to taxation.

Source: Laws 1941, c. 24, § 3, p. 118; C.S.Supp.,1941, § 17-803; R.S. 1943, § 17-958; Laws 1969, c. 51, § 58, p. 308; Laws 1971, LB 534, § 19; Laws 1986, LB 960, § 9; Laws 1992, LB 719A, § 64; Laws 2017, LB133, § 290.

17-959 Cold storage plants; operation and extension; tax.

The city council or village board of trustees shall levy annually a sufficient tax to maintain, operate, and extend any cold storage or refrigeration plant as provided under section 17-956 and to provide for the payment of the interest on, and principal of, any bonds that may have been issued as provided in section 17-957.

Source: Laws 1941, c. 24, § 3, p. 119; C.S.Supp.,1941, § 17-803; R.S. 1943, § 17-959; Laws 2017, LB133, § 291.

17-960 Cold storage plants; management; rates.

When any cold storage or refrigeration plant shall have been established under section 17-956, the municipality shall provide by ordinance for the management thereof and the rates to be charged and the manner of payment for such cold storage or refrigeration plant service to be furnished. In municipalities maintaining a system of waterworks and having a water commissioner,

he or she shall have charge of the cold storage or refrigeration plant unless the local governing body shall otherwise provide by the ordinance which shall establish rules and regulations to govern and control such utility.

Source: Laws 1941, c. 24, § 4, p. 119; C.S.Supp.,1941, § 17-804; R.S. 1943, § 17-960; Laws 2017, LB133, § 292.

(g) MEDICAL AND HOUSING FACILITIES

17-961 Facility; acquisition or construction; management; facility, defined.

Cities of the second class and villages are hereby authorized and empowered to (1) accept a gift or devise of or to purchase a facility or a building suitable for conversion into a facility, (2) purchase real estate and erect a building or buildings thereon for the purpose of establishing a facility, and (3) maintain, manage, improve, remodel, equip, and operate a facility.

For purposes of sections 17-961 to 17-966, facility shall mean a municipal hospital, a medical clinic, a nursing home, or multiunit housing.

Source: Laws 1945, c. 31, § 1, p. 149; Laws 1957, c. 36, § 1, p. 200; Laws 1965, c. 72, § 1, p. 293; Laws 1992, LB 1240, § 14.

17-962 Gift or devise; approval by city council or village board of trustees.

Before any gift or devise specified in section 17-961 may be accepted, such gift or devise shall be approved by the city council or village board of trustees.

Source: Laws 1945, c. 31, § 2, p. 149; Laws 1992, LB 1240, § 15; Laws 2017, LB133, § 293.

17-963 Facility; acquisition or construction; issuance of bonds; interest; election.

(1) The mayor and city council of a city of the second class or the chairperson and village board of trustees of a village adopting the proposition to accept a gift or devise, make such purchase, erect such building or buildings, or maintain, manage, improve, remodel, equip, and operate a facility under section 17-961 shall have the power to borrow money and pledge the property and credit of the city or village upon its municipal bonds, or otherwise, for such purpose or purposes, except that no such bonds shall be issued until after the same have been authorized by a majority vote of the electors voting on the proposition of their issuance at a general municipal election or at a special election called for the submission of such proposition.

(2) The bonds shall be payable in not to exceed twenty years from date and shall bear interest payable annually or semiannually. Notice of the time and place of the election shall be given by publication three successive weeks prior to such election in a legal newspaper in or of general circulation in such city or village.

(3) No election shall be called until a petition for the election, signed by at least ten percent of the legal voters of such city or village, has been presented to the city council or to the village board of trustees. The number of voters of the city or village voting for the office of Governor at the last general election prior to the presenting of such petition shall be deemed the number of voters in the city or village for the purpose of determining the sufficiency of such a petition. If such a bond issue in such a city or village is defeated, the proposition of

issuing bonds for such a purpose shall not be resubmitted to the voters therein within a period of six months from and after the date of such election.

Source: Laws 1945, c. 31, § 3, p. 149; Laws 1947, c. 41, § 1, p. 156; Laws 1957, c. 36, § 2, p. 201; Laws 1965, c. 72, § 2, p. 293; Laws 1969, c. 51, § 59, p. 309; Laws 1971, LB 534, § 20; Laws 1992, LB 1240, § 16; Laws 2017, LB133, § 294.

17-964 Facility; maintenance; tax.

The mayor and city council of cities of the second class and the chairperson and village board of trustees of villages shall have the power to levy a tax each year of not to exceed seven cents on each one hundred dollars upon the taxable value of all the taxable property in such cities or villages for the purpose of maintaining and operating a facility as provided in sections 17-961 to 17-966. The city council or village board of trustees shall by ordinance determine and declare how the facility shall be managed.

Source: Laws 1945, c. 31, § 4, p. 150; Laws 1953, c. 287, § 26, p. 946; Laws 1957, c. 36, § 3, p. 202; Laws 1965, c. 72, § 3, p. 294; Laws 1979, LB 187, § 65; Laws 1992, LB 719A, § 65; Laws 1992, LB 1240, § 17; Laws 2017, LB133, § 295.

17-965 Facility fund; established; custodian.

Whenever a city or village acquires a facility as provided in sections 17-961 to 17-966, there shall be established a facility fund of which the city treasurer or village treasurer shall be the custodian. All funds received by gift or devise or raised by taxation, as provided in such sections, shall be paid into such fund.

Source: Laws 1945, c. 31, § 5, p. 150; Laws 1957, c. 36, § 4, p. 202; Laws 1965, c. 72, § 4, p. 295; Laws 1992, LB 1240, § 18; Laws 2017, LB133, § 296.

17-966 Facility board; members; duties; powers; warrants.

In each city or village where a facility as provided in sections 17-961 to 17-966 is established, the mayor and city council of such city or the chairperson and village board of trustees of such village may provide by ordinance for the creation of a facility board which shall be composed of not less than three nor more than seven members. The members of the facility board shall (1) be residents of such city or village, (2) have charge of the facility, and (3) have the power to establish rules for the management, operation, and use of the facility, as provided by such ordinance. When a facility board has been appointed and qualified, all accounts against the facility fund shall be audited by the facility board, warrants against such fund shall be drawn by the chairperson of such board, and warrants so drawn shall be paid by the city treasurer or village treasurer out of such fund.

Source: Laws 1945, c. 31, § 6, p. 150; Laws 1957, c. 36, § 5, p. 202; Laws 1965, c. 72, § 5, p. 295; Laws 1992, LB 1240, § 19; Laws 2003, LB 76, § 1; Laws 2017, LB133, § 297.

(h) LIBRARIES

17-967 Bonds; city of the second class or village; municipal library; issuance; interest; conditions; limitations; tax levy.

Any city of the second class or village is hereby authorized to issue bonds in aid of improving municipal libraries of cities of the second class and villages in an amount not exceeding seven-tenths of one percent of the taxable valuation of all the taxable property, as shown by the last assessment, within such city of the second class or village in the manner directed in this section:

(1) A petition signed by not less than fifty property owners of the city of the second class or village shall be presented to the city council or village board of trustees. Such petition shall set forth the nature of the work contemplated, the amount of bonds sought to be voted, the rate of interest, and the length of time such bonds run, which in no event shall be less than five years nor more than twenty years from the date of such petition. The petitioners shall give bond to be approved by the city council or village board of trustees for the payment of the expenses of the election in the event that the proposition fails to receive a majority of the votes cast at such election; and

(2) Upon the receipt of such petition, the city council or village board of trustees shall give notice and call an election in the city of the second class or village. Such notice, call, and election shall be governed by the Election Act. When a proposition is submitted for the issuance of bonds for the acquisition of a site or the construction of a single building for the purpose of housing the municipal public library in cities of the second class or villages, it shall be required as a condition precedent to the issuance of such bonds that a majority of the votes cast shall be in favor of such proposition. Bonds in such city or village shall not be issued for such purpose in the aggregate to exceed one and four-tenths percent of the taxable valuation of all the taxable property in such a city or village as shown by the last assessment within such city or village.

Source: Laws 1967, c. 33, § 3, p. 154; Laws 1969, c. 51, § 60, p. 310; Laws 1971, LB 534, § 21; Laws 1979, LB 187, § 66; Laws 1992, LB 719A, § 66; Laws 2017, LB133, § 298.

Cross References

Election Act, see section 32-101.

17-968 Bonds; issuance; record.

If a majority of the votes cast at an election called under section 17-967 are in favor of the proposition, the city council or village board of trustees shall cause to be prepared and shall issue the bonds in accordance with the petition and notice of election. The bonds shall be signed by the mayor and city clerk or chairperson of the village board of trustees and village clerk and shall be attested by the respective seals. The city clerk or village clerk shall enter upon the records of the city council or village board of trustees, the petition, bond, notice, and call for the election, canvass of the vote, the number, amount, and interest, and the date at which each bond issued shall become payable.

Source: Laws 1967, c. 33, § 4, p. 156; Laws 1971, LB 534, § 22; Laws 2001, LB 420, § 18; Laws 2017, LB133, § 299.

17-969 Bonds; sinking fund; interest; levy.

The city council or village board of trustees shall each year until the bonds issued under the authority of section 17-967 be paid, levy upon the taxable property in the city of the second class or village, a tax sufficient to pay the interest and five percent of the principal as a sinking fund; and at the tax levy

preceding the maturity of any such bonds, levy an amount sufficient to pay the principal and interest due on such bonds.

Source: Laws 1967, c. 33, § 5, p. 156; Laws 2017, LB133, § 300.

(i) WATER SERVICE DISTRICT

17-970 Water service districts; establishment; ordinance.

The governing body of any city of the second class or village shall have power, by ordinance, (1) to lay out the city or village into suitable districts for the purpose of establishing a system of water service districts, (2) to provide water service systems and regulate the construction, repair, and use of the water service systems, (3) to compel all proper connections with the water service system and branches from other streets, avenues, and alleys, and from private property, and (4) to provide a penalty not to exceed one hundred dollars for any obstruction or injury to any water main or part thereof, or for failure to comply with the regulations prescribed therefor. No such improvements shall be ordered except as provided in sections 17-971 and 17-972.

Source: Laws 1967, c. 73, § 1, p. 237; Laws 2017, LB133, § 301.

17-971 Water service districts; improvements; protest; effect; special assessments.

If a governing body deems it necessary or desirable to make improvements in a water service district, it shall by ordinance create such water service district and, after the passage, approval, and publication of such ordinance, shall publish notice of the creation of such district for two consecutive weeks in a legal newspaper in or of general circulation in the city or village. If a majority of the resident owners of the property directly abutting upon any water main to be constructed within such water service district shall file with the city clerk or the village clerk within twenty days after the first publication of such notice written objections to the creation of such district, such improvement shall not be made as provided in such ordinance, but such ordinance shall be repealed. If such objections are not so filed against the district, the governing body shall immediately cause such work to be done or such improvement to be made, shall contract for the work or improvement, and shall levy special assessments on the lots and parcels of land within such district or districts specially benefited in proportion to such benefits in order to pay the cost of such improvement.

Source: Laws 1967, c. 73, § 2, p. 237; Laws 1986, LB 960, § 10; Laws 2015, LB361, § 38; Laws 2017, LB133, § 302.

17-972 Water service districts; failure to comply with regulation or make connection; effect; special assessment.

If any property owner shall neglect or fail, for ten days after notice either by personal service or by publication in a legal newspaper in the manner prescribed in section 17-971, to comply with the regulations adopted pursuant to section 17-970 or to make any required connections, the governing body may cause the compliance or connections to be done and assess the cost against the

property as a special assessment and collect the special assessment in the manner provided for other special assessments.

Source: Laws 1967, c. 73, § 3, p. 238; Laws 1986, LB 960, § 11; Laws 2015, LB361, § 39.

17-973 Water service district; assessments; lien; date due; payable.

All assessments made under the provisions of sections 17-970 to 17-976 shall be a lien on the property against which levied from the date of levy and shall thereupon be certified by direction of the governing body to the city treasurer or village treasurer for collection. Except as provided in section 18-1216, such assessments shall be due and payable to such treasurer until November 1 thereafter or until the delivery of the tax list for such year to the treasurer of the county in which such city or village may be situated, at and after which time the same shall be due and payable to such county treasurer. The governing body of such city or village shall, within the time provided by law, cause such assessments, or the portion thereof remaining unpaid, to be certified to the county clerk for entry upon the proper tax lists. If the city treasurer or village treasurer collects any assessment or portion thereof so certified while the same shall be payable to the county treasurer, the city treasurer or village treasurer shall certify the assessment or portion thereof to the county treasurer at once, and the county treasurer shall correct the record to show such payment.

Source: Laws 1967, c. 73, § 4, p. 238; Laws 1996, LB 962, § 2; Laws 2017, LB133, § 303.

17-974 Water service district; assessments; delinquent; interest; rate; payment.

Assessments under section 17-973 shall become delinquent in equal annual installments over such period of years, not to exceed ten, as the governing body may determine at the time of making the levy, the first such equal installment to become delinquent in fifty days after the date of such levy. Each of such installments, except the first, shall draw interest at a rate not exceeding the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, payable annually, from the time of the levy until the same shall become delinquent, and after the same becomes delinquent, interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, shall be paid thereon. All of such installments may be paid at one time on any lot or land within fifty days from the date of the levy without interest and, if so paid, such lot or land shall be exempt from any lien or charge for such installments.

Source: Laws 1967, c. 73, § 5, p. 239; Laws 1980, LB 933, § 21; Laws 1981, LB 167, § 22; Laws 2017, LB133, § 304.

17-975 Water service districts; cost of improvements; partial payments; final payment; contractor; interest.

For the purpose of making partial payments as the work progresses under the provisions of sections 17-970 to 17-976, warrants may be issued by the governing body upon certificates of the engineer in charge showing the amount of work completed and materials necessarily purchased and delivered for the orderly and proper continuation of the project in the total amount of not to exceed ninety-five percent of the cost thereof. Upon the completion and accep-

tance of the work a final warrant shall be issued for the balance of the amount due the contractor or other party entitled to payment. The governing body shall pay to the contractor interest at the rate of eight percent per annum on the amounts due on partial and final payments beginning forty-five days after the certification of the amounts due by the engineer in charge and approval by the governing body, and running until the date that the warrant is tendered to the contractor. Such warrants shall be payable in the order of their number and shall bear interest at not to exceed six percent per annum from the date of registration until paid.

Source: Laws 1967, c. 73, § 6, p. 239; Laws 1974, LB 636, § 5.

17-976 Water service districts; cost of improvements; bonds; interest; issuance; tax; levy.

For the purpose of paying the cost of improvements in any water service district and the funding of any warrants issued, the governing body may by ordinance cause to be issued bonds of the city or village to be called Water Service District Bonds of District No. . . ., payable in not to exceed ten years from date and to bear interest payable annually or semiannually. Such bonds shall be general obligations of the city or village, and the governing body shall levy and collect annually a tax upon all of the taxable property in such city or village sufficient in rate and amount to pay in full, when taken together with the assessments provided for in section 17-971, the principal and interest of such bonds as the same become due. The amount of such tax shall not be included in the maximum amount of tax which any such city of the second class or village is authorized to levy annually.

Source: Laws 1967, c. 73, § 7, p. 239; Laws 1969, c. 51, § 61, p. 311; Laws 1992, LB 719A, § 67; Laws 2017, LB133, § 305.

ARTICLE 10

SUBURBAN DEVELOPMENT

Section
17-1001. Suburban development; zoning ordinances; building regulations; public utility codes; extension; notice to county board.
17-1002. Designation of jurisdiction; suburban development; subdivision; platting; consent required; review; when required.
17-1003. Suburban development; powers of city council or village board of trustees; dedication of avenues, streets, and alleys.
17-1004. Designation of jurisdiction; how described.

17-1001 Suburban development; zoning ordinances; building regulations; public utility codes; extension; notice to county board.

(1) Except as provided in section 13-327 and subsection (2) of this section, the extraterritorial zoning jurisdiction of a city of the second class or village shall consist of the unincorporated area one mile beyond and adjacent to its corporate boundaries.

(2) For purposes of sections 70-1001 to 70-1020, the extraterritorial zoning jurisdiction of a city of the second class or village shall consist of the unincorporated area one-half mile beyond and adjacent to its corporate boundaries.

(3) Any city of the second class or village may apply by ordinance any existing or future zoning regulations, property use regulations, building ordinances,

electrical ordinances, and plumbing ordinances within its extraterritorial zoning jurisdiction, with the same force and effect as if such area was within its corporate limits. 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. The fact that the extraterritorial zoning jurisdiction or part thereof 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 or village to apply such ordinances.

(4)(a) A city of the second class or village shall provide written notice to the county board of the county in which the extraterritorial zoning jurisdiction of the city or village is located when proposing to adopt or amend a zoning ordinance which affects the extraterritorial zoning jurisdiction of the city or village within such county. The written notice of the proposed change to the zoning ordinance shall be sent to the county board or its designee at least thirty days prior to the final decision by the city or village. The county board may submit comments or recommendations regarding the change in the zoning ordinance at the public hearings on the proposed change or directly to the city or village within thirty days after receiving such notice. The city or village may make its final decision (i) upon the expiration of the thirty days following the notice or (ii) when the county board submits comments or recommendations, if any, to the city or village prior to the expiration of the thirty days following the notice.

(b) Subdivision (4)(a) of this section does not apply to a city of the second class or a village (i) located in a county with a population in excess of one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census or (ii) if the city or village and the county have a joint planning commission or joint planning department.

Source: Laws 1957, c. 37, § 1, p. 204; Laws 1967, c. 70, § 3, p. 232; Laws 1967, c. 75, § 4, p. 244; Laws 1983, LB 71, § 4; Laws 2002, LB 729, § 10; Laws 2016, LB295, § 2; Laws 2017, LB113, § 20; Laws 2017, LB133, § 306.

Notwithstanding section 24-517, the district court has jurisdiction in injunctive actions to enforce zoning ordinances. Village of Springfield v. Hevelone, 195 Neb. 37, 236 N.W.2d 811 (1975).

Section empowers cities of the second class and villages to extend existing ordinances to the one-half mile area surrounding the municipal limits and authorize inclusion of this area in all future ordinances. City of Syracuse v. Farmers Elevator, Inc., 182 Neb. 783, 157 N.W.2d 394 (1968).

17-1002 Designation of jurisdiction; suburban development; subdivision; platting; consent required; review; when required.

(1) Except as provided in subsection (5) of this section, any city of the second class or village may designate by ordinance the portion of the territory located within its extraterritorial zoning jurisdiction outside of any other organized city or village within which the designating city or village will exercise the powers and duties granted by this section and section 17-1003 or section 19-2402.

(2) No owner of any real property located within the area designated by a city or village pursuant to subsection (1) or (5) of this section may subdivide, plat, or lay out such real property in building lots, streets, or other portions of the same intended to be dedicated for public use or for the use of the purchasers or owners of lots fronting thereon or adjacent thereto without first having ob-

tained the approval of the city council or village board of trustees or its agent designated pursuant to section 19-916 and, when applicable, having complied with sections 39-1311 to 39-1311.05. The fact that such real property is located in a different county or counties than some or all portions of the municipality shall not be construed as affecting the necessity of obtaining the approval of the city council or village board of trustees or its designated agent.

(3) No plat of such real property shall be recorded or have any force or effect unless approved by the city council or village board of trustees or its designated agent.

(4) Except as provided in subsection (6) of this section, in counties that have adopted a comprehensive development plan which meets the requirements of section 23-114.02 and are enforcing subdivision regulations, the county planning commission shall be provided with all available materials on any proposed subdivision plat, contemplating public streets or improvements, which is filed with a city of the second class or village in that county, when such proposed plat lies partially or totally within the portion of the extraterritorial zoning jurisdiction of that city or village where the powers and duties granted by this section and section 17-1003 or section 19-2402 are being exercised by that municipality in such county. The commission shall be given four weeks to officially comment on the appropriateness of the design and improvements proposed in the plat. The review period for the commission shall run concurrently with subdivision review activities of the municipality after the commission receives all available material for a proposed subdivision plat.

(5) If a city of the second class or village receives approval for the cession and transfer of additional extraterritorial zoning jurisdiction under section 13-327, such city or village may designate by ordinance the portion of the territory located within its extraterritorial zoning jurisdiction and outside of any other organized city or village within which the designating city or village will exercise the powers and duties granted by this section and section 17-1003 or section 19-2402 and shall include territory ceded under section 13-327 within such designation.

(6) In counties having a population in excess of one hundred thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census but less than two hundred fifty thousand inhabitants that have adopted a comprehensive development plan which meets the requirements of section 23-114.02 and are enforcing subdivision regulations, the county planning department and public works department shall be provided with all available materials on any proposed subdivision plat, contemplating public streets or improvements, which is filed with a city of the second class or village in that county, when such proposed plat lies partially or totally within the extraterritorial zoning jurisdiction being exercised by that city of the second class or village in such county. The county may officially comment on the appropriateness of the design and improvements proposed in the plat.

Source: Laws 1957, c. 37, § 2, p. 204; Laws 1967, c. 70, § 4, p. 233; Laws 1967, c. 75, § 5, p. 244; Laws 1978, LB 186, § 2; Laws 1983, LB 71, § 5; Laws 1993, LB 208, § 3; Laws 2001, LB 222, § 2; Laws 2002, LB 729, § 11; Laws 2003, LB 187, § 5; Laws 2016, LB864, § 3; Laws 2016, LB877, § 1; Laws 2017, LB74, § 3; Laws 2017, LB133, § 307.

17-1003 Suburban development; powers of city council or village board of trustees; dedication of avenues, streets, and alleys.

The city council of a city of the second class or village board of trustees shall have power, by ordinance, to provide the manner, plan, or method by which the real property within the extraterritorial zoning jurisdiction of the city or village may be subdivided, platted, or laid out, including a plan or system for the avenues, streets, or alleys to be laid out within or across the same. The city council or village board of trustees shall have the power to compel the owner of any such real property, in subdividing, platting, or laying out of same, to conform to the requirements of such ordinance and to lay out and dedicate the avenues, streets, and alleys in accordance therewith.

Source: Laws 1957, c. 37, § 3, p. 204; Laws 2017, LB133, § 308.

17-1004 Designation of jurisdiction; how described.

An ordinance of a city of the second class or village designating its jurisdiction over territory outside of the corporate limits of the city or village under section 17-1001 or 17-1002 shall describe such territory by metes and bounds or by reference to an official map.

Source: Laws 1993, LB 208, § 4.

CHAPTER 18

CITIES AND VILLAGES; LAWS APPLICABLE TO ALL

Article.

1. Ordinances. 18-101 to 18-132.
2. Direct Borrowing from Financial Institution. 18-201.
3. Public Officers; Private Gain. 18-301 to 18-312.
4. Public Utilities. 18-401 to 18-419.
5. Sewer Systems. 18-501 to 18-512.
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7. Public Docks. Transferred.
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14. Municipal Publicity. Transferred.
15. Aviation Fields. 18-1501 to 18-1509.
16. Industrial Development. Transferred or Repealed.
17. Miscellaneous. 18-1701 to 18-1758.
18. Bonds. 18-1801 to 18-1805.
19. Plumbing Inspection. 18-1901 to 18-1920.
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21. Community Development. 18-2101 to 18-2155.
22. Community Antenna Television Service. 18-2201 to 18-2206.
23. Air Conditioning Air Distribution Board. 18-2301 to 18-2315.
24. Municipal Cooperative Financing. 18-2401 to 18-2485.
25. Municipal Initiative and Referendum Act. 18-2501 to 18-2538.
26. Infrastructure Redevelopment. Repealed.
27. Municipal Economic Development. 18-2701 to 18-2739.
28. Municipal Proprietary Functions. 18-2801 to 18-2808.
29. Urban Growth Districts. 18-2901.
30. Planned Unit Development. 18-3001.
31. Municipal Custodianship for Dissolved Homeowners Associations Act. 18-3101 to 18-3105.
32. Property Assessed Clean Energy Act. Transferred.
33. Corporate Limits.
    (a) Annexation. 18-3301 to 18-3303.
    (b) Platting. 18-3304 to 18-3315.
    (c) Detachment. 18-3316.
34. Nebraska Municipal Land Bank Act. 18-3401 to 18-3418.

Cross References

Constitutional provisions:
Governmental continuity in emergencies, see Article III, section 29, Constitution of Nebraska.
Investment of public endowment funds, see Article XI, section 1, Constitution of Nebraska.
Nonprofit enterprises, development, see Article XIII, section 4, Constitution of Nebraska.
Stock ownership, see Article XI, section 1, Constitution of Nebraska.
Excess or sinking funds, investment of, see section 77-2341.
Levy limitation, property tax, see section 77-3442.
Records Management Act, see section 84-1220.

ARTICLE 1
ORDINANCES

Cross References

Violations of ordinances may be prosecuted in county court, see section 25-2703.

Section
18-101. Repealed. Laws 1982, LB 807, § 46.
18-102. Repealed. Laws 1982, LB 807, § 46.
18-103. Repealed. Laws 1982, LB 807, § 46.
18-104. Repealed. Laws 1982, LB 807, § 46.
18-105. Repealed. Laws 1982, LB 807, § 46.
18-106. Repealed. Laws 1982, LB 807, § 46.
18-107. Repealed. Laws 1982, LB 807, § 46.
18-108. Repealed. Laws 1982, LB 807, § 46.
18-109. Repealed. Laws 1982, LB 807, § 46.
18-110. Repealed. Laws 1982, LB 807, § 46.
18-111. Repealed. Laws 1982, LB 807, § 46.
18-112. Repealed. Laws 1982, LB 807, § 46.
18-113. Repealed. Laws 1982, LB 807, § 46.
18-114. Repealed. Laws 1982, LB 807, § 46.
18-115. Repealed. Laws 1982, LB 807, § 46.
18-116. Repealed. Laws 1982, LB 807, § 46.
18-117. Repealed. Laws 1982, LB 807, § 46.
18-118. Repealed. Laws 1982, LB 807, § 46.
18-119. Repealed. Laws 1982, LB 807, § 46.
18-120. Repealed. Laws 1982, LB 807, § 46.
18-121. Repealed. Laws 1982, LB 807, § 46.
18-122. Repealed. Laws 1982, LB 807, § 46.
18-123. Repealed. Laws 1982, LB 807, § 46.
18-124. Repealed. Laws 1982, LB 807, § 46.
18-125. Repealed. Laws 1982, LB 807, § 46.
18-126. Repealed. Laws 1982, LB 807, § 46.
18-127. Repealed. Laws 1982, LB 807, § 46.
18-128. Repealed. Laws 1982, LB 807, § 46.
18-129. Repealed. Laws 1974, LB 675, § 1.
18-130. Transferred to section 19-3701.
18-131. Publication.
18-132. Adoption of standard codes.

18-101 Repealed. Laws 1982, LB 807, § 46.

18-102 Repealed. Laws 1982, LB 807, § 46.

18-103 Repealed. Laws 1982, LB 807, § 46.

18-104 Repealed. Laws 1982, LB 807, § 46.

18-105 Repealed. Laws 1982, LB 807, § 46.

18-106 Repealed. Laws 1982, LB 807, § 46.

18-107 Repealed. Laws 1982, LB 807, § 46.

18-108 Repealed. Laws 1982, LB 807, § 46.

18-109 Repealed. Laws 1982, LB 807, § 46.

18-110 Repealed. Laws 1982, LB 807, § 46.

18-111 Repealed. Laws 1982, LB 807, § 46.

18-112 Repealed. Laws 1982, LB 807, § 46.

18-113 Repealed. Laws 1982, LB 807, § 46.

18-114 Repealed. Laws 1982, LB 807, § 46.

18-115 Repealed. Laws 1982, LB 807, § 46.

18-116 Repealed. Laws 1982, LB 807, § 46.

18-117 Repealed. Laws 1982, LB 807, § 46.

18-118 Repealed. Laws 1982, LB 807, § 46.

18-119 Repealed. Laws 1982, LB 807, § 46.

18-120 Repealed. Laws 1982, LB 807, § 46.

18-121 Repealed. Laws 1982, LB 807, § 46.

18-122 Repealed. Laws 1982, LB 807, § 46.

18-123 Repealed. Laws 1982, LB 807, § 46.

18-124 Repealed. Laws 1982, LB 807, § 46.

18-125 Repealed. Laws 1982, LB 807, § 46.

18-126 Repealed. Laws 1982, LB 807, § 46.

18-127 Repealed. Laws 1982, LB 807, § 46.

18-128 Repealed. Laws 1982, LB 807, § 46.

18-129 Repealed. Laws 1974, LB 675, § 1.

18-130 Transferred to section 19-3701.

18-131 Publication.

Ordinances passed by cities of all classes and villages must be posted, published in a legal newspaper in or of general circulation in the respective cities or villages, or published in book, pamphlet, or electronic form, as required by their respective charters or general laws.

Source: Laws 1933, c. 111, § 1, p. 451; C.S.Supp.,1941, § 18-1501; R.S.1943, § 18-131; Laws 2021, LB159, § 6; Laws 2021, LB163, § 2.

18-132 Adoption of standard codes.

(1) The city council of any city or board of trustees of any village may adopt by ordinance the conditions, provisions, limitations, and terms of a plumbing code, an electrical code, a fire prevention code, a building or construction code, and any other standard code which contains rules and regulations printed as a code in book, pamphlet, or electronic form, by reference to such code, or portions thereof, alone, without setting forth in the ordinance the conditions, provisions, limitations, and terms of such code. When any such code, or portion thereof, has been incorporated by reference into such ordinance, as provided in this section, it shall have the same force and effect as though it had been

written in its entirety in such ordinance without further or additional publication thereof.

(2) Not less than one copy of such standard code, or portion thereof, shall be kept for use and examination by the public in the office of the city clerk or village clerk prior to the adoption thereof and as long as such standard code is in effect in such city or village.

(3) Any building or construction code implemented under this section shall be adopted and enforced as provided in section 71-6406.

(4) If there is no ordinance adopting a plumbing code in effect in a city or village, the 2018 Uniform Plumbing Code designated by the American National Standards Institute as an American National Standard shall serve as the plumbing code for all the area within the jurisdiction of the city or village. Nothing in this section shall be interpreted as creating an obligation for the city or village to inspect plumbing work done within its jurisdiction to determine compliance with the plumbing code.

Source: Laws 1933, c. 111, § 1, p. 451; C.S.Supp.,1941, § 18-1501; R.S.1943, § 18-132; Laws 1984, LB 748, § 1; Laws 1996, LB 1304, § 1; Laws 2012, LB42, § 1; Laws 2016, LB704, § 209; Laws 2021, LB131, § 16; Laws 2021, LB159, § 7; Laws 2021, LB163, § 3.

ARTICLE 2

DIRECT BORROWING FROM FINANCIAL INSTITUTION

Section
18-201. Direct borrowing; purposes; ordinance or resolution; public notice; limitation.

18-201 Direct borrowing; purposes; ordinance or resolution; public notice; limitation.

(1) The mayor and city council of any city or board of trustees of any village, in addition to other powers granted by law, may by ordinance or resolution provide for direct borrowing from a financial institution for the purposes outlined in this section. Loans made under this section shall not be restricted to a single year and may be repaid in installment payments for a term not to exceed seven years.

(2) The mayor and city council of any city or board of trustees of any village may borrow directly from a financial institution for the (a) purchase of real or personal property, (b) construction of improvements, (c) repair or reconstruction of real or personal property, improvements, or infrastructure damaged as a result of a calamity, (d) provision of public services temporarily disrupted or suspended as a result of a calamity, or (e) refinancing of existing indebtedness upon a certification in the ordinance or resolution authorizing the direct borrowing that:

(i) Financing the (A) purchase of real or personal property, (B) construction of improvements, (C) repair or reconstruction of real or personal property, improvements, or infrastructure damaged as a result of a calamity, (D) provision of public services temporarily disrupted or suspended as a result of a calamity, or (E) refinancing of existing indebtedness through traditional bond financing would be impractical;

(ii) Financing the (A) purchase of real or personal property, (B) construction of improvements, (C) repair or reconstruction of real or personal property, improvements, or infrastructure damaged as a result of a calamity, (D) provision of public services temporarily disrupted or suspended as a result of a calamity, or (E) refinancing of existing indebtedness through traditional bond financing could not be completed within the time restraints facing the city or village; or

(iii) Financing the (A) purchase of real or personal property, (B) construction of improvements, (C) repair or reconstruction of real or personal property, improvements, or infrastructure damaged as a result of a calamity, (D) provision of public services temporarily disrupted or suspended as a result of a calamity, or (E) refinancing of existing indebtedness through direct borrowing would generate taxpayer savings over traditional bond financing.

(3) Prior to approving direct borrowing under this section, the city council or board of trustees shall include in any public notice required for meetings a clear notation that an ordinance or resolution authorizing direct borrowing from a financial institution will appear on the agenda.

(4)(a) The total amount of indebtedness attributable to any year from direct borrowing under this section shall not exceed:

(i) For any city of the metropolitan class, city of the primary class, or city of the first class, ten percent of the municipal budget of the city; and

(ii) For any city of the second class or village, twenty percent of the municipal budget of the city or village.

(b) For purposes of this subsection, (i) the amount of any loan which shall be attributable to any year for purposes of the limitation on the total amount of indebtedness from direct borrowing is the total amount of the outstanding loan balance divided by the number of years over which the loan is to be repaid and (ii) the amount of indebtedness from any direct borrowing shall only be measured as of the date the ordinance or resolution providing for such direct borrowing is adopted.

(5) Prior to approving direct borrowing under this section, a municipality shall consider, to the extent possible, proposals from multiple financial institutions.

(6) For purposes of this section:

(a) Calamity means a disastrous event, including, but not limited to, a fire, an earthquake, a flood, a tornado, or other natural event which damages real or personal property, improvements, or infrastructure of a city or village or which results in the temporary disruption or suspension of public services provided by a city or village; and

(b) Financial institution means a state-chartered or federally chartered bank, savings bank, building and loan association, or savings and loan association.

Source: Laws 2015, LB152, § 1; Laws 2019, LB121, § 1; Laws 2020, LB870, § 1; Laws 2021, LB163, § 4.

ARTICLE 3

PUBLIC OFFICERS; PRIVATE GAIN

Cross References

Contracts, see sections 49-14,103.01 to 49-14,103.07.

Section
18-301. Repealed. Laws 1983, LB 370, § 28.
18-301.01. Repealed. Laws 1986, LB 548, § 15.
18-301.02. Repealed. Laws 1986, LB 548, § 15.
18-301.03. Repealed. Laws 1986, LB 548, § 15.
18-301.04. Repealed. Laws 1986, LB 548, § 15.
18-301.05. Repealed. Laws 1986, LB 548, § 15.
18-301.06. Repealed. Laws 1986, LB 548, § 15.
18-302. Repealed. Laws 1961, c. 53, § 6.
18-303. Repealed. Laws 1982, LB 347, § 13.
18-304. Repealed. Laws 1982, LB 347, § 13.
18-305. Telephones; free or underpriced service to city or village officers; acceptance by officer; prohibited; penalties.
18-306. Electric or other lights; free or underpriced service to city or village officers; prohibited; penalties.
18-307. Electric or other lights; free or underpriced service; acceptance by officer; prohibited; penalty.
18-308. Water; free or underpriced service to city or village officers; acceptance by officer; prohibited; penalties.
18-309. Prosecutions for violations; evidence; immunity of witnesses.
18-310. Compensation contracts contingent upon outcome of municipal election; contrary to public policy.
18-311. Compensation contracts contingent upon outcome of municipal election; prohibited.
18-312. Contingent compensation contracts; violations; penalty.

18-301 Repealed. Laws 1983, LB 370, § 28.

18-301.01 Repealed. Laws 1986, LB 548, § 15.

18-301.02 Repealed. Laws 1986, LB 548, § 15.

18-301.03 Repealed. Laws 1986, LB 548, § 15.

18-301.04 Repealed. Laws 1986, LB 548, § 15.

18-301.05 Repealed. Laws 1986, LB 548, § 15.

18-301.06 Repealed. Laws 1986, LB 548, § 15.

18-302 Repealed. Laws 1961, c. 53, § 6.

18-303 Repealed. Laws 1982, LB 347, § 13.

18-304 Repealed. Laws 1982, LB 347, § 13.

18-305 Telephones; free or underpriced service to city or village officers; acceptance by officer; prohibited; penalties.

It shall be unlawful for any telephone company to furnish to any elected or appointed officer of any city or village in this state a telephone free of charge, or for a price less than is charged other customers for similar service, or for any such officer to accept such telephone or telephone service free of charge, or at a price less than shall be charged to other customers for similar service. Any violation of this section by a telephone company shall be a Class III misdemeanor, and the officer or agent of any such telephone company acting or assisting in such violation shall be guilty of a Class III misdemeanor. Any violation of this section by any officer of any such city or village shall be a Class

III misdemeanor, and the officer shall upon conviction forfeit the office held by him or her at the time of committing such offense.

Source: Laws 1897, c. 13, § 3, p. 137; R.S.1913, § 5218; C.S.1922, § 4419; C.S.1929, § 18-403; R.S.1943, § 18-305; Laws 1982, LB 347, § 2; Laws 2021, LB163, § 5.

18-306 Electric or other lights; free or underpriced service to city or village officers; prohibited; penalties.

It shall be unlawful for any person, partnership, limited liability company, or corporation engaged in furnishing in any city or village in this state artificial light, such as electric light, gas light, or light from oil, to furnish light to any elected or appointed officer in any city or village in which such person, partnership, limited liability company, or corporation is engaged in furnishing such lights, free or for a price less than is charged other customers in such city or village for similar services. Any violation of this section shall be a Class III misdemeanor. Each day any service is furnished or accepted in violation of this section shall be considered as a separate offense and punished accordingly.

Source: Laws 1897, c. 13, § 4, p. 137; R.S.1913, § 5219; C.S.1922, § 4420; C.S.1929, § 18-404; R.S.1943, § 18-306; Laws 1982, LB 347, § 3; Laws 1993, LB 121, § 137; Laws 2021, LB163, § 6.

18-307 Electric or other lights; free or underpriced service; acceptance by officer; prohibited; penalty.

If any elected or appointed officer in any city or village in this state accepts free of charge or for a price less than is charged other customers for similar services in such city or village electric services from any electric utility company or from any person, partnership, or limited liability company which provides electric service in such city or village, such officer shall be guilty of a Class III misdemeanor and shall also forfeit the office held by him or her at the date of such offense.

Source: Laws 1897, c. 13, § 5, p. 138; R.S.1913, § 5220; C.S.1922, § 4421; C.S.1929, § 18-405; R.S.1943, § 18-307; Laws 1982, LB 347, § 4; Laws 1993, LB 121, § 138; Laws 2021, LB163, § 7.

18-308 Water; free or underpriced service to city or village officers; acceptance by officer; prohibited; penalties.

Any water company engaged in furnishing water in any city or village in this state and any person, corporation, partnership, or limited liability company engaged in such services who furnishes to any elected or appointed officer in such city or village, water free of charge or for a price less than is at the time charged for similar service to other customers in such city or village shall be guilty of a Class III misdemeanor. If any officer in any such city or village accepts free of charge or for a price less than is charged to other customers in such city or village any of the services mentioned in this section, such officer shall be guilty of a Class III misdemeanor and shall also forfeit the office held by him or her at the date of such violation. Each day such service or services are furnished or accepted in violation of this section shall constitute a separate and distinct offense and shall be punished accordingly.

Source: Laws 1897, c. 13, § 6, p. 138; R.S.1913, § 5221; C.S.1922, § 4422; C.S.1929, § 18-406; R.S.1943, § 18-308; Laws 1982, LB 347, § 5; Laws 1993, LB 121, § 139; Laws 2021, LB163, § 8.

18-309 Prosecutions for violations; evidence; immunity of witnesses.

No person shall be excused from attending and testifying or producing books and papers, in any prosecution under sections 18-305 to 18-309, for the reason that the required testimony, documentary or otherwise, may tend to incriminate such person or subject such person to a penalty or forfeiture. No person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which such person may testify or produce evidence, documentary or otherwise, in any prosecution under such sections, except that no person so testifying shall be exempt from prosecution for perjury committed in so testifying.

Source: Laws 1897, c. 13, § 8, p. 139; R.S.1913, § 5223; C.S.1922, § 4424; C.S.1929, § 18-408; R.S.1943, § 18-309; Laws 2021, LB163, § 9.

18-310 Compensation contracts contingent upon outcome of municipal election; contrary to public policy.

The Legislature finds and declares that it is detrimental to good government and the best interests of the state to permit payment to any person, firm, or corporation of fees or compensation in any form, other than regular salaries of duly elected or appointed officers of a city or village, for services rendered to a city or village contingent or dependent upon the outcome of any municipal election.

Source: Laws 1947, c. 49, § 1, p. 168; Laws 2021, LB163, § 10.

18-311 Compensation contracts contingent upon outcome of municipal election; prohibited.

It shall be unlawful for the mayor and city council of any city, or the chairperson and board of trustees of any village, to contract with, retain, or employ any person, firm, or corporation upon the basis that the amount of the fees or compensation to be paid shall be contingent or depend, in whole or in part, upon the outcome of any municipal election.

Source: Laws 1947, c. 49, § 2, p. 169; Laws 2021, LB163, § 11.

18-312 Contingent compensation contracts; violations; penalty.

Any person, firm, or corporation that shall violate any of the provisions of sections 18-310 to 18-312 shall be guilty of a Class V misdemeanor.

Source: Laws 1947, c. 49, § 3, p. 169; Laws 1982, LB 347, § 6.

ARTICLE 4

PUBLIC UTILITIES

Cross References

Electric light and power systems, extension and sale, see Chapter 70, article 5.
Energy conservation loans, see section 66-1001 et seq. and the Nebraska Investment Finance Authority Act, section 58-201.

Section
18-401. Public utility districts; creation authorized; extension or enlargement of service; limitation.
18-402. Public utility districts; how created.
18-403. Public utility districts; creation; extension or enlargement of service; notice requirements; protests.

Section
18-404. Public utility districts; creation; protest; effect.
18-405. Public utility districts; extension or enlargement of service; cost; payment; assessment.
18-406. Public utility districts; special assessments; when due; equalization; interest.
18-407. Public utility districts; creation by petition; denial.
18-408. Public utility districts; warrants; issuance.
18-409. Public utility districts; extension or enlargement of service; optional procedures.
18-410. Metropolitan utilities districts; extension of service beyond corporate limits; procedure.
18-411. Cities not in metropolitan class with home rule charters; powers not restricted.
18-412. Electric light and power systems; construction, acquisition, and maintenance; revenue bonds and debentures authorized; referendum petition; cities with home rule charters; powers.
18-412.01. Electric system; contract to operate; bidding requirements.
18-412.02. Electric system; acquisition from public power district or public power and irrigation district.
18-412.03. Repealed. Laws 1976, LB 1005, § 7.
18-412.04. Repealed. Laws 1976, LB 1005, § 7.
18-412.05. Repealed. Laws 1976, LB 1005, § 7.
18-412.06. Electric service; contracts to purchase authorized; limitation on liability.
18-412.07. Electric facilities; joint exercise of powers with public power districts and public agencies; authority.
18-412.08. Electric facilities; joint exercise of powers with electric cooperatives or corporations; authority.
18-412.09. Electric facilities; joint exercise of power; agreement; terms and conditions; agent; powers and duties; liability of city or village.
18-412.10. Electric facilities outside state; joint acquisition and maintenance; conditions.
18-413. Waterworks; right-of-way outside corporate limits; purposes; conditions.
18-414. Repealed. Laws 1987, LB 663, § 28.
18-415. Repealed. Laws 1987, LB 663, § 28.
18-416. Transferred to section 19-2702.
18-417. Transferred to section 70-1601.
18-418. Electric service; negotiated rates; requirements.
18-419. Sale or lease of dark fiber; authorized.

18-401 Public utility districts; creation authorized; extension or enlargement of service; limitation.

In all cities, villages, or metropolitan utilities districts owning or operating a waterworks system, sanitary sewerage system, storm sewer system, gas plant, or other public utility plant and in which water, gas, or other public utility is supplied by municipal authority for domestic, mechanical, public, or other purposes, or sewage and storm water disposal, or other services furnished, the authorities having general charge, supervision, and control of all matters pertaining to the water, gas, or other public utility supplied by any city, village, or metropolitan utilities district, or the furnishing of any public service such as sewage and storm water disposal, shall have the power and authority to create a water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district, as the case may be, either within or without the corporate limits of the city, village, or metropolitan utilities district involved, and to order and cause to be made extensions or enlargements of water mains, sanitary sewers, storm water disposal mains, gas mains, or other public utility service through such public utility district, except that nothing contained in this section shall be construed as authorizing the

creation of any such public utility district outside of the corporate limits of a city of the primary class.

Source: Laws 1921, c. 110, § 1, p. 386; C.S.1922, § 4475; C.S.1929, § 18-1001; R.S.1943, § 18-401; Laws 1963, c. 79, § 1, p. 286; Laws 1992, LB 746, § 63; Laws 2021, LB163, § 12.

Chapter 110, Laws 1921 (sections 18-401 to 18-411), is constitutional. Murphy v. Metropolitan Utilities Dist., 126 Neb. 663, 255 N.W. 20 (1934).

18-402 Public utility districts; how created.

Any water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district as provided in section 18-401 shall be created by ordinance if such public utility district is created by a city or village, or by resolution of the board of directors of a metropolitan utilities district if such public utility district is created by a metropolitan utilities district.

Source: Laws 1921, c. 110, § 2, p. 386; C.S.1922, § 4476; C.S.1929, § 18-1002; R.S.1943, § 18-402; Laws 2021, LB163, § 13.

18-403 Public utility districts; creation; extension or enlargement of service; notice requirements; protests.

Upon the passage of an ordinance or resolution under section 18-402 creating a water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district or ordering the extension or enlargement of a water main, gas main, or other public utility service through such district, it shall be the duty of the city council or village board of trustees which passed the ordinance or of the board of directors of the metropolitan utilities district which passed the resolution to cause a notice to be published in a legal newspaper in or of general circulation in such city or village or in the principal city within the metropolitan utilities district, addressed generally to the owners of the real estate within such public utility district, notifying them of the creation of the district and of the ordering of the extension or enlargement of the water main, gas main, or other public utility service within such district and further notifying the owners of the real estate that they have thirty days from and after such publication to file with such city council, village board of trustees, or board of directors their written protest against the creation of the district and of the extension or enlargement of the water main, gas main, or other public utility service so ordered.

Source: Laws 1921, c. 110, § 3, p. 386; C.S.1922, § 4477; C.S.1929, § 18-1003; R.S.1943, § 18-403; Laws 1992, LB 746, § 64; Laws 2021, LB163, § 14.

In absence of notice giving owners of real estate thirty days to file written protest, city cannot levy special assessments for water main extension. Matzke v. City of Seward, 193 Neb. 211, 226 N.W.2d 340 (1975).

18-404 Public utility districts; creation; protest; effect.

If within thirty days there is filed, as provided in section 18-403, a written protest signed by the record owners of a majority of the foot frontage of taxable property in a water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district, then the filing of such protest shall operate as a repeal or rescission of the ordinance or

resolution creating such district, but if no such protest is filed within thirty days, then the city council, village board of trustees, or board of directors shall proceed to contract for and on behalf of such city, village, or metropolitan utilities district for the extension or enlargement of the main or utility service so ordered or to make such extension or enlargement.

Source: Laws 1921, c. 110, § 4, p. 387; C.S.1922, § 4478; C.S.1929, § 18-1004; R.S.1943, § 18-404; Laws 1959, c. 53, § 1, p. 244; Laws 1992, LB 746, § 65; Laws 2021, LB163, § 15.

18-405 Public utility districts; extension or enlargement of service; cost; payment; assessment.

Upon the completion of an extension or enlargement of any water or gas main or other utility service in a water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district created pursuant to section 18-401, the actual cost of such extension or enlargement shall be duly certified to the city council, village board of trustees, or board of directors of a metropolitan utilities district when done by contract, but when done by utilizing the equipment and employees of any such city, village, or metropolitan utilities district, the average cost, based upon the average cost per foot to such city, village, or metropolitan utilities district in the previous calendar year, of installing water or gas distribution mains, as the case may be, shall be thus certified. Such city council, village board of trustees, or board of directors shall assess, to the extent of special benefits, the cost, not exceeding the actual cost or average cost, as the case may be, of installing such water main, gas main, or other utility service, upon all real estate in such district, in proportion to the frontage of the real estate upon the main or utility service. The cost of any such extension or enlargement in excess of the actual or average cost of installing the water main, gas main, or other utility service authorized to be assessed and levied against the real estate in such district shall be paid out of the water fund, gas fund, or other utility fund of such city, village, or metropolitan utilities district, if there is such a fund, and if such city or village has no water fund, gas fund, or other utility fund, then the costs shall be paid out of the general fund. No real estate in any city, village, or metropolitan utilities district shall be subject to more than one special tax assessment for the same extension or enlargement of water mains, gas mains, or other utility service.

Source: Laws 1921, c. 110, § 5, p. 387; C.S.1922, § 4479; C.S.1929, § 18-1005; Laws 1941, c. 27, § 1, p. 128; C.S.Supp.,1941, § 18-1005; R.S.1943, § 18-405; Laws 1959, c. 53, § 2, p. 245; Laws 1972, LB 1454, § 1; Laws 1992, LB 746, § 66; Laws 2021, LB163, § 16.

A finding by the Board of Equalization that lands are specially benefited to full amount of assessment is tantamount to finding that such benefits are equal and uniform, warranting the adoption of foot front rule. Murphy v. Metropolitan Utilities District, 126 Neb. 663, 255 N.W. 20 (1934).

18-406 Public utility districts; special assessments; when due; equalization; interest.

The special assessment provided in section 18-405 shall be paid in ten installments. The first installment, or one-tenth of the assessment, shall become due and delinquent fifty days after the date of levy, and one-tenth of such assessment shall become due and delinquent each year thereafter, counting

from the date of levy, for nine years. The special assessment shall bear interest at a rate not to exceed the rate of interest specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, prior to delinquency, and at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, after delinquency. Prior to the levy of the special assessment as provided in section 18-405, such assessment shall be equalized in the same manner as provided by law for the equalization of special assessments levied in the city or village that levied such special assessment, or in the city of the metropolitan class within the metropolitan utilities district that levied such special assessment.

Source: Laws 1921, c. 110, § 5, p. 388; C.S.1922, § 4479; C.S.1929, § 18-1005; Laws 1941, c. 27, § 1, p. 129; C.S.Supp.,1941, § 18-1005; R.S.1943, § 18-406; Laws 1963, c. 80, § 1, p. 287; Laws 1980, LB 933, § 22; Laws 1981, LB 167, § 23; Laws 1983, LB 438, § 1; Laws 1992, LB 746, § 67; Laws 2015, LB361, § 40; Laws 2021, LB163, § 17.

18-407 Public utility districts; creation by petition; denial.

If a petition is filed, signed by the owners of a majority of the front footage of real estate within a proposed water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district, which petition shall contain the consent of the owners of such real estate for the installation of gas mains or water mains of sizes designated by the city council, village board of trustees, or board of directors of a metropolitan utilities district and inserted in such petition, or of other utility service, then such water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district shall be created, and the entire cost of laying such water main, gas main, or other utility service shall be assessed and collected as provided in sections 18-405 to 18-410. The city council, village board of trustees, or board of directors shall have the discretion to deny the formation of the proposed district when the area to be improved has not previously been improved with a water system, sewer system, and grading of streets. If the city council, village board of trustees, or board of directors should deny a requested district formation, it shall state the grounds for such denial in a written letter to interested parties.

Source: Laws 1921, c. 110, § 5, p. 388; C.S.1922, § 4479; C.S.1929, § 18-1005; Laws 1941, c. 27, § 1, p. 129; C.S.Supp.,1941, § 18-1005; R.S.1943, § 18-407; Laws 1983, LB 125, § 3; Laws 2021, LB163, § 18.

18-408 Public utility districts; warrants; issuance.

After the levy of a special assessment and the extension of such assessment against the real estate in such water main district, gas main district, sanitary sewer district, storm water disposal district, or other public utility district, the city council, village board of trustees, or board of directors of a metropolitan utilities district having charge, supervision, and control of all matters pertaining to the water or gas supply or other utility service of such city, village, or metropolitan utilities district shall have the power to issue or cause to be issued against the fund so created special warrants payable out of the funds, which warrants shall be delivered to the contractor in payment of the money due him

or her under his or her contract for the extension or enlargement of the water or gas main or other utility service, as the case may be, to cover the cost for which the special assessments were levied.

Source: Laws 1921, c. 110, § 6, p. 389; C.S.1922, § 4480; C.S.1929, § 18-1006; R.S.1943, § 18-408; Laws 1992, LB 746, § 68; Laws 2021, LB163, § 19.

18-409 Public utility districts; extension or enlargement of service; optional procedures.

The city council, village board of trustees, or board of directors of a metropolitan utilities district in the city, village, or metropolitan utilities district in this state having general charge, supervision, and control of all matters pertaining to the water or gas supply or other utility service of such city, village, or metropolitan utilities district may by resolution elect and determine to proceed under sections 18-401 to 18-411 in the matter of ordering and making and causing to be made extensions or enlargements of water or gas mains or other utility service in such cities, villages, or metropolitan utilities districts but are not required to do so.

Source: Laws 1921, c. 110, § 7, p. 389; C.S.1922, § 4481; C.S.1929, § 18-1007; R.S.1943, § 18-409; Laws 1992, LB 746, § 69; Laws 2021, LB163, § 20.

The district may extend water mains beyond city limits and enlarge district to include territory served by such extensions. Murphy v. Metropolitan Utilities Dist., 126 Neb. 663, 255 N.W. 20 (1934).

18-410 Metropolitan utilities districts; extension of service beyond corporate limits; procedure.

Any metropolitan utilities district is hereby given power to extend water mains, gas mains, and other utility service under its operation and management beyond the corporate limits of the city of the metropolitan class so as to include adjacent territory, sanitary and improvement districts, unincorporated areas, cities, or villages, even though in an adjoining county or counties, and may create such water main districts, gas main districts, sanitary sewer districts, storm water disposal districts, and other public utility districts within such adjacent sanitary and improvement districts, unincorporated areas, cities, and villages, even though located in an adjoining county or counties. When such water main districts, gas main districts, sanitary sewer districts, storm water disposal districts, or other public utility districts are created in an adjoining county or counties, the special assessment levy in such districts shall be certified to the county treasurer of such adjoining county or counties, as the case may be, and shall there be entered of record against the proper real estate. It shall be the duty of the county treasurer of the adjoining county or counties, as the case may be, to collect the assessments and as collected to report and transmit such assessments to the metropolitan utilities district.

Source: Laws 1921, c. 110, § 8, p. 389; C.S.1922, § 4482; C.S.1929, § 18-1008; R.S.1943, § 18-410; Laws 1992, LB 746, § 70; Laws 2001, LB 177, § 4; Laws 2021, LB163, § 21.

Metropolitan Utilities District may extend its territory so as to include adjacent territory in another county. Barton v. City of Omaha, 180 Neb. 752, 145 N.W.2d 444 (1966).

The district may extend water mains beyond city limits and enlarge district to include territory served by such extensions. Murphy v. Metropolitan Utilities Dist., 126 Neb. 663, 255 N.W. 20 (1934).

18-411 Cities not in metropolitan class with home rule charters; powers not restricted.

Sections 18-401 to 18-410 shall not be construed as a restriction upon the powers of cities, other than a city of the metropolitan class, which have adopted or may hereafter adopt a home rule charter under the Constitution of Nebraska nor as a limitation upon any provision in such charter or any amendments to such charter.

Source: Laws 1921, c. 110, § 9, p. 390; C.S.1922, § 4483; C.S.1929, § 18-1009; R.S.1943, § 18-411; Laws 2021, LB163, § 22.

18-412 Electric light and power systems; construction, acquisition, and maintenance; revenue bonds and debentures authorized; referendum petition; cities with home rule charters; powers.

Supplemental to any existing law on the subject, and in lieu of the issuance of general obligation bonds or the levy of taxes upon property as provided by law, any city or village within the State of Nebraska may construct, purchase, or otherwise acquire, maintain, extend, or enlarge, an electric light and power plant, distribution system, and transmission lines, and real and personal property needed or useful in connection therewith, and pay the cost thereof by pledging and hypothecating the revenue and earnings of any electric light and power plant, distribution system, and transmission lines, owned or to be owned by such city or village. In the exercise of the authority granted in this section, any such city or village may issue and sell revenue bonds or debentures and enter into such contracts in connection therewith as may be proper and necessary. Such revenue bonds or debentures shall be a lien only upon the revenue and earnings of the electric light and power plant, distribution system, and transmission lines owned or to be owned by such city or village. No revenue bonds shall be issued until thirty days' notice of the proposition relating thereto shall have been given by the governing body of such city or village by publication once each week for three successive weeks in a legal newspaper in or of general circulation in such city or village, or if no such newspaper is published, then by posting in five or more public places in such city or village. If, within thirty days after the last publication of such notice or posting thereof, a referendum petition signed by qualified electors of such city or village equal in number to at least twenty percent of the vote cast at the last general municipal election held in such city or village shall be filed with the city clerk or village clerk, such bonds shall not be issued until the issuance thereof has been approved by a vote of the electors of such city or village at any general or special municipal election. If a majority of the voters voting on the issue vote against issuing such bonds, the bonds shall not be issued. If no such petitions are filed, the bonds shall be issued at the expiration of such thirty-day period. No publication of notice shall be required when revenue bonds are issued solely for the maintenance, extension, or enlargement of any electric generating plant, distribution system, or transmission lines owned by such city or village. The provisions of this section shall not restrict or limit the power or authority in the issuance of any such revenue bonds, as authorized by any home rule charter duly adopted by the electors or any city pursuant to the Constitution of Nebraska.

Source: Laws 1935, c. 38, § 1, p. 153; C.S.Supp.,1941, § 18-1601; R.S. 1943, § 18-412; Laws 1963, c. 393, § 3, p. 1250; Laws 2021, LB163, § 23.

Construction of entirely new power plant requires authorizing vote. Nacke v. City of Hebron, 155 Neb. 739, 53 N.W.2d 564 (1952).

Proposition for issuance of revenue bonds was sufficient if submitted in the language of this section. Inslee v. City of Bridgeport, 153 Neb. 559, 45 N.W.2d 590 (1951).

When municipality has an existing system, it can issue revenue bonds without vote of electors. Slepicka v. City of Wilber, 150 Neb. 376, 34 N.W.2d 646 (1948).

City was authorized to acquire electric light and power plant by issue and sale of revenue bonds if proposition was approved by a majority of electorate voting thereon. May v. City of Kearney, 145 Neb. 475, 17 N.W.2d 448 (1945).

Future city councils cannot be legally bound to a price fixed in advance by a formula depending on amount of bonds outstanding and allocation of earnings, when statute leaves the determination of the reasonableness of the price to be fixed by agreement or condemnation proceedings at time city determines to buy system. State ex rel. Consumers Public Power Dist. v. Boettcher, 138 Neb. 22, 291 N.W. 709 (1940).

Use of the symbol "and/or" upon the ballot prepared led to the confusion of the voters, who were absolutely unable to determine definitely what they were voting for or against. Drummond v. City of Columbus, 136 Neb. 87, 285 N.W. 109 (1939).

18-412.01 Electric system; contract to operate; bidding requirements.

Whenever any city or village in this state contracts with a public power district or an agency of the United States Government to operate, renew, replace, and add to the electric distribution, transmission, or generation system of the city or village and in the performance of the contract the public power district or the United States Government agrees to comply with the laws relating to bidding for contracts entered into by public power districts or the United States Government, the city or village shall not be required to advertise for or take bids for such renewals, replacements, or additions.

Source: Laws 1969, c. 78, § 3, p. 410; Laws 1998, LB 1129, § 1.

18-412.02 Electric system; acquisition from public power district or public power and irrigation district.

If requested to do so at any time by a city or village, any public power district or public power and irrigation district, formed after May 4, 1945, and providing electrical service at retail to a city of the metropolitan class, owning a distribution system in such city or village and also owning generating plants and transmission lines or both, shall inform the city or village of the minimum price at which the district is permitted to sell that portion of its distribution system within the corporate limits of such city or village to such city or village under the agreements of the district entered into with the holders of obligations issued by such district. For purposes of this section, the term obligations shall include all bonds, notes, and other evidences of indebtedness to the payment of which the revenue from that portion of the distribution system such city or village desires to acquire has been pledged. There shall be allowed as a credit upon such minimum price a sum that bears the same proportion thereto as the amount of such obligations that have been paid or redeemed and funded reserves established therefor by the district out of the net revenue from its operation while such city or village was within such district bears to the total amount of such obligations issued by the district since the date of its formation, excluding the amount of such obligations that have been refinanced and including the amount of the refinancing obligations. Such city or village shall reimburse the district for any costs necessarily paid by the district to independent engineers to obtain the minimum price under such agreements with the holders of the obligations of the district. At the request of the city or village, the district shall sell and convey that portion of the distribution system which is within its corporate limits to the city or village upon payment of such minimum price, and the city or village shall contract to continue to purchase all of its power and energy requirements from the district at least until such time as all obligations of the district outstanding on the date of such sale and conveyance shall have been fully paid and retired or reserves sufficient for the redemption

thereof shall have been accumulated, but such transaction shall not be consummated nor become effective until thirty days' notice of the transaction shall have been given by the city council or village board of trustees by publication once each week for three successive weeks in some legal newspaper in or of general circulation in such city or village, or if no such newspaper is published, then by posting in five or more public places in such city or village. If, within ninety days after the last publication of such notice or posting thereof, referendum petitions signed by qualified electors of such city or village equal in number to at least twenty percent of the vote cast at the last general municipal election held in such city or village shall be filed with the city clerk or village clerk, such transaction shall not become effective until it has been approved by a vote of the electors of such city or village at any general or special municipal election. If a majority of the voters voting on the issue vote against such transaction, the transaction shall not become effective. If no such petitions are filed, the transaction shall become effective at the expiration of such ninety-day period. The public power district or public power and irrigation district shall charge fair, reasonable, and nondiscriminatory rates so adjusted as, in a fair and equitable manner, to confer upon and distribute among its customers the benefits of a successful and efficient operation and conduct of the business of the district.

Source: Laws 1971, LB 195, § 1; Laws 2021, LB163, § 24.

18-412.03 Repealed. Laws 1976, LB 1005, § 7.

18-412.04 Repealed. Laws 1976, LB 1005, § 7.

18-412.05 Repealed. Laws 1976, LB 1005, § 7.

18-412.06 Electric service; contracts to purchase authorized; limitation on liability.

(1) Any city or village owning or operating electric generation or transmission facilities may enter into contracts for the purchase of electric energy, power and energy, or capacity, or any combination thereof, upon such terms and conditions and for such periods as the governing body of such city or village may by ordinance authorize. Such terms and conditions may obligate the city or village to make payment under the contracts during such time or times as the facility, if any, to which the contract pertains may be incapable of being operated or may not be in operation for any reason. Any contract authorized by this section may be entered into by the city or village with nonprofit corporations of this or any other state among whose purposes is the financing of electric properties, projects or undertakings for such city or village, other municipalities of this or any other state, public power districts and public power and irrigation districts of this or any other state, other governmental entities or agencies of this or any other state or the federal government, electric cooperatives or electric membership cooperatives of this or any other state, or investor-owned electric utilities organized under the laws of any other state. The obligation and liability of such city or village under the contract shall be limited to the electric revenue of such city or village, unless prior to the execution of the contract by the city or village the contract shall have been approved by a majority of the qualified voters of the city or village voting upon the question.

(2) Any city or village may enter into contracts for the purchase of electric power to be generated by a project as provided in sections 70-1701 to 70-1705.

Source: Laws 1975, LB 60, § 1; Laws 2004, LB 969, § 6.

18-412.07 Electric facilities; joint exercise of powers with public power districts and public agencies; authority.

The Legislature finds and declares that it is in the public interest of the State of Nebraska that cities and villages of this state be empowered to participate jointly or in cooperation with public power districts and public power and irrigation districts and other public agencies in the establishment and operation of facilities for the generation or transmission of electric power and energy located within or outside this state in order to achieve economies and efficiencies in meeting the future electric energy needs of the people of the State of Nebraska. In furtherance of such need and in addition to but not in substitution for any other powers granted cities and villages of this state, each city and village which owns or operates electrical facilities shall have and may exercise its power and authority to plan, finance, acquire, construct, own, operate, maintain, improve, and decommission electric generation or transmission facilities located within or outside this state jointly and in cooperation with one or more such public power districts, public power and irrigation districts, other cities or villages of this state which own or operate electrical facilities, municipal corporations, or other governmental entities of other states which operate electrical facilities. The powers granted under this section may be exercised with respect to any electric generation or transmission facility jointly with the powers granted under any other provision of sections 18-412.07 to 18-412.09 and 70-628.02 to 70-628.04.

Source: Laws 1976, LB 1005, § 1; Laws 1997, LB 658, § 1; Laws 2004, LB 969, § 7; Laws 2021, LB163, § 25.

18-412.08 Electric facilities; joint exercise of powers with electric cooperatives or corporations; authority.

The Legislature finds and declares that it is in the public interest of the State of Nebraska that cities and villages of this state be empowered to participate jointly and in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state in the establishment and operation of facilities for the generation or transmission of electric power and energy in order to achieve economies and efficiencies in meeting the future electric energy needs of the people of the State of Nebraska. In furtherance of such end and in addition to, but not in substitution for, any other powers granted such cities and villages of this state, each city or village which owns or operates electrical facilities shall have and may exercise such power and authority to plan, finance, acquire, construct, own, operate, maintain, improve, and decommission electric generation or transmission facilities located in this state jointly and in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state, and each city or village shall have and may exercise such power and authority with respect to electric generation or transmission facilities located outside this state jointly or in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state. The

powers granted under this section may be exercised with respect to any electric generation or transmission facility jointly with the powers granted under any other provisions of sections 18-412.07 to 18-412.09 and 70-628.02 to 70-628.04.

Source: Laws 1976, LB 1005, § 2; Laws 1997, LB 658, § 2; Laws 2004, LB 969, § 8; Laws 2021, LB163, § 26.

18-412.09 Electric facilities; joint exercise of power; agreement; terms and conditions; agent; powers and duties; liability of city or village.

Any city or village participating jointly and in cooperation with others in an electric generation or transmission facility may own an undivided interest in such facility and be entitled to the share of the output or capacity of such facility attributable to such undivided interest. Such city or village may enter into an agreement or agreements with respect to each such electric generation or transmission facility with the other participants in such facility, and any such agreement shall contain such terms, conditions, and provisions consistent with the provisions of sections 18-412.07 to 18-412.10 as the governing body of such city or village shall deem to be in the interests of such city or village. The agreement may include, but not be limited to, provision for the construction, operation, maintenance, and decommissioning of such electric generation or transmission facility by any one of the participants, which shall be designated in or pursuant to such agreement as agent, on behalf of itself and the other participants or by such other means as may be determined by the participants and provision for a uniform method of determining and allocating among participants costs of construction, operation, maintenance, renewals, replacements, decommissioning, and improvements with respect to such facility. In carrying out its functions and activities as such agent with respect to construction, operation, maintenance, and decommissioning of such a facility, including without limitation the letting of contracts therefor, such agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other participants. Notwithstanding the provisions of any other law to the contrary, pursuant to the terms of any such agreement in which or pursuant to which a public power district, a public power and irrigation district, or a city or village of this state shall be designated as the agent thereunder for the construction, operation, maintenance, and decommissioning of such a facility, each of the participants may delegate its powers and duties with respect to the construction, operation, maintenance, and decommissioning of such facility to such agent, and all actions taken by such agent in accordance with the provisions of such agreement shall be binding upon each of such participants without further action or approval by their respective boards of directors or governing bodies. Such agent shall be required to exercise all such powers and perform its duties and functions under such agreement in a manner consistent with prudent utility practice. As used in this section, prudent utility practice shall mean any of the practices, methods, and acts at a particular time which, in the exercise of reasonable judgment in the light of the facts, including, but not limited to, the practices, methods, and acts engaged in or approved by a significant portion of the electrical utility industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. Unless specifically contracted otherwise by written agreement, no city or village shall become liable for and pay for any costs, expenses, or liabilities attributable to the

undivided interest of any other participant in such electric generation or transmission facility, and unless specifically contracted otherwise by written agreement, no funds of such city or village may be used for any such purpose.

Source: Laws 1976, LB 1005, § 3; Laws 2004, LB 969, § 9; Laws 2021, LB163, § 27.

18-412.10 Electric facilities outside state; joint acquisition and maintenance; conditions.

If a city or village proposes to, and during such time as such city and village shall, plan, finance, acquire, construct, own, operate, maintain, improve, and decommission jointly and in cooperation with others as contemplated by sections 18-412.07 to 18-412.10 facilities for the generation or transmission of electric power and energy located or to be located outside this state, such city or village may comply with all laws of the United States and of the state in which the facilities are or are to be located applicable to such facilities or applicable to any of such activities or applicable to the performance of any of such activities across state boundaries or in such state, including submitting itself to any governmental body, board, commission, or agency having jurisdiction over such facilities or over any of such activities or over the performance of such activities and applying for and carrying out of all licenses, certificates, or other approvals required by such laws in order to enable the city or village to carry out the provisions of sections 18-412.07 to 18-412.10.

Source: Laws 1976, LB 1005, § 4; Laws 2004, LB 969, § 10; Laws 2021, LB163, § 28.

18-413 Waterworks; right-of-way outside corporate limits; purposes; conditions.

Any city or village in this state erecting, constructing, or maintaining a system of waterworks, or part of a system of waterworks, outside its corporate limits, is granted the right-of-way along any of the public roads of the state, along any of the streets and alleys of any city or village within the state, and over and through any of the lands which are the property of the state, for the laying, constructing, and maintaining of water mains, conduits, and aqueducts for the purpose of transporting or conveying water from such system of waterworks, or part of such system of waterworks, to such city or village erecting the same. Such city or village is granted such right-of-way for the further purpose of erecting and maintaining all necessary poles, wires, or conduits, for the purpose of transporting, transmitting, or conveying electric current from such city or village to such system of waterworks, or part of such system of waterworks, for power and light purposes. In constructing such water mains, conduits, and aqueducts for transporting water and such poles, wires, and conduits for transmitting electric current along the streets or alleys of any other city or village, such city or village shall construct and locate the same in accordance with existing ordinances of such other city or village pertaining thereto and shall be liable for any damage caused thereby. Such poles and wires shall be constructed so as not to interfere with the use of the public roadway, and such wires shall be placed at a height not less than twenty feet above all road crossings.

Source: Laws 1931, c. 35, § 1, p. 127; C.S.Supp.,1941, § 18-1301; R.S. 1943, § 18-413; Laws 2021, LB163, § 29.

18-414 Repealed. Laws 1987, LB 663, § 28.

18-415 Repealed. Laws 1987, LB 663, § 28.

18-416 Transferred to section 19-2702.

18-417 Transferred to section 70-1601.

18-418 Electric service; negotiated rates; requirements.

In order to help stimulate economic development, any municipality furnishing electric service may, but shall not be required to, negotiate, fix, establish, and collect rates, tolls, rents, and other charges different from those of other users and consumers for electrical energy and associated services or facilities. The different rates, tolls, rents, and other charges would be effective for a period not to exceed five years, for services, commodities, and facilities sold, furnished, or supplied to or for the benefit of any project approved pursuant to the Quality Jobs Act beginning operation on or after July 1, 1995, that has new or additional energy consumption with a minimum electrical demand of five thousand kilowatts during the applicable billing demand period with a minimum annual load factor of fifty-five percent. In no case shall such charges be less than the cost of supplying such services.

Source: Laws 1995, LB 828, § 1.

Cross References

Quality Jobs Act, see section 77-4901.

18-419 Sale or lease of dark fiber; authorized.

In addition to the powers authorized by sections 18-401 to 18-418 and any ordinances or resolutions relating to the provision of electric service, any city or village owning or operating electric generation or transmission facilities may sell or lease its dark fiber pursuant to sections 86-574 to 86-578.

Source: Laws 2001, LB 827, § 8; Laws 2002, LB 1105, § 419.

ARTICLE 5

SEWER SYSTEMS

Section
18-501. Construction and operation; powers; tax levies.
18-502. Revenue bonds; issuance; interest; not included in limit on bonds.
18-503. Rules and regulations; charges; collection.
18-504. Revenue bonds; payment; sinking fund; rates; rights of holders of bonds.
18-505. Franchises; contracts authorized; rates.
18-506. General obligation bonds; issuance; interest; not included in limit on bonds.
18-506.01. Revenue bonds; general obligation bonds; issuance; conditions.
18-507. Installation, improvement, or extension; plans and specifications; bidding requirements.
18-508. Service beyond corporate limits; conditions; contracts with users.
18-509. Rental and use charges; collection; use.
18-510. Terms, defined; applicability of sections.
18-511. Sections, how construed.
18-512. Anti-pollution-of-water measures; special levy.

18-501 Construction and operation; powers; tax levies.

(1) Any city or village in this state is hereby authorized to own, construct, equip, and operate, either within or without the corporate limits of such city or

village, a sewerage system, including any storm sewer system or combination storm and sanitary sewer system, and plant or plants for the treatment, purification, and disposal in a sanitary manner of the liquid and solid wastes and sewage of such city or village or to extend or improve any existing storm sewer system, sanitary sewer system, or combination storm and sanitary sewer system.

(2) Any city or village shall have authority to acquire by gift, grant, purchase, or condemnation necessary lands for the construction of a sewerage system, either within or without the corporate limits of such city or village.

(3) For the purpose of owning, operating, constructing, maintaining, and equipping a sewage disposal plant and sewerage system, including any storm sewer system or combination storm and sanitary sewer system, referred to in subsections (1), (2), and (4) of this section, or improving or extending such existing system, any city or village is authorized and empowered to make a special levy of not to exceed three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property within any such city or village. The proceeds of the tax may be used for any of the purposes enumerated in this section and for no other purpose.

(4) In the event the present or proposed sewage disposal system of any city or village does not comply with the provisions of any other law relating to sewer systems, sewage disposal, or water pollution, such city or village shall levy each year a tax of seven cents on each one hundred dollars of taxable valuation for such purpose until sufficient funds are available for the financing of a system in compliance with law. In the event any city or village is otherwise raising funds for such purpose, equivalent to such a levy, such city or village shall not be required, in addition thereto, to make such levy.

Source: Laws 1933, c. 146, § 1, p. 561; Laws 1937, c. 41, § 1, p. 180; Laws 1941, c. 28, § 1, p. 130; C.S.Supp.,1941, § 18-1401; R.S. 1943, § 18-501; Laws 1951, c. 19, § 1, p. 99; Laws 1953, c. 287, § 27, p. 946; Laws 1955, c. 48, § 1, p. 166; Laws 1957, c. 39, § 3, p. 212; Laws 1979, LB 187, § 67; Laws 1992, LB 719A, § 68; Laws 1996, LB 1114, § 32; Laws 2021, LB163, § 30.

Issuance of bonds for constructing storm sewers was matter of statewide concern. State law controlled over home rule charter. State ex rel. City of Grand Island v. Johnson, 175 Neb. 498, 122 N.W.2d 240 (1963).

Prior to 1951, obligations incurred under this and succeeding seven sections did not impose personal liability upon municipality but were payable only out of revenue. Michelson v. City of Grand Island, 154 Neb. 654, 48 N.W.2d 769 (1951).

Chapter 146, Laws 1933 (sections 18-501 to 18-508), is an independent act and not amendatory of previously existing laws, and is constitutional. State ex rel. City of Columbus v. Price, 127 Neb. 132, 254 N.W. 889 (1934).

18-502 Revenue bonds; issuance; interest; not included in limit on bonds.

For the purpose of owning, operating, constructing, and equipping a sewage disposal plant or sewerage system or improving or extending such existing system as provided in section 18-501, a city or village may issue revenue bonds therefor. Such revenue bonds, as provided in this section, shall not impose any general liability upon the city or village but shall be secured only by the revenue of such utility as provided in section 18-504. Such revenue bonds shall be sold for not less than par and bear interest at a rate set by the governing body. The amount of such revenue bonds, either issued or outstanding, shall not be

included in computing the maximum amount of bonds which such city or village may be authorized to issue under its charter or any statute of this state.

Source: Laws 1933, c. 146, § 2, p. 561; Laws 1937, c. 41, § 2, p. 180; C.S.Supp.,1941, § 18-1402; R.S.1943, § 18-502; Laws 1957, c. 40, § 1, p. 214; Laws 1969, c. 51, § 62, p. 311; Laws 2021, LB163, § 31.

18-503 Rules and regulations; charges; collection.

The governing body of a city or village which owns, constructs, equips, or operates a sewage disposal plant or sewerage system pursuant to section 18-501 may make all necessary rules and regulations governing the use, operation, and control of such system. The governing body may establish just and equitable rates or charges to be paid to it for the use of such disposal plant and sewerage system by each person, firm, or corporation whose premises are served by such system. If the service charge so established is not paid when due, such sum may be recovered by the city or village in a civil action, or it may be certified to the tax assessor and assessed against the premises served, and collected or returned in the same manner as other municipal taxes are certified, assessed, collected, and returned.

Source: Laws 1933, c. 146, § 3, p. 562; C.S.Supp.,1941, § 18-1403; R.S.1943, § 18-503; Laws 1961, c. 53, § 4, p. 199; Laws 2021, LB163, § 32.

Sewer use charge is not a special assessment; a city has authority to make necessary rules and regulations including a reasonable processing charge on delinquent accounts. Rutherford v. City of Omaha, 183 Neb. 398, 160 N.W.2d 223 (1968).

Provision for sewer rental or use charges did not conflict with similar charges authorized for cities of the metropolitan class. Metropolitan Utilities Dist. v. City of Omaha, 171 Neb. 609, 107 N.W.2d 397 (1961).

Ordinance authorizing water supply to be shut off for nonpayment of delinquent sewer charges is not in conflict with this section. Michelson v. City of Grand Island, 154 Neb. 654, 48 N.W.2d 769 (1951).

18-504 Revenue bonds; payment; sinking fund; rates; rights of holders of bonds.

(1) Revenue bonds which are issued, as provided in section 18-502, shall not be a general obligation of the city or village, but shall be paid only out of the revenue received from the service charges as provided in section 18-503.

(2) If a service rate is charged, as a part of the revenue, as provided in subsection (1) of this section, to be paid as provided in this section, such portion of such rate as may be deemed sufficient shall be set aside as a sinking fund for the payment of the interest on such revenue bonds, and the principal of such revenue bonds at maturity.

(3) It shall be the duty of the governing body of the city or village to charge rates for the service of the sewerage system, as referred to in subsection (1) of this section, which shall be sufficient, at all times, to pay the cost of operation and maintenance of such system and to pay the principal of and interest upon all revenue bonds issued, under the provisions of section 18-502, and to carry out any covenants that may be provided in the ordinance authorizing the issuance of any such bonds.

(4) The holders of any of the revenue bonds or any of the coupons of any revenue bonds, issued under subsection (1) of this section, in any civil action, mandamus, or other proceeding may enforce and compel the performance of all duties required by this section and the covenants made by the city or village in the ordinance providing for the issuance of such bonds, including the making

and collecting of sufficient rates or charges for the specified purposes and for the proper application of the income from such bonds.

Source: Laws 1933, c. 146, § 4, p. 562; C.S.Supp.,1941, § 18-1404; R.S.1943, § 18-504; Laws 1957, c. 40, § 2, p. 214; Laws 2021, LB163, § 33.

18-505 Franchises; contracts authorized; rates.

For the purpose of providing for a sewage disposal plant and sewerage system, or improving or extending such existing system, any city or village may also enter into a contract with any corporation organized under or authorized by the laws of this state to engage in such business, to receive and treat in the manner provided in sections 18-501 to 18-510, the sewage of such system, and to construct, and provide the facilities and services as provided in section 18-501. Such contract may also authorize the corporation to charge the owners of the premises served such a service rate therefor as the governing body of such city or village may determine to be just and reasonable, or the city or village may contract to pay such corporation a flat rate for such service, and pay therefor out of its general fund or the proceeds of any tax levy applicable to the purposes of such contract, or assess the owners of the property served a reasonable charge for such service to be collected as provided in section 18-503 and paid into a fund to be used to defray such contract charges.

Source: Laws 1933, c. 146, § 5, p. 562; Laws 1937, c. 41, § 3, p. 181; C.S.Supp.,1941, § 18-1405; R.S.1943, § 18-505; Laws 2021, LB163, § 34.

18-506 General obligation bonds; issuance; interest; not included in limit on bonds.

For the purpose of owning, operating, constructing, and equipping any sewage disposal plant and any sanitary or storm sewer system or combination storm and sanitary sewer system, or improving or extending such existing system, or for the purpose stated in sections 18-501 to 18-505, any city or village is authorized and empowered to issue and sell the general obligation bonds of such city or village upon compliance with the provisions of section 18-506.01. Such bonds shall not be sold or exchanged for less than the par value thereof and shall bear interest which shall be payable annually or semiannually. The governing body of such city or village shall have the power to determine the denominations of such bonds, and the date, time, and manner of the payment thereof. The amount of such general obligation bonds, either issued or outstanding, shall not be included in the maximum amount of bonds which such city or village may be authorized to issue and sell under its charter or any statutes of this state.

Source: Laws 1933, c. 146, § 6, p. 563; Laws 1937, c. 41, § 4, p. 182; C.S.Supp.,1941, § 18-1406; R.S.1943, § 18-506; Laws 1951, c. 19, § 2, p. 99; Laws 1955, c. 48, § 2, p. 167; Laws 1969, c. 51, § 63, p. 312; Laws 2021, LB163, § 35.

18-506.01 Revenue bonds; general obligation bonds; issuance; conditions.

Revenue bonds, authorized by section 18-502, may be issued by ordinance duly passed by the mayor and city council of any city or the board of trustees of any village without any other authority. General obligation bonds, authorized

by section 18-506, may be issued only after the question of their issuance shall have been submitted to the electors of such city or village at a general or special election, of which three weeks' notice thereof has been published in a legal newspaper published in or of general circulation in such city or village, and more than a majority of the electors voting at the election have voted in favor of the issuance of such bonds.

Source: Laws 1951, c. 19, § 3, p. 100; Laws 1967, c. 83, § 1, p. 259; Laws 2021, LB163, § 36.

Sewer bonds can be issued only after more than sixty percent of the electors voting at the election vote in favor of issuance of bonds. State ex rel. City of Grand Island v. Johnson, 175 Neb. 498, 122 N.W.2d 240 (1963).

18-507 Installation, improvement, or extension; plans and specifications; bidding requirements.

Whenever the governing body of any city or village shall have ordered the installation of a sewerage system and sewage disposal plant or the improvement or extension of an existing system, the fact that such order was issued shall be recited in the official minutes of the governing body. The governing body shall require that plans and specifications be prepared of such sewerage system and sewage disposal plant, or such improvement or extension. Upon approval of such plans, the governing body shall advertise for sealed bids for the construction of such improvements once a week for three weeks in a legal newspaper published in or of general circulation within such city or village, and the contract shall be awarded to the lowest responsible bidder.

Source: Laws 1933, c. 146, § 7, p. 563; C.S.Supp.,1941, § 18-1407; R.S.1943, § 18-507; Laws 2021, LB163, § 37.

A public body has discretion to award the contract to one other than the lowest of the responsible bidders whenever a submitted bid contains a relevant advantage. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

By mandating that contracts be awarded to the lowest responsible bidder, the Nebraska Legislature is seeking to protect taxpayers, prevent favoritism and fraud, and increase competition in the bidding process by placing bidders on equal footing. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

Determining the lowest responsible bidder is a two-step process. The first step is for the public body to determine which bidders are responsible to perform the contract. The second step focuses on which of the responsible bidders has submitted the lowest bid. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

Determining the responsibility of bidders is a job for elected officials, and a court's only role is to review those decisions to make sure the public officials did not act arbitrarily, or from favoritism, ill will, or fraud. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

In addition to a bidder's pecuniary ability, responsibility pertains to a bidder's ability and capacity to carry on the work, the bidder's equipment and facilities, the bidder's promptness, the quality of work previously done by him or her, the bidder's suitability to the particular task, and such other qualities as are found necessary to consider in order to determine whether or not, if awarded the contract, he or she could perform it strictly in accordance with its terms. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

Public bodies do not act ministerially only, but exercise an official discretion when passing upon the question of the responsibility of bidders. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

When responsible bidders submit identical bids, the public body must award the contract to the lowest of the responsible bidders. Rath v. City of Sutton, 267 Neb. 265, 673 N.W.2d 869 (2004).

City council may, in specifications for municipal sewage treatment plant, permit bidders to propose and fix time for completion of proposed works, and may reserve right to omit any or all of separate items from contract for which separate price proposals are asked after bids are opened and before contract awarded, without rendering bidding unlawful. Best v. City of Omaha, 138 Neb. 325, 293 N.W. 116 (1940).

18-508 Service beyond corporate limits; conditions; contracts with users.

The owner of any sewerage system or sewage disposal plant, provided for in sections 18-501 to 18-507, or the city or village in which such system or plant is located, is authorized to extend such system or plant beyond the corporate limits of the city or village which it serves, under the same conditions as nearly as may be as within the corporate limits of such city or village and to charge to users of its services reasonable and fair rates consistent with those charged or which might be charged within such corporate limits and consistent with the

expense of extending and maintaining such system or plant for the users thereof outside such corporate limits at a fair return to the owner thereof. The mayor and city council of any city or the board of trustees of any village shall have authority to enter into contracts with users of such sewerage system or sewage disposal plant, except that no contract shall provide for furnishing of such service for a period in excess of twenty years.

Source: Laws 1937, c. 41, § 5, p. 182; C.S.Supp.,1941, § 18-1409; R.S. 1943, § 18-508; Laws 1951, c. 19, § 4, p. 100; Laws 1957, c. 41, § 1, p. 217; Laws 2021, LB163, § 38.

18-509 Rental and use charges; collection; use.

(1) The mayor and city council of any city or the board of trustees of any village, in addition to other sources of revenue available to the city or village, may by ordinance set up a rental or use charge, to be collected from users of any system of sewerage, and provide methods for collection of such rental or use charge. The charges shall be charged to each property served by the sewerage system, shall be a lien upon the property served, and may be collected either from the owner or the person, firm, or corporation requesting the service.

(2) All money raised from the charges referred to in subsection (1) of this section shall be used for maintenance or operation of the existing system of sewerage, for payment of principal and interest on bonds issued as is provided for in section 17-925, 18-502, 18-506, or 19-1305, or to create a reserve fund for the purpose of future maintenance or construction of a new sewer system for the city or village. Any funds raised from this charge shall be placed in a separate fund and not be used for any other purpose or diverted to any other fund.

Source: Laws 1951, c. 19, § 5, p. 101; Laws 1957, c. 40, § 3, p. 215; Laws 1971, LB 883, § 1; Laws 2021, LB163, § 39.

Provision for sewer rental or use charges did not conflict with similar charges authorized for cities of the metropolitan class. Metropolitan Utilities Dist. v. City of Omaha, 171 Neb. 609, 107 N.W.2d 397 (1961).

18-510 Terms, defined; applicability of sections.

The terms sewage system, sewerage system, and disposal plant or plants as used in sections 18-501 to 18-511 are defined to mean and include any system or works above or below ground which has for its purpose any or all of the following: The removal, discharge, conduction, carrying, treatment, purification, or disposal of the liquid and solid waste of a city or village. It is intended that sections 18-501 to 18-512 may be employed in connection with sewage projects which do not include the erection or enlargement of a sewage disposal plant.

Source: Laws 1951, c. 19, § 6, p. 101; Laws 1995, LB 589, § 2; Laws 2021, LB163, § 40.

18-511 Sections, how construed.

Sections 18-501 to 18-512 shall be construed as independent, supplemental, and in addition to any other laws of the State of Nebraska relating to sewage disposal plants and sewerage systems in cities and villages. Such sections shall

not be considered amendatory of or limited by any other provision of the laws of the State of Nebraska.

Source: Laws 1951, c. 19, § 7, p. 101; Laws 1969, c. 51, § 64, p. 312; Laws 2021, LB163, § 41.

18-512 Anti-pollution-of-water measures; special levy.

For the purpose of creating a fund out of which anti-pollution-of-water measures may be financed, any city or village in this state is hereby authorized and empowered to make a special levy of not exceeding three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property within such city or village, the proceeds of such levy to be used for such measures.

Source: Laws 1955, c. 49, § 1, p. 168; Laws 1961, c. 37, § 3, p. 164; Laws 1979, LB 187, § 68; Laws 1992, LB 719A, § 69; Laws 1996, LB 1114, § 33; Laws 2021, LB163, § 42.

ARTICLE 6

SUBWAYS AND VIADUCTS

Section

18-601. Construction; federal aid; plans; assumption of liability; condemnation procedure.
18-602. Grade crossing projects; effect on railroads.
18-603. Streets and highways; use.
18-604. Private property; condemnation; ordinance; requirements.
18-605. Repealed. Laws 1951, c. 101, § 127.
18-606. Repealed. Laws 1951, c. 101, § 127.
18-607. Repealed. Laws 1951, c. 101, § 127.
18-608. Repealed. Laws 1951, c. 101, § 127.
18-609. Repealed. Laws 1951, c. 101, § 127.
18-610. Bonds; election; notice; failure to approve; effect.
18-611. Bonds; terms; payment.
18-612. Bonds; vesting of powers.
18-613. Department of Transportation; construction contracts authorized.
18-614. Damages; payment methods.
18-615. Funds; appropriation not required.
18-616. Repealed. Laws 1951, c. 101, § 127.
18-617. Construction; resolution; notice.
18-618. Construction; contracts and agreements; conditions.
18-619. Inability to reach agreement; complaint; service; railroad company; duties.
18-620. Complaint; hearing.
18-621. Order; contents; filing; service; dismissal of petition.
18-622. Order; appeal; transcript; cost; standard of review.
18-623. Construction; approval by electors; ballot; appeal; effect.
18-624. Approval by electors; governing body; powers.
18-625. Approval by electors; governing body; duties.
18-626. Streets and highways; use.
18-627. Private property; condemnation; resolution; requirements; procedure.
18-628. Repealed. Laws 1951, c. 101, § 127.
18-629. Repealed. Laws 1951, c. 101, § 127.
18-630. Repealed. Laws 1951, c. 101, § 127.
18-631. Repealed. Laws 1951, c. 101, § 127.
18-632. Repealed. Laws 1951, c. 101, § 127.
18-633. Construction; cost; deposit; mandamus.
18-634. Construction; contract; letting.
18-635. Railroad company; obligations; sections; effect.
18-636. Sections, how construed.

18-601 Construction; federal aid; plans; assumption of liability; condemnation procedure.

Any city or village shall have power by ordinance to avail itself of federal funds for the construction within the city or village limits of subways, viaducts, and approaches thereto, over or under railroad tracks, and may authorize agreements with the Department of Transportation to construct such subways or viaducts, which shall be paid for out of funds furnished by the federal government. Such ordinance shall approve detailed plans and specifications for such construction, including a map showing the exact location that such subway or viaduct is to occupy, which shall be kept on file with the city clerk or village clerk and be open to public inspection. The ordinance shall make provision for the assumption of liability and payment of consequential damages to property owners resulting from such proposed construction and payment of damages for property taken therefor. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1935, Spec. Sess., c. 34, § 1, p. 196; C.S.Supp.,1941, § 18-901; R.S.1943, § 18-601; Laws 1947, c. 47, § 1, p. 166; Laws 1951, c. 101, § 61, p. 475; Laws 2017, LB339, § 79; Laws 2021, LB163, § 43.

18-602 Grade crossing projects; effect on railroads.

Grade crossing projects within the boundaries of a municipality shall be undertaken on a basis that will impose no involuntary contributions on the affected railroads except as provided by 23 U.S.C. 130(b) and (c), as such sections existed on January 1, 2021, and shall not interfere with the use of present railroad tracks without the consent of such railroads.

Source: Laws 1935, Spec. Sess., c. 34, § 2, p. 197; C.S.Supp.,1941, § 18-1902; R.S.1943, § 18-602; Laws 1947, c. 47, § 2, p. 166; Laws 2021, LB163, § 44.

Where the primary purpose and effect of an improvement is to benefit the public, the improvement is not local though it may incidentally benefit property in the particular locality. Hinman v. Temple, 133 Neb. 268, 274 N.W. 605 (1937).

18-603 Streets and highways; use.

Any city or village that constructs subways or viaducts as provided in section 18-601 may appropriate an existing street or highway for such subway or viaduct and may acquire, extend, widen, or enlarge any street or highway for such purpose.

Source: Laws 1935, Spec. Sess., c. 34, § 3, p. 197; C.S.Supp.,1941, § 18-1903; R.S.1943, § 18-603; Laws 2021, LB163, § 45.

18-604 Private property; condemnation; ordinance; requirements.

When it becomes necessary to appropriate or damage any private property for the construction of a viaduct or subway as provided in section 18-601, such appropriation shall be made by ordinance. Such ordinance shall be published once each week for three weeks in a legal newspaper published in or of general circulation in such city or village. Such publication shall be sufficient notice to the owners, occupants, and parties interested, and all parties having equitable interests therein.

Source: Laws 1935, Spec. Sess., c. 34, § 4, p. 197; C.S.Supp.,1941, § 18-1904; R.S.1943, § 18-604; Laws 2021, LB163, § 46.

18-605 Repealed. Laws 1951, c. 101, § 127.

18-606 Repealed. Laws 1951, c. 101, § 127.

18-607 Repealed. Laws 1951, c. 101, § 127.

18-608 Repealed. Laws 1951, c. 101, § 127.

18-609 Repealed. Laws 1951, c. 101, § 127.

18-610 Bonds; election; notice; failure to approve; effect.

The original ordinance authorizing construction of subways or viaducts as provided in section 18-601 shall also give notice of an election to authorize issuance of bonds, for such amount as may be necessary to pay for right-of-way and damages. A majority of those voting shall be sufficient to carry authority to issue bonds, as provided in sections 18-610 to 18-612. A failure to approve the issue of bonds shall cancel all proceedings, except that in that event, the city or village shall pay the cost of survey and preparation of plans and specifications that have been filed and may levy a tax for that purpose.

Source: Laws 1935, Spec. Sess., c. 34, § 10, p. 199; C.S.Supp.,1941, § 18-1910; R.S.1943, § 18-610; Laws 1951, c. 101, § 62, p. 476; Laws 1971, LB 534, § 23; Laws 2021, LB163, § 47.

18-611 Bonds; terms; payment.

Upon approval of the issuance of bonds pursuant to section 18-610, a city or village may, without further vote of the electors, issue negotiable bonds in such amount as may be needed to pay for acquisition, extension, or enlargement of any street or highway, and the amount of damages that may accrue by the appropriation thereof and construction of viaducts or subways pursuant to section 18-601. Such bonds shall draw interest and may be sold at not less than par, shall be payable in annual installments over a period of not to exceed twenty years, and shall be subject to retirement at the option of the city or village at any time after five years. Such bonds shall be payable out of the general fund, and the city or village shall annually make a levy and an appropriation for the payment of interest and the installment of the principal.

Source: Laws 1935, Spec. Sess., c. 34, § 11, p. 199; C.S.Supp.,1941, § 18-1911; R.S.1943, § 18-611; Laws 1969, c. 51, § 65, p. 312; Laws 2021, LB163, § 48.

18-612 Bonds; vesting of powers.

On the approval of a bond issue pursuant to section 18-610, the mayor and city council or village board of trustees shall be vested with all the powers provided for them in sections 18-601 to 18-614, without such powers having been specifically mentioned in the ordinance authorizing construction of subways and viaducts pursuant to section 18-601.

Source: Laws 1935, Spec. Sess., c. 34, § 12, p. 199; C.S.Supp.,1941, § 18-1912; R.S.1943, § 18-612; Laws 2021, LB163, § 49.

18-613 Department of Transportation; construction contracts authorized.

The Department of Transportation shall be authorized to enter into contracts for the construction of viaducts or subways, in accordance with plans and

specifications approved under section 18-601, immediately upon the approval by the voters of the issuance of bonds under section 18-610.

Source: Laws 1935, Spec. Sess., c. 34, § 13, p. 199; C.S.Supp.,1941, § 18-1913; R.S.1943, § 18-613; Laws 2017, LB339, § 80; Laws 2021, LB163, § 50.

18-614 Damages; payment methods.

In lieu of, or in addition to, the issuance of bonds under section 18-610, the city council or village board of trustees may issue warrants for the payment of damages, and levy taxes, if necessary, to provide funds for their payment, or may temporarily borrow any funds in the treasury belonging to any other fund, for the purpose of making the payments required under sections 18-601 to 18-615, restoring such funds within a reasonable time.

Source: Laws 1935, Spec. Sess., c. 34, § 14, p. 200; C.S.Supp.,1941, § 18-1914; R.S.1943, § 18-614; Laws 2021, LB163, § 51.

18-615 Funds; appropriation not required.

No previous annual appropriation of funds shall be required as a condition precedent to disbursement of any funds for the purpose of carrying out the objects of section 18-601.

Source: Laws 1935, Spec. Sess., c. 34, § 15, p. 200; C.S.Supp.,1941, § 18-1915; R.S.1943, § 18-615.

18-616 Repealed. Laws 1951, c. 101, § 127.

18-617 Construction; resolution; notice.

Whenever the governing body of any city or village within the state believes the construction of a viaduct over or subway under the track or tracks of any railroad within its corporate limits is necessary for the public safety, convenience, and welfare, such governing body shall pass a resolution so declaring. The governing body shall publish a notice of the passage of such resolution six consecutive days in a legal newspaper published in or of general circulation in such city or village or, if there is no such daily legal newspaper, then two consecutive weeks in a weekly legal newspaper published in or of general circulation in such city or village. The notice of the passage of such resolution shall include an exact copy of the resolution.

Source: Laws 1949, c. 28, § 1, p. 103; Laws 2021, LB163, § 52.

18-618 Construction; contracts and agreements; conditions.

After the passage and publication of a resolution as provided in section 18-617, a city or village shall have authority to enter into contracts and agreements with any railroad company or companies over or under whose railroad a viaduct or subway is to be constructed providing for the construction and maintenance of such viaduct or subway and for the apportionment of the costs thereof. Such agreement or contract shall not be effective nor shall any work be commenced until after such matter is submitted to a vote of the electors as provided in section 18-623.

Source: Laws 1949, c. 28, § 2, p. 103; Laws 2021, LB163, § 53.

18-619 Inability to reach agreement; complaint; service; railroad company; duties.

If no agreement can be reached between a city or village and a railroad company or companies for construction or the division of the costs thereof as provided in section 18-618, the city or village shall file a complaint by the city attorney or village attorney with the city clerk or village clerk on behalf of such city or village. The complaint shall allege therein (1) the passage of the resolution referred to in section 18-617, (2) the location of the proposed viaduct or subway, (3) any facts which may show or tend to show why the proposed improvement is necessary for the public safety, convenience, and welfare, and (4) that the city or village and the railroad company or companies are unable to agree as to the construction or the division of the cost thereof and ask the governing body to make an order relative to such construction and apportioning the cost thereof between the railroad company or companies and the city or village. A copy of such complaint shall be served upon the railroad company or companies affected. Thereafter, within a reasonable time to be fixed by the governing body, such railroad company or companies shall file with the city clerk or village clerk plans and specifications for such viaduct or subway requested in such complaint, together with an estimate by such railroad or railroads of the cost of construction and maintenance thereof.

Source: Laws 1949, c. 28, § 3, p. 103; Laws 2021, LB163, § 54.

18-620 Complaint; hearing.

Upon the filing of a complaint and after the filing of plans and specifications as provided in section 18-619, the governing body shall fix a time for hearing such complaint and give notice thereof to the railroad company or companies. At the time so fixed the governing body shall sit as a board of equalization and assessment and at such hearing shall receive and hear such evidence as may be offered on the question of whether public safety, convenience, and welfare require the construction of such viaduct or subway, whether or not the cost of such viaduct or subway will exceed the benefits to be derived therefrom, and evidence on the question of the extent to which such railroad company or companies and the public will be respectively benefited by the construction of such viaduct or subway.

Source: Laws 1949, c. 28, § 4(1), p. 104; Laws 2021, LB163, § 55.

18-621 Order; contents; filing; service; dismissal of petition.

Upon the conclusion of the hearing provided for in section 18-620, the governing body, as a board of equalization, shall make an order determining: (1) Whether or not the construction of the viaduct or subway is necessary for the public safety, convenience, and welfare; (2) whether or not the cost of such viaduct or subway will exceed the benefits to be derived therefrom; and (3) the proportion of the total benefits from the construction of such viaduct or subway to be derived by the public and by the railroad company or companies respectively and shall apportion the cost of construction and maintenance of such viaduct or subway in the proportions found and shall apportion to the city or village and the railroad company or companies respectively such proportion of the cost of construction and maintenance of such viaduct or subway as the governing body shall find the public and railroad company or companies are respectively benefited. Such order shall include the governing body's estimate

of the cost of the proposed viaduct or subway including the cost of approaches and damages caused to any property by construction thereof. A copy of such order together with the plans, specifications, and estimates made therein shall be signed by the presiding officer and a majority of the members of the governing body who concur therein, and filed with the city clerk or village clerk and a copy thereof served on the railroad company or companies, parties thereto. If the governing body shall find that construction of such viaduct or subway is not necessary for public safety, convenience, or welfare or that the cost thereof exceeds the benefits to be derived therefrom, it shall dismiss such complaint.

Source: Laws 1949, c. 28, § 4(2), p. 104; Laws 2021, LB163, § 56.

18-622 Order; appeal; transcript; cost; standard of review.

If any railroad company is dissatisfied with an order issued as provided in section 18-621, such company may appeal such order to the district court in the county in which such city or village is situated. Such appeal shall be perfected by the railroad company filing, with the city clerk or village clerk of such city or village within ten days after such order is served, a written notice of its intention to appeal. Within twenty days after the filing of such notice of appeal, the city clerk or village clerk shall file with the clerk of the district court of such county a transcript containing the complaint and the order appealed from together with such other documents as may have been filed in such proceedings. The railroad company appealing shall pay to the city clerk or village clerk the cost of preparing such transcript. Upon such appeal the district court, without jury, shall hear and determine de novo all of the issues determined by the governing body except the question of whether or not the construction of such viaduct or subway is necessary for the public safety, convenience, and welfare. The court shall hear and determine such an appeal promptly and speedily, and the court's decision shall be subject to review by appeal or otherwise as other judgments of the district court are reviewable.

Source: Laws 1949, c. 28, § 4(3), p. 105; Laws 2021, LB163, § 57.

18-623 Construction; approval by electors; ballot; appeal; effect.

The governing body of a city or village shall, after agreeing with a railroad company or companies as provided in section 18-618 or after an order, other than one of dismissal, of the governing body, sitting as a board of equalization as provided in sections 18-620 to 18-622, at the next general election or at a special election called for the purpose, submit to the electors of the city or village the question of whether such city or village and railroad company or companies shall construct and maintain a viaduct or subway in accordance with any agreement made or in accordance with the order of the governing body of such city or village, and whether such city or village shall have the power to levy taxes or borrow money and pledge the property and credit of such city or village upon its negotiable bonds to pay its proportion of all costs connected therewith. The ballot shall contain concise statements, to be prepared by the city attorney or village attorney, of the original ordinance declaring the necessity and, if such viaduct or subway is to be constructed under the provisions of any agreement, a concise statement of the provisions of the agreement or, if it is to be constructed by virtue of an order of the governing body, a concise statement of such order, and in any instance a statement of the

estimated amount of the costs of the construction and maintenance of such viaduct or subway, including the cost of acquisition of or damage to property to be borne by such city or village and the method by which the share of such costs of such city or village is to be obtained. The city or village may, at its option, proceed with such election notwithstanding the pendency of any appeal of any railroad company as provided in section 18-622.

Source: Laws 1949, c. 28, § 5, p. 105; Laws 2021, LB163, § 58.

18-624 Approval by electors; governing body; powers.

If a majority of those voting on the proposition of the construction of a viaduct or subway approve such construction by their vote, the governing body of the city or village shall have the power to levy taxes, borrow money, and pledge the property and credit of such city or village upon its negotiable bonds in an amount not exceeding its proportion of the aggregate cost of the construction and maintenance of such viaduct or subway, and to pay for the acquisition of or damage to property by reason of such construction.

Source: Laws 1949, c. 28, § 6, p. 106; Laws 2021, LB163, § 59.

18-625 Approval by electors; governing body; duties.

If the construction of a viaduct or subway is approved by the electors as provided in section 18-624, the governing body of the city or village shall (1) by resolution approve the detailed plans and specifications for such construction, including a map showing the exact location of such viaduct or subway, (2) by resolution make provision for the assumption of liability, the payment of consequential damages to property owners resulting from such proposed construction, and the payment of damages for property taken therefor, and (3) award and pay damages as provided in sections 76-704 to 76-724.

Source: Laws 1949, c. 28, § 7, p. 106; Laws 1953, c. 39, § 1, p. 133; Laws 2021, LB163, § 60.

18-626 Streets and highways; use.

A city or village constructing a viaduct or subway as provided in sections 18-617 to 18-636 may appropriate any existing street or highway therefor and may acquire, extend, widen, or enlarge any street or highway for such purpose.

Source: Laws 1949, c. 28, § 8, p. 107; Laws 2021, LB163, § 61.

18-627 Private property; condemnation; resolution; requirements; procedure.

When it becomes necessary to appropriate or damage any private property for the construction of a viaduct or subway as provided in sections 18-617 to 18-636, such appropriation shall be made by resolution. The resolution shall be published once each week for three weeks in a legal newspaper published in or of general circulation in such city or village. The publication shall be sufficient notice to the owners, occupants, and parties interested, and all parties having equitable interest therein. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1949, c. 28, § 9, p. 107; Laws 1951, c. 101, § 63, p. 476; Laws 2021, LB163, § 62.

18-628 Repealed. Laws 1951, c. 101, § 127.

18-629 Repealed. Laws 1951, c. 101, § 127.

18-630 Repealed. Laws 1951, c. 101, § 127.

18-631 Repealed. Laws 1951, c. 101, § 127.

18-632 Repealed. Laws 1951, c. 101, § 127.

18-633 Construction; cost; deposit; mandamus.

When any viaduct or subway construction project has been agreed to or when the division of costs has been otherwise finally determined and when such proposal has been approved by a vote as provided in sections 18-617 to 18-636, the railroad company or companies affected shall within ten days' notice or demand deposit with the city treasurer or village treasurer the amount of its proportionate share. The district court is hereby given jurisdiction upon the application of the governing body of the city or village to compel such deposit by mandamus together with such penalties as may be found and deemed reasonable by the court.

Source: Laws 1949, c. 28, § 15, p. 109; Laws 2021, LB163, § 63.

18-634 Construction; contract; letting.

After a city or village has made provisions for financing its proportionate share of the costs and has complied with the provisions of sections 18-617 to 18-636, and the provisions of section 18-633 have been complied with, such city or village shall proceed to construct, in accordance with plans and specifications previously approved, the viaduct or subway, or such city or village is hereby authorized to contract for such construction in accordance with such plans and specifications. Any such contract shall be awarded as provided by law.

Source: Laws 1949, c. 28, § 16, p. 109; Laws 2021, LB163, § 64.

18-635 Railroad company; obligations; sections; effect.

Nothing in sections 18-617 to 18-636 shall modify, change, or abrogate any obligation of any railroad company or companies to maintain, reconstruct, or keep in repair any viaduct or subway previously built or any replacement of such viaduct or subway under any agreement, statute, or ordinance previously in effect.

Source: Laws 1949, c. 28, § 17, p. 109; Laws 2021, LB163, § 65.

This section is not a special saving clause but is a proviso. State ex rel. City of Grand Island v. Union Pacific R. R. Co., 152 Neb. 772, 42 N.W.2d 867 (1950).

18-636 Sections, how construed.

Sections 18-617 to 18-636 shall be construed as independent, supplemental, and in addition to any other laws of the State of Nebraska relating to the elimination of grade crossings, and shall be deemed to provide the entire powers, facilities, and expenditures necessary to accomplish the elimination of grade crossings in the manner provided. No other provision of law shall be effectual as a limitation upon the powers or proceedings contained in such

sections, but other provisions of law may be relied upon to supplement and effectuate the purposes of such sections.

Source: Laws 1949, c. 28, § 18, p. 109; Laws 2021, LB163, § 66.

This section is not a special saving clause but is a proviso. State ex rel. City of Grand Island v. Union Pacific R. R. Co., 152 Neb. 772, 42 N.W.2d 867 (1950).

ARTICLE 7
PUBLIC DOCKS

Section
18-701. Transferred to section 13-1401.
18-701.01. Transferred to section 13-1402.
18-702. Transferred to section 13-1403.
18-703. Transferred to section 13-1404.
18-704. Transferred to section 13-1405.
18-705. Transferred to section 13-1406.
18-706. Transferred to section 13-1407.
18-707. Transferred to section 13-1408.
18-708. Transferred to section 13-1409.
18-709. Transferred to section 13-1410.
18-710. Transferred to section 13-1411.
18-711. Transferred to section 13-1412.
18-712. Transferred to section 13-1413.
18-713. Transferred to section 13-1414.
18-714. Transferred to section 13-1415.
18-715. Transferred to section 13-1416.
18-716. Transferred to section 13-1417.

18-701 Transferred to section 13-1401.

18-701.01 Transferred to section 13-1402.

18-702 Transferred to section 13-1403.

18-703 Transferred to section 13-1404.

18-704 Transferred to section 13-1405.

18-705 Transferred to section 13-1406.

18-706 Transferred to section 13-1407.

18-707 Transferred to section 13-1408.

18-708 Transferred to section 13-1409.

18-709 Transferred to section 13-1410.

18-710 Transferred to section 13-1411.

18-711 Transferred to section 13-1412.

18-712 Transferred to section 13-1413.

18-713 Transferred to section 13-1414.

18-714 Transferred to section 13-1415.

18-715 Transferred to section 13-1416.

18-716 Transferred to section 13-1417.

ARTICLE 8

REGIONAL METROPOLITAN TRANSIT AUTHORITY ACT

Section
18-801. Act, how cited.
18-802. Legislative findings and declarations.
18-803. Terms, defined.
18-804. Regional metropolitan transit authority; conversion from transit authority; vote; powers and authority; municipality; request to join; vote; decision to leave; vote; operating jurisdiction of authority.
18-805. Act, how construed; limit on creation of authority.
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18-801 Act, how cited.

Sections 18-801 to 18-825 shall be known and may be cited as the Regional Metropolitan Transit Authority Act.

Source: Laws 2019, LB492, § 1.

18-802 Legislative findings and declarations.

The Legislature finds and declares that:

(1) Passenger, truck, and pedestrian traffic on streets located in municipalities within metropolitan statistical areas or combined statistical areas have been and continue to be severely congested by the number of motor vehicles operating within such municipalities;

(2) Such existing traffic congestion has created a dangerous hazard to the lives and property of pedestrians and those traveling in private and public vehicles and obstructs the administration of firefighting forces and police protection forces in such municipalities;

(3) The availability of public transportation within such municipalities plays an increasing role in the recruitment and retention of both businesses and employees within such municipalities;

(4) Public transportation fosters economic development, real estate investment, and local job creation, and investment in new public transportation projects provides both short-term and long-term impacts on economic growth;

(5) Interconnectivity of public transportation systems across multiple municipalities within the same metropolitan statistical area or combined statistical area can play a critical role in fostering economic growth, avoiding duplication of service, ensuring equitable access to transportation service throughout contiguous urbanized areas, and supporting transportation that crosses jurisdictional boundaries; and

(6) Relieving congestion on the streets of such municipalities and providing for the establishment of comprehensive regional public transportation systems in such municipalities is a matter of public interest and statewide concern.

Source: Laws 2019, LB492, § 2.

18-803 Terms, defined.

For purposes of the Regional Metropolitan Transit Authority Act:

(1) Board means the board of directors of any regional metropolitan transit authority established under the Regional Metropolitan Transit Authority Act;

(2) Combined statistical area means two or more adjacent metropolitan statistical areas or micropolitan statistical areas delineated by the United States Office of Management and Budget as a combined statistical area under standards developed using data from the 2010 Census of Population by the United States Bureau of the Census, and data from the 2006-2010 American Community Survey 5-Year Estimate by the United States Bureau of the Census, as such delineations existed on April 10, 2018;

(3) Governing body means the city council of a city or the village board of trustees of a village;

(4) Metropolitan statistical area means a core-based statistical area delineated by the United States Office of Management and Budget as a metropolitan statistical area under standards developed using data from the 2010 Census of Population by the United States Bureau of the Census, and data from the 2006-2010 American Community Survey 5-Year Estimate by the United States Bureau of the Census, as such delineations existed on April 10, 2018;

(5) Micropolitan statistical area means a core-based statistical area delineated by the United States Office of Management and Budget as a micropolitan statistical area under standards developed using data from the 2010 Census of Population by the United States Bureau of the Census, and data from the 2006-2010 American Community Survey 5-Year Estimate by the United States Bureau of the Census, as such delineations existed on April 10, 2018;

(6) Municipality means any city or village in the State of Nebraska;

(7) Revenue bonds means revenue bonds issued by a regional metropolitan transit authority established under the Regional Metropolitan Transit Authority Act; and

(8) Territory means the operating jurisdiction of a regional metropolitan transit authority as established pursuant to section 18-804.

Source: Laws 2019, LB492, § 3.

18-804 Regional metropolitan transit authority; conversion from transit authority; vote; powers and authority; municipality; request to join; vote; decision to leave; vote; operating jurisdiction of authority.

(1) A transit authority established under the Transit Authority Law which serves one or more municipalities located within the same metropolitan statistical area or combined statistical area may convert into a regional metropolitan transit authority upon a two-thirds vote of the board of directors of such transit authority. As of the effective date of such conversion, to be specified at the time of such vote, such transit authority shall remain a body corporate and politic and a governmental subdivision of the State of Nebraska, but thereafter shall be known as the Regional Metropolitan Transit Authority of .... (filling out the blank with the name of the municipality that established the transit authority under the Transit Authority Law or of the municipality, municipalities, region, metropolitan statistical area, or combined statistical area comprising the regional metropolitan transit authority). In addition to the powers and authority granted under the Transit Authority Law, such regional metropolitan transit authority shall have and possess all of the powers and authority of, together with the duties and responsibilities of, a regional metropolitan transit authority pursuant to the Regional Metropolitan Transit Authority Act. The operating jurisdiction of such regional metropolitan transit authority shall be deemed to extend to all areas within the boundaries of the municipality that established the transit authority under the Transit Authority Law, as may thereafter be expanded.

(2)(a) At any time after a transit authority established under the Transit Authority Law has converted into a regional metropolitan transit authority, any municipality that is within the same metropolitan statistical area or combined statistical area as such regional metropolitan transit authority may decide, by a two-thirds vote of its governing body, to request to join such regional metropolitan transit authority. Upon approval of such request by a two-thirds vote of the board of directors of such regional metropolitan transit authority, the operating jurisdiction of such regional metropolitan transit authority shall be deemed to extend to all areas within the boundaries of such municipality, as may thereafter be expanded.

(b) At any time after a municipality has joined a regional metropolitan transit authority pursuant to subdivision (2)(a) of this section, such municipality may decide, by a two-thirds vote of its governing body, to leave such regional metropolitan transit authority. Following such vote, the governing body shall transmit a copy of the resolution to leave the regional metropolitan transit authority to the board of such regional metropolitan transit authority. As provided in subsection (2) of section 18-808, the operating jurisdiction of such regional metropolitan transit authority shall no longer extend to areas within the boundaries of such municipality.

(3) Any regional metropolitan transit authority established pursuant to this section shall have full and exclusive jurisdiction and control over all public passenger transportation facilities and systems that are owned, controlled, operated, or acquired by such regional metropolitan transit authority or that are located in any municipality in which such authority shall be deemed to have operating jurisdiction pursuant to this section, excluding taxicabs, transportation network companies, and interstate railroad systems, with the right and duty to charge and collect revenue for the operation and maintenance of such

systems and for the benefit of the holders of any of its revenue bonds or other liabilities.

Source: Laws 2019, LB492, § 4.

Cross References

Transit Authority Law, see section 14-1826.

18-805 Act, how construed; limit on creation of authority.

(1) Nothing in the Regional Metropolitan Transit Authority Act shall be construed to prohibit any municipality from contracting directly for passenger transportation services with a transit authority established under the Transit Authority Law or with any regional metropolitan transit authority, other than a municipality in which the operating jurisdiction of a regional metropolitan transit authority has been extended pursuant to section 18-804.

(2) No more than one regional metropolitan transit authority shall be created within a single metropolitan statistical area or combined statistical area.

Source: Laws 2019, LB492, § 5.

Cross References

Transit Authority Law, see section 14-1826.

18-806 Calculation of allowable growth under Nebraska Budget Act.

For purposes of calculating allowable growth under the Nebraska Budget Act, the following shall be treated as an annexation of territory by a regional metropolitan transit authority:

(1) If the municipality that established the transit authority prior to the conversion of such authority into a regional metropolitan transit authority annexes additional territory after such conversion; or

(2) If any other municipality which joined such regional metropolitan transit authority pursuant to subsection (2) of section 18-804 annexes additional territory after joining such regional metropolitan transit authority.

Source: Laws 2019, LB492, § 6.

Cross References

Nebraska Budget Act, see section 13-501.

18-807 Regional metropolitan transit board; name; temporary board; vacancy.

(1) The governing body of a regional metropolitan transit authority shall be a board to be known as the Regional Metropolitan Transit Board of . . . . . (filling out the blank to coincide with the name of such regional metropolitan transit authority).

(2) As of the effective date of the conversion of a transit authority established under the Transit Authority Law into a regional metropolitan transit authority under section 18-804, the board of the existing transit authority shall serve as the temporary board to govern the regional metropolitan transit authority until a board is elected pursuant to section 18-808.

(3) Any vacancy on the temporary board of a regional metropolitan transit authority shall be filled by appointment by the mayor of the city that appointed the members of such temporary board, with the approval of the governing

bodies of such municipalities, to serve the unexpired portion of the temporary board member's term.

Source: Laws 2019, LB492, § 7.

Cross References

Transit Authority Law, see section 14-1826.

18-808 Board; districts; redrawn; when; vacancy; appointment.

(1) Following the effective date of a conversion of a transit authority established under the Transit Authority Law into a regional metropolitan transit authority, the election commissioner or county clerk of the county in which the majority of the territory of the authority is located shall divide the territory of the authority into seven numbered districts for the purpose of electing members to the board. Such districts shall be compact and contiguous and substantially equal in population. The newly established districts shall be certified to the Secretary of State following such creation. The newly established districts shall apply beginning with the nomination and election of board members at the next statewide primary and general elections held at least seventy days after the effective date of such conversion. Following the drawing of initial districts pursuant to this section, additional redistricting shall be undertaken by the board according to section 32-553. One member shall be elected from each district as provided in section 32-551.

(2) Upon the joining of a municipality or municipalities to an existing regional metropolitan transit authority by agreement pursuant to subdivision (2)(a) of section 18-804, or upon a municipality leaving such regional metropolitan transit authority by vote pursuant to subdivision (2)(b) of section 18-804, the board shall redraw the boundaries of the districts to ensure that such districts remain compact and contiguous and substantially equal in population. The redrawn districts shall be certified to the Secretary of State within six months following the joining or leaving of such municipality or municipalities and shall apply beginning with the nomination and election of board members at the next statewide primary and general elections held at least seventy days after the certification of the districts.

(3) A vacancy in office for an elected member of the board shall occur as set forth in section 32-560. Whenever any such vacancy occurs, the remaining members of the board shall appoint an individual residing within the geographical boundaries of the district in which the vacancy occurred for the balance of the unexpired term.

Source: Laws 2019, LB492, § 8.

Cross References

Transit Authority Law, see section 14-1826.

18-809 Board; member; oath; bond.

Each member of the board, before entering upon the duties of office, shall file with the city clerk or village clerk of the municipality in which he or she resides an oath that he or she will duly and faithfully perform all the duties of the office to the best of his or her ability and a bond in the penal sum of five thousand dollars executed by one or more qualified sureties for the faithful performance of his or her duties. If any member fails to file such oath and bond on or before

the first day of the term for which he or she was appointed or elected, his or her office shall be deemed to be vacant.

Source: Laws 2019, LB492, § 9.

18-810 Board; organization; quorum; meetings; minutes; public records.

(1) Not later than seven days after the qualification of the members, the board shall organize for the transaction of business, shall select a chairperson and vice-chairperson from among its members, and shall adopt bylaws, rules, and regulations to govern its proceedings. The chairperson and vice-chairperson and their successors shall be elected annually by the board and shall serve for a term of one year. Any vacancy in the office of chairperson or vice-chairperson shall be filled by election by the board for the remainder of the term.

(2) A quorum for the transaction of business shall consist of four members of the board, unless such board is a temporary board under section 18-807, in which case a quorum shall consist of three members of the board.

(3) Regular meetings of the board shall be held at least once in each calendar month at a time and place to be fixed by the board.

(4) All actions of the board shall be by resolution except as may otherwise be provided in the Regional Metropolitan Transit Authority Act, and the affirmative vote of a majority of the board members shall be necessary for the adoption of any resolution.

(5) The board shall keep accurate minutes of all its proceedings. All resolutions and all proceedings of a regional metropolitan transit authority and all official documents and records of such authority shall be public records and open to public inspection, except for such documents which may be withheld from the public pursuant to section 84-712.05.

Source: Laws 2019, LB492, § 10.

18-811 Board; member; conflict of interest.

No member of the board and no officer or employee of a regional metropolitan transit authority shall have any private financial interest, profit, or benefit in any contract, work, or business of such authority or in the sale or lease of any property to or from such authority.

Source: Laws 2019, LB492, § 11.

18-812 Regional metropolitan transit authority; powers.

For purposes of the Regional Metropolitan Transit Authority Act, a regional metropolitan transit authority shall possess all of the necessary powers of a public body corporate and politic and governmental subdivision of the State of Nebraska, including, but not limited to:

(1) To maintain a principal office and, if necessary, satellite offices in the municipality or municipalities which form the authority;

(2) To adopt an official seal;

(3) To employ a general manager, engineers, accountants, attorneys, financial experts, and such other employees and agents as may be necessary and to fix the compensation of such employees and agents;

(4) To adopt, amend, and repeal bylaws, rules, and regulations for the regulation of its affairs and for the conduct of its business;

(5) To acquire, lease, own, maintain, and operate for public service a public transit system, excluding taxicabs, transportation network companies, and interstate railroad systems, within any municipality in which such authority (a) is deemed to have operating jurisdiction pursuant to section 18-804 or (b) is permitted to provide service under the Regional Metropolitan Transit Authority Act;

(6) To sue and be sued in its own name, but execution shall not, in any case, issue against any of its property, except that the lessor, vendor, or trustee under any agreement, lease, conditional sales contract, conditional lease contract, or equipment trust certificate, as provided for in subdivision (15) of this section, may repossess the equipment described therein upon default;

(7) To acquire, lease, and hold such real or personal property wherever located and any rights, interests, or easements therein as may be necessary or convenient for the purpose of the authority, including, but not limited to, the acquisition, leasing, and holding of any real property along a planned future public transit route, and to sell, assign, and convey such property;

(8) To make and enter into any and all contracts and agreements with (a) any individual, (b) any public or private corporation or agency of the State of Nebraska, (c) any public or private corporation or agency of any state of the United States that is adjacent to any municipality or municipalities (i) which form the authority in which such authority has operating jurisdiction pursuant to section 18-804 or (ii) in which such authority may otherwise be operating or providing service, and (d) the United States Government, as may be necessary or incidental to the performance of the duties of the authority and the execution of its powers under the Regional Metropolitan Transit Authority Act and to enter into agreements under the Interlocal Cooperation Act or the Joint Public Agency Act;

(9) To contract with an operating and management company for the purpose of operating, servicing, and maintaining any public transit system of the authority;

(10) To borrow money and issue and sell negotiable revenue bonds, notes, or other evidence of indebtedness, to provide for the rights of the holders thereof, and to pledge all or any part of the income of the authority received under the Regional Metropolitan Transit Authority Act to secure the payment thereof;

(11) To receive and accept from the United States Government or any agency thereof, from the State of Nebraska or any subdivision thereof, and from any person or corporation, donations or loans or grants for or in aid of the acquisition or operation of public transit facilities, and to administer, hold, use, and apply the same for the purposes for which such grants or donations may have been made;

(12) To exercise the right of eminent domain under and pursuant to the laws of the State of Nebraska to acquire private property, including any existing private passenger transportation system, but excluding any taxicabs, transportation network companies, railroads, and air passenger transportation systems, which is necessary for the public transit purposes of the authority, including the right to acquire rights and easements across, under, or over the rights-of-way of any railroad. Exercise of the right of eminent domain shall be pursuant to sections 76-704 to 76-724;

(13) To use for transportation of passengers and services or improvements related to such transportation, any public road, public street, or other public way in any municipality in which such authority is (a) deemed to have operating jurisdiction pursuant to section 18-804 or (b) permitted to provide service under the Regional Metropolitan Transit Authority Act, subject in all cases to the continuing rights of the public to the use thereof;

(14) To purchase and dispose of equipment and to execute any agreement, lease, conditional sales contract, conditional lease contract, or equipment trust note or certificate to effect such purpose;

(15) To pay for any equipment and rentals in installments and to give evidence by equipment trust notes or certificates of any deferred installments. Title to such equipment need not vest in the authority until the equipment trust notes or certificates are paid;

(16) To levy an annual property tax pursuant to section 18-822 for the fiscal year commencing on the following January 1, not to exceed in any one year ten cents on each one hundred dollars on the taxable value of the taxable property that at the time of the levy is located in, or during the ensuing fiscal year will be located in, any municipality in which such authority is deemed to have operating jurisdiction pursuant to section 18-804;

(17) To apply for and accept grants and loans from the United States Government, or any agency or instrumentality thereof, to be used for any of the authorized purposes of the authority, and to enter into any agreement with the United States Government, or any agency or instrumentality thereof, in relation to such grants or loans, subject to the Regional Metropolitan Transit Authority Act;

(18) To determine routes of any public transit system of the authority and to change such routes subject to the Regional Metropolitan Transit Authority Act;

(19) To fix rates, fares, and charges for any public transit system and related facilities of the authority;

(20) To provide free transportation for firefighters and police officers in uniform in the municipality or municipalities served by the authority in which they are employed or upon presentation of proper firefighter or police officer identification and for employees of such authority when in uniform;

(21) To enter into agreements with the United States Postal Service or its successors for the transportation of mail and letter carriers and the payment therefor;

(22) To exercise all powers usually granted to corporations, public and private, necessary or convenient to carry out the powers granted by the Regional Metropolitan Transit Authority Act; and

(23) To establish pension and retirement plans for officers and employees and to adopt any existing pension and retirement plans and any existing pension and retirement contracts for officers and employees of any passenger transportation system purchased or otherwise acquired pursuant to the Regional Metropolitan Transit Authority Act.

Source: Laws 2019, LB492, § 12.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

18-813 Revenue; use.

The revenue derived from rates, fares, and charges fixed under subdivision (19) of section 18-812, from property taxes levied pursuant to section 18-822, from any grants or loans received under subdivision (17) of section 18-812, and from any donations or other funds received from other sources shall at all times be sufficient in the aggregate to provide for the payment of (1) all operating costs of the regional metropolitan transit authority, (2) interest on the principal of all revenue bonds, revenue certificates, equipment trust notes or certificates, and other obligations of the authority, and all other charges upon such revenue as may be provided by any trust agreement executed by such authority in connection with the issuance of revenue bonds or certificates under the Regional Metropolitan Transit Authority Act, and (3) any other costs and charges, acquisitions, installations, replacements, or reconstruction of equipment, structures, or rights-of-way not financed through the issuance of revenue bonds or certificates.

Source: Laws 2019, LB492, § 13.

18-814 Retirement plan; report; contents; Auditor of Public Accounts; powers.

(1) Beginning on the first December 31 following the date of the conversion of a transit authority established under the Transit Authority Law into a regional metropolitan transit authority, and each December 31 thereafter, for a retirement plan established pursuant to subdivision (23) of section 18-812 or pursuant to subdivision (24) of section 14-1805 by any regional metropolitan transit authority which is a defined benefit plan, the chairperson of the board or his or her designee shall prepare and electronically file an annual report with the Auditor of Public Accounts and the Nebraska Retirement Systems Committee of the Legislature. The report shall be on a form prescribed by the Auditor of Public Accounts and shall include, but not be limited to, the following information:

(a) The levels of benefits of participants in the plan, the number of members who are eligible for a benefit, the total present value of such members' benefits, and the funding sources which will pay for such benefits; and

(b) A copy of a full actuarial analysis of each such defined benefit plan. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization which offers investment advice or provides investment management services to the retirement plan.

(2) The Auditor of Public Accounts may prepare a review of such report pursuant to section 84-304.02 but is not required to do so. If the authority does not submit a copy of the report to the Auditor of Public Accounts within six months after the end of the plan year, the Auditor of Public Accounts may audit, or cause to be audited, the authority. All costs of the audit shall be paid by the authority.

Source: Laws 2019, LB492, § 14.

Cross References

Transit Authority Law, see section 14-1826.

18-815 Regional metropolitan transit authority; finances; powers; issue bonds or certificates; powers and duties.

(1) A regional metropolitan transit authority shall have the continuing power to borrow money for the purpose of acquiring any transportation system and necessary cash or working funds, for reconstructing, extending, or improving any public transit system of the authority or any part thereof, and for acquiring any property and equipment useful for the reconstruction, extension, improvement, and operation of any public transit system of the authority or any part thereof.

(2) For purposes of evidencing the obligation of the authority to repay any money borrowed under this section, the authority may, pursuant to resolution adopted by the board from time to time, issue and dispose of its interest-bearing revenue bonds or certificates. The authority may also from time to time issue and dispose of its interest-bearing revenue bonds or certificates to refund any revenue bonds or certificates at maturity, or pursuant to redemption provisions, or at any time before maturity with the consent of the holders thereof.

(3) All such revenue bonds and certificates shall be payable solely from the revenue or income to be derived from the public transit system and related facilities, including, but not limited to, the revenue derived from rates, fares, and charges fixed under subdivision (19) of section 18-812, from property taxes levied pursuant to section 18-822, from any grants or loans received under subdivision (17) of section 18-812, and from any donations or other funds received from other sources. Such revenue bonds and certificates may bear such date or dates, may mature at such time or times as may be fixed by the board, may bear interest at such rate or rates as may be fixed by the board, payable semiannually, may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or places, may be made subject to redemption in such manner and upon such terms with or without premium as is stated on the face thereof, may be authenticated in such manner, and may contain such terms and covenants as may be provided in such resolution. Notwithstanding the form or tenor thereof, and in the absence of an express recital on the face thereof that they are nonnegotiable, all such revenue bonds and certificates shall be negotiable instruments.

(4) Pending the preparation and execution of any such revenue bonds or certificates, temporary bonds or certificates may be issued with or without interest coupons as may be provided by resolution of the board. To secure the payment of any or all of such temporary bonds or certificates, and for the purpose of setting forth the covenants and undertakings of the authority in connection with the issuance thereof and the issuance of any additional temporary bonds or certificates, as well as the use and application of the revenue or income to be derived from the public transit system, from property taxes levied, and from any grants or loans, as provided in the Regional Metropolitan Transit Authority Act, the authority may execute and deliver a trust agreement or agreements. No lien upon any physical property of the authority shall be created by such trust agreement or agreements. A remedy for any breach or default of the terms of any such trust agreement by the authority may be by mandamus or other appropriate proceedings in any court of competent jurisdiction to compel performance and compliance therewith. The

trust agreement may prescribe by whom or on whose behalf such action may be instituted.

Source: Laws 2019, LB492, § 15.

18-816 Revenue bonds or certificates; statement required.

Under no circumstances shall any revenue bonds or certificates issued by a regional metropolitan transit authority or any other obligation of such authority be or become an indebtedness or obligation of the State of Nebraska, or of any other political subdivision or body corporate and politic or of any municipality within the state, nor shall any such revenue bond, certificate, or obligation be or become an indebtedness of the authority within the purview of any constitutional limitation or provision, and it shall be plainly stated on the face of each revenue bond and certificate that it does not constitute such an indebtedness or obligation but is payable solely from revenue and income and other sources of revenue of such authority as provided in subsection (3) of section 18-815.

Source: Laws 2019, LB492, § 16.

18-817 Revenue bonds or certificates; sale as unit after advertising for bids.

Before any revenue bonds or certificates, excepting refunding bonds or certificates, are sold pursuant to section 18-815, the entire authorized issue, or any part thereof, shall be offered for sale as a unit after advertising for bids at least three times in a legal newspaper in or of general circulation in the municipality or municipalities served by the regional metropolitan transit authority, the last publication to be at least ten days before bids are required to be filed. Copies of such advertisement may also be published in any newspaper or financial publication in the United States. All bids shall be sealed, filed, and opened as provided by resolution adopted by the board, and the revenue bonds or certificates shall be awarded to the highest and best bidder or bidders therefor. The authority shall have the right to reject all bids and readvertise for bids in the manner provided for in the initial advertisement. If no bids are received, such revenue bonds or certificates may be sold at the best possible price according to the discretion of the board, without further advertising, and within thirty days after the bids are required to be filed pursuant to any advertisement.

Source: Laws 2019, LB492, § 17.

18-818 Revenue bonds; securities.

(1) Revenue bonds issued by a regional metropolitan transit authority under the Regional Metropolitan Transit Authority Act are hereby made securities in which (a) the state and all its political subdivisions and their officers, boards, commissions, departments, or other agencies, (b) all banks, bankers, savings banks, trust companies, savings and loan associations, investment companies, insurance associations, and other persons carrying on an insurance business, (c) all administrators, executors, guardians, trustees, and other fiduciaries, and (d) all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligation of the state, may properly and legally invest any funds, including capital belonging to them or within their control.

(2) Such revenue bonds or other securities or obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency of the state for any purpose for

which the deposit of bonds or other obligations of the state is authorized by law.

Source: Laws 2019, LB492, § 18.

18-819 Exemption from assessment and taxation; exceptions.

All property of a regional metropolitan transit authority created pursuant to the Regional Metropolitan Transit Authority Act, all such authority's revenue, income, and operations, and all such authority's revenue bonds and equipment trust notes or certificates shall be exempt from any and all forms of assessment and taxation by the state or any political subdivision thereof, except for assessments under the Nebraska Workers' Compensation Act and any combined tax due or payments in lieu of contributions as required under the Employment Security Law.

Source: Laws 2019, LB492, § 19; Laws 2022, LB780, § 2.
Effective date July 21, 2022.

Cross References

Employment Security Law, see section 48-601.
Nebraska Workers' Compensation Act, see section 48-1,110.

18-820 Use of revenue; agreements, leases, contracts, and equipment trust notes or certificates; authorized.

(1) A regional metropolitan transit authority may purchase equipment, may execute agreements, leases, conditional sales contracts, conditional lease contracts, and equipment trust notes or certificates in the form customarily used in such cases appropriate to effect such purchase, and may dispose of such equipment trust notes or certificates. All money required to be paid by the authority under such agreements, leases, and equipment trust notes or certificates shall be payable solely from the revenue or income to be derived from the public transit system and related facilities of the authority, including, without limitation, the revenue derived from rates, fares, and charges fixed under subdivision (19) of section 18-812, from property taxes levied pursuant to section 18-822, from any grants or loans received under subdivision (17) of section 18-812, and from any donations or other funds received from other sources. Payment for such equipment, or rentals therefor, may be made in installments, and the deferred installments may be evidenced by equipment trust notes or certificates payable solely from such sources of income, and title to such equipment need not vest in the authority until the equipment trust notes or certificates are paid, but when payment is accomplished the equipment title shall vest in the authority.

(2) Any such agreement to purchase equipment may direct the vendor to sell and assign the equipment to a bank or trust company, duly authorized to transact business in the State of Nebraska, as trustee, for the benefit and security of the equipment trust notes or certificates, may direct the trustee to deliver the equipment to one or more designated officers of the authority, and may authorize the trustee simultaneously therewith to execute and deliver a lease of the equipment to the authority.

(3) Any such agreements, leases, contracts, or equipment trust notes or certificates shall be duly acknowledged before some person authorized by law to take acknowledgments of deeds, and in the form required for acknowledgment of deeds, and such agreements, leases, contracts, and equipment trust

notes or certificates shall be authorized by resolution of the board and shall contain such covenants, conditions, and provisions as may be deemed necessary or appropriate to insure the payment of the equipment trust notes or certificates from the revenue and income of the authority.

(4) The covenants, conditions, and provisions of such agreements, leases, contracts, and equipment trust notes or certificates shall not conflict with any of the provisions of any trust agreement securing the payment of revenue bonds or certificates of the authority.

Source: Laws 2019, LB492, § 20.

18-821 Fiscal operating year; established; budget; certain expenditures; vote required; report and financial statement.

(1) At least thirty days prior to the beginning of the first full fiscal year following the effective date of the conversion of a transit authority established under the Transit Authority Law into a regional metropolitan transit authority, the board shall establish a fiscal operating year, and annually thereafter the board shall cause to be prepared a tentative budget which shall include all operation and maintenance expenses for the ensuing fiscal year. The tentative budget shall be considered by the board and, subject to any revision and amendments adopted by the board, shall be adopted prior to the first day of the ensuing fiscal year as the budget for that year. No expenditure for operations and maintenance in excess of the budget shall be made during any fiscal year except by a two-thirds vote of the board. It shall not be necessary to include in the annual budget any statement of interest or principal payments on revenue bonds or certificates or for capital outlays, but the board shall make provision for payment of the same from appropriate funds.

(2) As soon after the end of each fiscal year as practicable, the board shall cause to be prepared and printed a complete and detailed report and financial statement of its operations and of its assets and liabilities. A reasonably sufficient number of copies of such report shall be printed for distribution to persons interested upon request, and a copy shall be mailed to the mayor of the city or chairperson of the village board of trustees and the governing body of the municipality or municipalities that form the authority.

Source: Laws 2019, LB492, § 21.

Cross References

Transit Authority Law, see section 14-1826.

18-822 Tax levy.

(1) To assist in defraying the expenses of a regional metropolitan transit authority, and to such extent as in its discretion and judgment may be necessary, the board shall annually certify a tax levy for the fiscal year commencing on the following January 1. Such levy shall not exceed in any one year ten cents on each one hundred dollars on the taxable value of the taxable property that at the time of the levy is located in or during the ensuing fiscal year will be located in any municipality in which such authority shall be deemed to have operating jurisdiction pursuant to section 18-804.

(2) The board shall by resolution, on or before September 30 of each year, certify such tax levy to the county assessor of the county or counties in which the authority operates. If in any year the full amount so certified and collected

is not needed for the current purposes of such authority, the balance shall be credited to the operating fund of such authority and, as the board in its discretion deems convenient, to other reserve funds of such authority.

Source: Laws 2019, LB492, § 22; Laws 2021, LB644, § 9.

18-823 Rules and regulations.

The board shall adopt rules and regulations governing the operation of any public transit system of the regional metropolitan transit authority and shall determine all routes of such system. The board shall, subject to subdivision (19) of section 18-812, fix all rates, fares, and charges for transportation on such system.

Source: Laws 2019, LB492, § 23.

18-824 Board; rehabilitate, reconstruct, and modernize system; establish depreciation policy.

(1) The board shall, as promptly as possible, rehabilitate, reconstruct, and modernize all portions of any transportation system acquired by the regional metropolitan transit authority, maintain at all times an adequate and modern public transit system suitable and adapted to the needs of the municipality or municipalities that form such authority, and provide for safe, comfortable, convenient, and expeditious transit service.

(2) To ensure a modern, attractive public transit system, the board may establish a depreciation policy which makes provision for the continuous and prompt replacement of worn out and obsolete property. The board may make provision for such depreciation of property as is not offset by current expenditures for maintenance, repairs, and replacements under such rules and regulations as may be prescribed by the board.

Source: Laws 2019, LB492, § 24.

18-825 Employees; effect on collective-bargaining agreement.

(1) The board may negotiate and enter into written contracts with the employees of a regional metropolitan transit authority through accredited representatives of such employees or representatives of any labor organization authorized to act for such employees concerning wages, salaries, hours, and general working conditions. All employees of all classes serving any passenger transportation company at the time of its acquisition by such authority shall continue in their respective positions and at their respective compensation for three months after any such acquisition. Thereafter, the board shall exercise its discretion as to retention of and compensation of all classes, except that the terms and conditions of any existing collective-bargaining agreement between any passenger transportation company acquired by such authority and its employees shall be recognized and accepted by the board.

(2) Nothing contained in this section shall be construed to amend, alter, modify, or affect in any way whatsoever the provisions of any collective-bargaining agreement or the employment relationship between the authority and any of its officers or other employees, whether or not such employees are members of a collective-bargaining unit, including, but not limited to, the terms of any deferred compensation, pension, or retirement plans.

Source: Laws 2019, LB492, § 25.

ARTICLE 9
RECREATION AREAS

Section
18-901. Transferred to section 13-1001.
18-902. Transferred to section 13-1002.
18-903. Transferred to section 13-1003.
18-904. Transferred to section 13-1004.
18-905. Transferred to section 13-1005.
18-906. Transferred to section 13-1006.

18-901 Transferred to section 13-1001.

18-902 Transferred to section 13-1002.

18-903 Transferred to section 13-1003.

18-904 Transferred to section 13-1004.

18-905 Transferred to section 13-1005.

18-906 Transferred to section 13-1006.

ARTICLE 10
STATE ARMORIES

Section
18-1001. Public policy; sites; acquisition; conveyance to state; construction of buildings.
18-1002. Site; purchase; payment.
18-1003. Site; condemnation; payment.
18-1004. Armory site; conveyances.
18-1005. Tax levy; state armory site fund; use.
18-1006. Warrants; issuance; amount; fund; purpose.

18-1001 Public policy; sites; acquisition; conveyance to state; construction of buildings.

The Legislature hereby declares the public policy of the State of Nebraska to be that the acquisition of real estate sites for the construction of state armories within the corporate limits of cities or villages for the uses and purposes of the Nebraska National Guard and State Guard is a matter of general state concern and that the use of such sites is a state use and not a city, village, or local use. One of the corporate purposes of all cities and villages is hereby declared to be to acquire real estate sites within their corporate limits and to convey such sites without consideration to the State of Nebraska for the uses and purposes of the Nebraska National Guard and State Guard, as provided in sections 18-1002 to 18-1005. Notwithstanding any more general or special law respecting armories in force and effect in this state, the governing bodies of cities or villages are hereby empowered by ordinance to acquire through the exercise of the right of eminent domain, or otherwise, real estate to be used as a site or sites for the construction of state armories to be devoted to the uses and purposes of the Nebraska National Guard and State Guard and to convey such real estate without consideration, when acquired, to the State of Nebraska to the end that through state aid, federal aid, or both, state armory buildings may be construct-

ed on such sites without cost to such cities or villages other than the cost to such cities or villages to acquire and convey such real estate.

Source: Laws 1935, Spec. Sess., c. 10, § 1, p. 69; Laws 1941, c. 130, § 7, p. 491; C.S.Supp.,1941, § 18-1801; R.S.1943, § 18-1001; Laws 2021, LB163, § 67.

18-1002 Site; purchase; payment.

Whenever the Nebraska National Guard and State Guard desire any city or village in this state to acquire at the cost of not to exceed ten thousand dollars to such city or village by condemnation, or otherwise, any lot, piece, or parcel of land within the corporate limits of such city or village for a state armory site, the Adjutant General shall notify the city clerk or village clerk of such city or village in writing to that effect. The city clerk or village clerk shall present the notice to the governing body at its next regular or special meeting. If a majority of the members of the governing body shall favor the acquisition of such lot, piece, or parcel of land, the governing body shall order such acquisition by resolution duly passed and approved and recorded in the minutes. The mayor or chairperson of the village board of trustees, as the case may be, shall designate a committee from the governing body to negotiate with the owner or owners of such real estate for the purchase thereof for the purposes and uses provided in this section. If the committee and the owners are able to agree on the price, value, and title of the land, the committee shall report in writing its agreement with the owners to the governing body. If the agreement is ratified, approved, and confirmed in all things by the governing body by a majority vote of its members, by ordinance upon receipt of a deed properly executed, approved as to form and substance by the city attorney or village attorney in writing, from the owner or owners, as grantors to the city or village, as the case may be, as grantee, such governing body shall direct the issuance through its proper officers of warrants upon the state armory site fund, as authorized by sections 18-1005 and 18-1006. Such warrants so issued shall be drawn payable to the owner or owners of the land.

Source: Laws 1935, Spec. Sess., c. 10, § 1, p. 70; Laws 1941, c. 130, § 7, p. 492; C.S.Supp.,1941, § 18-1801; R.S.1943, § 18-1002; Laws 2021, LB163, § 68.

18-1003 Site; condemnation; payment.

If the owner or owners and the committee cannot agree on the price, value, or title of land as provided in section 18-1002, within a period of negotiation extending not more than ten days from the date of appointment of the committee by the governing body, the committee shall report the fact of disagreement to the mayor and city council or to the chairperson and village board of trustees, as the case may be. The city clerk or village clerk shall immediately notify in writing the Adjutant General to that effect, whereupon it shall be the duty of the Attorney General, collaborating with the city attorney or village attorney, to institute proper legal proceedings to acquire the land for state use through the exercise of the power of eminent domain. The procedure to condemn property shall be exercised in the manner set forth in sections

76-704 to 76-724. Payment of the award made or any other necessary costs or expenses incident to the condemnation suit shall be made by the city or village.

Source: Laws 1935, Spec. Sess., c. 10, § 1, p. 71; Laws 1941, c. 130, § 7, p. 493; C.S.Supp.,1941, § 18-1801; R.S.1943, § 18-1003; Laws 1951, c. 101, § 65, p. 477; Laws 1959, c. 54, § 1, p. 246; Laws 2021, LB163, § 69.

18-1004 Armory site; conveyances.

Notwithstanding any more general or special law respecting sale or conveyance of real estate now or hereafter owned by cities and villages in force and effect in this state, the governing bodies of cities and villages are empowered to direct their proper officers to execute deeds for conveyance of any real estate of such cities or villages without consideration to the State of Nebraska for the construction of state armory buildings on such real estate. Such construction shall be made without cost to such cities or villages.

Source: Laws 1935, Spec. Sess., c. 10, § 1, p. 71; Laws 1941, c. 130, § 7, p. 493; C.S.Supp.,1941, § 18-1801; R.S.1943, § 18-1004; Laws 1988, LB 793, § 6; Laws 2021, LB163, § 70.

18-1005 Tax levy; state armory site fund; use.

All cities or villages in the State of Nebraska shall have the power and authority to levy a special tax each year of not more than five and two-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such city or village for the acquisition of real estate by agreement with the owner or owners or by condemnation as provided in sections 18-1002 and 18-1003 to be used for state armory sites. Such special levy shall be made by the same governing body and shall be levied in the same manner as in the case of general city or village taxes. The proceeds of such levy shall be credited to the state armory site fund created by the governing body as provided in section 18-1006. Revenue raised by such special levy shall be used only for the purpose of acquiring real estate for a state armory site within the corporate limits of such city or village or in the payment of warrants as authorized by section 18-1006.

Source: Laws 1935, Spec. Sess., c. 10, § 1, p. 71; Laws 1941, c. 130, § 7, p. 493; C.S.Supp.,1941, § 18-1801; R.S.1943, § 18-1005; Laws 1953, c. 287, § 28, p. 947; Laws 1979, LB 187, § 69; Laws 1992, LB 719A, § 70; Laws 2021, LB163, § 71.

18-1006 Warrants; issuance; amount; fund; purpose.

Any city or village may anticipate the collection of a special tax collected as provided in section 18-1005 to be budgeted and levied in its adopted budget statement and for that purpose may issue its warrants, in a sum amounting to eighty-five percent of the tax to be levied, as provided in section 18-1005, for the amount of any award issued in condemnation and for the costs and expenses incident thereto, as provided in section 18-1003. Warrants so issued shall be secured by such tax which shall be assessed and levied, as provided by law, and shall be payable only out of funds derived from such tax. In any case in which warrants are issued, as provided in this section, it shall be the duty of such city or village, on receipt of such tax when paid, to hold the same as a separate fund, to be known as the state armory site fund, to the amount of the

warrants so issued, and the interest thereon, for the purpose of paying or redeeming such warrants.

Source: Laws 1935, Spec. Sess., c. 10, § 1, p. 72; Laws 1941, c. 130, § 7, p. 494; C.S.Supp.,1941, § 18-1801; R.S.1943, § 18-1006; Laws 1959, c. 54, § 2, p. 247; Laws 1969, c. 145, § 25, p. 687; Laws 2021, LB163, § 72.

ARTICLE 11
REFUNDING INDEBTEDNESS

Section
18-1101. Refunding outstanding instruments; powers.
18-1102. Refunding instruments; how issued.

18-1101 Refunding outstanding instruments; powers.

The mayor and city council of any city or the chairperson and village board of trustees of any village of the State of Nebraska, which has issued valid pledge warrants, revenue bonds, revenue notes, or revenue debentures, which instruments are outstanding and unpaid, may take up and pay off any such outstanding instruments whenever the same can be done by lawful means by the issue and sale, or the issue and exchange therefor, of other pledge warrants, revenue bonds, revenue notes, or revenue debentures. Such instruments shall not be general obligations of such city or village. Any city or village which has issued and has outstanding valid pledge warrants, revenue bonds, revenue notes, or revenue debentures which are unpaid, some of which are secured by the pledge of the revenue and earnings of one public utility and others are secured by the pledge of the revenue and earnings of another public utility, may take up and pay off all such outstanding instruments by the issuance and sale of its combined revenue bonds or revenue notes which may be secured by the pledge of the revenue and earnings of any two or more of such public utilities. Any city or village may enter into such a contract or contracts in connection with such instruments as may be proper and necessary.

Source: Laws 1937, c. 40, § 1, p. 178; Laws 1939, c. 13, § 1, p. 88; C.S.Supp.,1941, § 18-2201; R.S.1943, § 18-1101; Laws 1945, c. 32, § 1, p. 152; Laws 1971, LB 984, § 1; Laws 1976, LB 825, § 5; Laws 2021, LB163, § 73.

18-1102 Refunding instruments; how issued.

Whenever it is desired to issue pledge warrants, revenue bonds, or revenue debentures under section 18-1101, the city council or village board of trustees shall, by resolution recorded in the minutes of its proceedings, provide for the issuance and sale or exchange of the refunding instruments.

Source: Laws 1937, c. 40, § 2, p. 179; C.S.Supp.,1941, § 18-2202; R.S.1943, § 18-1102; Laws 2021, LB163, § 74.

ARTICLE 12
MISCELLANEOUS TAXES

Section
18-1201. Tax; amount; purposes.
18-1202. Tax anticipation bonds; issuance; interest; redemption.
18-1203. Musical and amusement organizations; tax; amount; petition for higher tax; election.

Section
18-1204. Musical and amusement organizations; power to tax; withdrawal; reauthorization.
18-1205. Musical and amusement organizations; tax; inclusion in appropriation ordinance.
18-1206. Musical and amusement organizations; leader; employment.
18-1207. Musical and amusement organizations; rules and regulations.
18-1208. Occupation tax; imposition or increase; election; procedure; annual report; contents.
18-1209. Repealed. Laws 1947, c. 179, § 4.
18-1210. Repealed. Laws 1947, c. 179, § 4.
18-1211. Repealed. Laws 1947, c. 179, § 4.
18-1212. Repealed. Laws 1947, c. 179, § 4.
18-1213. Repealed. Laws 1947, c. 179, § 4.
18-1214. Motor vehicles; annual motor vehicle fee; use.
18-1215. Special assessment district; ordinance; file copy with register of deeds.
18-1216. Collection of special assessments; powers; notice; liability.
18-1217. Transferred to section 13-311.
18-1218. Transferred to section 13-312.
18-1219. Transferred to section 13-313.
18-1220. Transferred to section 13-314.
18-1221. Pension or retirement system; tax; amount; use.

18-1201 Tax; amount; purposes.

All cities and villages in the State of Nebraska may levy a special tax each year of not more than five cents on each one hundred dollars upon the taxable value of all the taxable property in such city or village for the special purposes set forth in this section. Such special levy shall be made by the same officers or board and be levied in the same manner as general city or village taxes. Revenue raised by such a special levy may be used for purchasing and maintaining public safety equipment, including, but not limited to, vehicles or rescue or emergency first-aid equipment for a fire or police department of such city or village, for purchasing real estate for fire or police station quarters or facilities, for erecting, building, altering, or repairing fire or police station quarters or facilities, for purchasing, installing, and equipping an emergency alarm or communication system, or for paying off bonds authorized by section 18-1202. Such revenue may be accumulated in a sinking fund or sinking funds to be used for any such purpose.

Source: Laws 1915, c. 218, § 1, p. 487; C.S.1922, § 4469; C.S.1929, § 18-801; R.S.1943, § 18-1201; Laws 1945, c. 33, § 1, p. 154; Laws 1953, c. 287, § 29, p. 947; Laws 1963, c. 81, § 1, p. 289; Laws 1969, c. 102, § 1, p. 477; Laws 1979, LB 187, § 70; Laws 1988, LB 369, § 1; Laws 1992, LB 719A, § 71; Laws 1993, LB 58, § 1; Laws 2021, LB163, § 75.

Territory annexed to village was subject to taxation for fire protection. Village of Niobrara v. Tichy, 158 Neb. 517, 63 N.W.2d 867 (1954).

18-1202 Tax anticipation bonds; issuance; interest; redemption.

Any city or village which has levied or intends to levy a tax as authorized by section 18-1201 for the purposes stated in such section may anticipate the collection of such taxes, including the anticipation of collections from levies to be made in future years, and for such purpose may issue tax anticipation bonds which shall be payable in not exceeding twenty years and may bear interest,

payable annually or semiannually, at such rate or rates as the mayor and city council or chairperson and village board of trustees may determine. The total of principal and interest payable on such bonds in any calendar year shall not exceed ninety percent of the anticipated tax collection for such calendar year on the assumption that the taxable valuation for such city or village in all succeeding years shall be the same as the taxable valuation most recently determined prior to passage of the ordinance authorizing such bonds and applying the tax levy made or agreed to be made by the city or village, but not exceeding five cents on each one hundred dollars, and using tax due and delinquency dates in effect at the time of passage of the bond ordinance. The city or village may agree in such bond ordinance to make and to continue to make a levy under section 18-1201 until such bonds and interest thereon are fully paid. Such bonds shall be secured by such tax so assessed and levied and shall be payable only out of the funds derived from such tax. It shall be the duty of such city or village on receipt of such taxes to hold the same as a separate fund to the amount of the bonds so issued and the interest thereon for the purpose of paying or redeeming such bonds.

Source: Laws 1915, c. 218, § 2, p. 487; C.S.1922, § 4470; C.S.1929, § 18-802; R.S.1943, § 18-1202; Laws 1947, c. 48, § 1, p. 167; Laws 1969, c. 51, § 66, p. 313; Laws 1972, LB 884, § 1; Laws 1979, LB 187, § 71; Laws 1988, LB 369, § 2; Laws 1992, LB 719A, § 72; Laws 1993, LB 58, § 2; Laws 2021, LB163, § 76.

18-1203 Musical and amusement organizations; tax; amount; petition for higher tax; election.

All cities and villages within the State of Nebraska are hereby expressly authorized, upon a three-fourths vote of all of the members elected to the city council or village board of trustees, to levy not to exceed two and one-tenth cents on each one hundred dollars upon the taxable value of all the taxable property in such cities or villages each year to establish and maintain a vocal, instrumental, or amusement organization for the purpose of rendering free public concerts, music festivals, and entertainments within such city or village limits for the people of such city or village. When such vote has been made and recorded by the city council or village board of trustees, a tax of not to exceed two and one-tenth cents on each one hundred dollars of the taxable value of all the taxable property of such city or village shall be levied by such city or village, in addition to all other general and special taxes, for the support, maintenance, and necessary expenses of such vocal, instrumental, or amusement organization. Any city or village may levy each year a tax of not exceeding three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such municipality for the maintenance of a municipal band or other vocal, instrumental, or amusement organization for the purpose of rendering free public concerts, music festivals, and entertainments when a petition signed by ten percent of the legal voters of such city or village, as shown by the last regular municipal election, is filed with the city clerk or village clerk and requests the following question to be submitted to the voters of the city or village: Shall a tax of not exceeding . . . . . cents on each one hundred dollars upon the taxable value of all the taxable property of . . . . . , Nebraska, be levied each year for the purpose of providing a fund for the maintenance of a municipal band or other vocal, instrumental, or amusement organization for the purpose of rendering free public concerts,

music festivals, and entertainments? When such petition is filed, the city council or village board of trustees shall cause the question to be submitted to the voters of the city or village at the next general municipal election, and if a majority of the votes cast at the election favor such proposition, the city council or village board of trustees shall then levy such tax to maintain such municipal band or other vocal, instrumental, or amusement organization for the purposes enumerated in this section.

Source: Laws 1915, c. 219, §§ 1, 2, p. 488; C.S.1922, §§ 4471, 4472; Laws 1927, c. 40, § 1, p. 172; C.S.1929, § 18-901; R.S.1943, § 18-1203; Laws 1953, c. 287, § 30, p. 948; Laws 1979, LB 187, § 72; Laws 1992, LB 719A, § 73; Laws 2021, LB163, § 77.

18-1204 Musical and amusement organizations; power to tax; withdrawal; reauthorization.

When a petition signed by ten percent of the legal voters of a city or village, as shown by the last regular municipal election, is filed with the city clerk or village clerk requesting that the question be submitted to the voters of withdrawing the authority to tax under section 18-1203, the city council or village board of trustees shall submit the question of withdrawal at the next general municipal election. The question on the ballot shall be as follows: Shall the power previously granted in ....., Nebraska, to levy a tax of ..... cents on each one hundred dollars upon the taxable value of all the taxable property of such city or village for the purpose of providing a fund for the maintenance of a municipal band or other vocal, instrumental, or amusement organization for the purpose of rendering free public concerts, music festivals, and entertainments be withdrawn? If a majority of the votes cast favor such withdrawal, no further levy for the purpose shall thereafter be made until the proposition is again resubmitted to the people. After the proposition for withdrawing the right to tax has carried, no further submission of a proposition to levy the tax shall be made for at least two years.

Source: Laws 1927, c. 40, § 1, p. 173; C.S.1929, § 18-901; R.S.1943, § 18-1204; Laws 1953, c. 287, § 31, p. 949; Laws 1979, LB 187, § 73; Laws 1992, LB 719A, § 74; Laws 2021, LB163, § 78.

18-1205 Musical and amusement organizations; tax; inclusion in appropriation ordinance.

When a city or village has voted as required by section 18-1203 to establish and maintain a vocal, instrumental, or amusement organization, there shall thereafter be included in the annual estimate of expenses of such city or village a levy of not to exceed two and one-tenth cents or three and five-tenths cents on each one hundred dollars, as the case may be, upon the taxable value of the taxable property of such city or village for each year for such purpose. The levy so made shall be included in the appropriation ordinance.

Source: Laws 1915, c. 219, § 2, p. 488; C.S.1922, § 4472; Laws 1927, c. 40, § 2, p. 174; C.S.1929, § 18-902; R.S.1943, § 18-1205; Laws 1953, c. 287, § 32, p. 950; Laws 1979, LB 187, § 74; Laws 1992, LB 719A, § 75; Laws 2021, LB163, § 79.

18-1206 Musical and amusement organizations; leader; employment.

Every vocal, instrumental, or amusement organization established under sections 18-1201 to 18-1207 shall be under the instruction and guidance of a leader, who may be nominated in the first instance by the organization or association but whose nomination, term of employment, and compensation shall be subject to the approval of the city council or village board of trustees of the city or village that established the organization.

Source: Laws 1915, c. 219, § 3, p. 488; C.S.1922, § 4473; C.S.1929, § 18-903; R.S.1943, § 18-1206; Laws 2021, LB163, § 80.

18-1207 Musical and amusement organizations; rules and regulations.

The city council of each city, or village board of trustees of each village, making provision for any vocal, instrumental, or amusement organization as provided in sections 18-1201 to 18-1207, shall make and adopt all suitable and necessary rules, regulations, and bylaws concerning the government, organization, expenditures, and other necessary matters pertaining to such organization, and for that purpose shall appoint and designate three members of the city council or village board of trustees as a committee on municipal amusements and entertainments.

Source: Laws 1915, c. 219, § 4, p. 488; C.S.1922, § 4474; C.S.1929, § 18-904; R.S.1943, § 18-1207; Laws 2021, LB163, § 81.

18-1208 Occupation tax; imposition or increase; election; procedure; annual report; contents.

(1) Except as otherwise provided in this section, after July 19, 2012, a municipality may impose a new occupation tax or increase the rate of an existing occupation tax, which new occupation tax or increased rate of an existing occupation tax is projected to generate annual occupation tax revenue in excess of the applicable amount listed in subsection (2) of this section, pursuant to section 14-109, 15-202, 15-203, 16-205, or 17-525 if the question of whether to impose the tax or increase the rate of an existing occupation tax has been submitted at an election held within the municipality and in which all registered voters shall be entitled to vote on the question. The officials of the municipality shall order the submission of the question by submitting a certified copy of the resolution proposing the tax or tax rate increase to the election commissioner or county clerk at least fifty days before the election. The election shall be conducted in accordance with the Election Act. If a majority of the votes cast upon the question are in favor of the new tax or increased rate of an existing occupation tax, then the governing body of such municipality shall be empowered to impose the new tax or to impose the increased tax rate. If a majority of those voting on the question are opposed to the new tax or increased rate, then the governing body of the municipality shall not impose the new tax or increased rate but shall maintain any existing occupation tax at its current rate.

(2) The applicable amount of annual revenue for each new occupation tax or annual revenue raised by the increased rate for an existing occupation tax for purposes of subsection (1) of this section is:

(a) For cities of the metropolitan class, six million dollars;

(b) For cities of the primary class, three million dollars;

(c) For cities of the first class, seven hundred thousand dollars; and

(d) For cities of the second class and villages, three hundred thousand dollars.

(3) After July 19, 2012, a municipality shall not be required to submit the following questions to the registered voters:

(a) Whether to change the rate of an occupation tax imposed for a specific project which does not provide for deposit of the tax proceeds in the municipality's general fund; or

(b) Whether to terminate an occupation tax earlier than the determinable termination date under the original question submitted to the registered voters.

This subsection applies to occupation taxes imposed prior to, on, or after July 19, 2012.

(4) The provisions of this section do not apply to an occupation tax subject to section 86-704.

(5) No later than ninety days after the end of the fiscal year, each municipality that imposes or increases any occupation tax as provided under this section shall provide an annual report on the collection and use of such occupation tax. The report shall be posted on the municipality's public website or made available for public inspection at a location designated by the municipality. The report shall include, but not be limited to:

(a) A list of all such occupation taxes collected by the municipality;

(b) The amount generated annually by each such occupation tax;

(c) Whether funds generated by each such occupation tax are deposited in the general fund, cash funds, or other funds of the municipality;

(d) Whether any such occupation tax is dedicated for a specific purpose, and if so, the amount dedicated for such purpose; and

(e) The scheduled or projected termination date, if any, of each such occupation tax.

Source: Laws 2012, LB745, § 1; Laws 2019, LB445, § 1.

Cross References

Election Act, see section 32-101.

18-1209 Repealed. Laws 1947, c. 179, § 4.

18-1210 Repealed. Laws 1947, c. 179, § 4.

18-1211 Repealed. Laws 1947, c. 179, § 4.

18-1212 Repealed. Laws 1947, c. 179, § 4.

18-1213 Repealed. Laws 1947, c. 179, § 4.

18-1214 Motor vehicles; annual motor vehicle fee; use.

(1)(a) Except as otherwise provided in subsection (3) of this section, the governing body of any city or village shall have power to require any individual whose primary residence or person who owns a place of business which is within the limits of the city or village and that owns and operates a motor vehicle within such limits to pay an annual motor vehicle fee and to require the payment of such fee upon the change of ownership of such vehicle. All such fees which may be provided for under this subsection shall be used exclusively for constructing, repairing, maintaining, or improving streets, roads, alleys, public

ways, or parts thereof or for the amortization of bonded indebtedness when created for such purposes.

(b) To ensure compatibility with the Vehicle Title and Registration System maintained by the Department of Motor Vehicles:

(i) Any city or village that collects the annual motor vehicle fee authorized under this section shall use the plate types listed under section 60-3,104 and, as applicable, weight categories listed under the Motor Vehicle Registration Act when reporting information to the Vehicle Title and Registration System; and

(ii) Any city or village that adopts an annual motor vehicle fee under this section or that modifies an existing motor vehicle fee shall notify the Department of Motor Vehicles of such new or modified fee within ten business days after the passage of the ordinance authorizing such new or modified fee and at least sixty days prior to the implementation of such new or modified fee.

(2) No motor vehicle fee shall be required under this section if (a) a vehicle is used or stored but temporarily in such city or village for a period of six months or less in a twelve-month period, (b) an individual does not have a primary residence or a person does not own a place of business within the limits of the city or village and does not own and operate a motor vehicle within the limits of the city or village, or (c) an individual is a full-time student attending a postsecondary institution within the limits of the city or village and the motor vehicle's situs under the Motor Vehicle Certificate of Title Act is different from the place at which he or she is attending such institution.

(3) After December 31, 2012, no motor vehicle fee shall be required of any individual whose primary residence is or person who owns a place of business within the extraterritorial zoning jurisdiction of such city or village.

(4) The fee shall be paid to the county treasurer of the county in which such city or village is located when the registration fees as provided in the Motor Vehicle Registration Act are paid. Such fees shall be credited by the county treasurer to the road fund of such city or village.

(5) For purposes of this section:

(a) Limits of the city or village includes the extraterritorial zoning jurisdiction of such city or village; and

(b) Person includes bodies corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, cooperatives, and associations. Person does not include any federal, state, or local government or any political subdivision thereof.

Source: Laws 1963, c. 348, § 3, p. 1119; Laws 1988, LB 958, § 1; Laws 1989, LB 57, § 1; Laws 1993, LB 112, § 2; Laws 2005, LB 274, § 224; Laws 2009, LB49, § 1; Laws 2011, LB81, § 2; Laws 2012, LB801, § 1; Laws 2020, LB944, § 2.

Cross References

Motor Vehicle Certificate of Title Act, see section 60-101.
Motor Vehicle Registration Act, see section 60-301.

18-1215 Special assessment district; ordinance; file copy with register of deeds.

Whenever a municipality has enacted an ordinance creating a special assessment district, it shall be the duty of such municipality to file a copy of such

ordinance in the office of the register of deeds of the county in which such municipality is located.

Source: Laws 1973, LB 373, § 2; Laws 2021, LB163, § 82.

18-1216 Collection of special assessments; powers; notice; liability.

(1) Any municipality shall have authority to collect the special assessments which it levies and to perform all other necessary functions related thereto including foreclosure. The governing body of any municipality collecting its own special assessments shall direct that notice that special assessments are due shall be mailed or otherwise delivered to the last-known address of the person against whom such special assessments are assessed or to the lending institution or other party responsible for paying such special assessments. Failure to receive such notice shall not relieve the taxpayer from any liability to pay such special assessments and any interest or penalties accrued thereon.

(2) A city of the second class or village collecting its own assessments under this section shall (a) file notice of the assessments and the amount of assessment being levied for each lot or tract of land to the register of deeds of the county in which the municipality is located and (b) file a release of assessment upon final payment of each assessment with the register of deeds. Such register of deeds shall index the assessment against the individual lots and tracts of land and have such information available to the public.

Source: Laws 1983, LB 391, § 3; R.S.1943, (1991), § 19-4501; Laws 1996, LB 962, § 3; Laws 2021, LB163, § 83.

18-1217 Transferred to section 13-311.

18-1218 Transferred to section 13-312.

18-1219 Transferred to section 13-313.

18-1220 Transferred to section 13-314.

18-1221 Pension or retirement system; tax; amount; use.

Subject to the levy limitations contained in section 77-3442, but notwithstanding any limitations in any other law or city home rule charter, any city or village of this state which provides a pension or retirement system for all or a portion of its employees shall levy a tax in addition to all other taxes in order to defray the cost to such city or village in meeting the obligations arising by reason of providing such pension or retirement system. The revenue so raised shall be limited to the amount required to defray the cost to such city or village in meeting the obligations arising by reason of providing such pension or retirement system, and shall be used for no other purpose.

Source: Laws 1971, LB 667, § 2; R.S.1943, (1977), § 68-620.01; Laws 1979, LB 187, § 182; Laws 1996, LB 1114, § 34.

ARTICLE 13

MUNICIPAL PLANNING

Section
18-1301. Transferred to section 19-924.
18-1302. Transferred to section 19-925.
18-1303. Transferred to section 19-926.

Section
18-1304. Transferred to section 19-927.
18-1305. Transferred to section 19-928.
18-1306. Transferred to section 19-929.
18-1307. Repealed. Laws 1967, c. 85, § 3.

18-1301 Transferred to section 19-924.

18-1302 Transferred to section 19-925.

18-1303 Transferred to section 19-926.

18-1304 Transferred to section 19-927.

18-1305 Transferred to section 19-928.

18-1306 Transferred to section 19-929.

18-1307 Repealed. Laws 1967, c. 85, § 3.

ARTICLE 14
MUNICIPAL PUBLICITY

Section
18-1401. Transferred to section 13-315.
18-1402. Transferred to section 13-316.

18-1401 Transferred to section 13-315.

18-1402 Transferred to section 13-316.

ARTICLE 15
AVIATION FIELDS

Section
18-1501. Acquisition; buildings; improvements; authorized; charges.
18-1502. Bonds; terms; interest; approval by electors.
18-1503. Tax in lieu of bonds; amount; approval by electors; limitations.
18-1504. Acquisition by lease; election unnecessary.
18-1505. Construction, leasing, improvement, maintenance, and management; annual tax; election not required.
18-1506. Repealed. Laws 2001, LB 173, § 22.
18-1507. Site; federal and state specifications.
18-1508. Ordinances, rules, and regulations; authorized; applicability.
18-1509. Lease or disposition; when authorized.

18-1501 Acquisition; buildings; improvements; authorized; charges.

Any city or village in the State of Nebraska is authorized to acquire by lease for a term not to exceed twenty-five years, purchase, condemnation, or otherwise, the necessary land within or without such city or village for the purpose of establishing an aviation field and to erect thereon such buildings and make such improvements, as may be necessary for the purpose of adapting the field to the use of aerial traffic, and may, from time to time, fix and establish a schedule of charges for the use of such field, which charges shall be used in connection with the maintenance and operation of any such field and the

activities thereof. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1929, c. 35, § 1, p. 147; C.S.1929, § 19-801; Laws 1943, c. 39, § 1(1), p. 182; R.S.1943, § 19-801; Laws 1947, c. 53, § 1, p. 180; Laws 1951, c. 101, § 66, p. 478; Laws 2021, LB163, § 84.

Cross References

Acquisition of airports and landing fields by purchase, condemnation, or otherwise, see sections 3-203 and 3-204.
Assistance from the Division of Aeronautics of the Department of Transportation, see Chapter 3, article 1.

City is liable for negligence in operation of aviation field. Brasier v. Cribbett, 166 Neb. 145, 88 N.W.2d 235 (1958).

A majority vote is sufficient to authorize issuance of bonds to establish aviation field under home rule charter of the city of Lincoln. State ex rel. City of Lincoln v. Johnson, 117 Neb. 301, 220 N.W. 273 (1928).

18-1502 Bonds; terms; interest; approval by electors.

For the purpose of acquiring and improving an aviation field as authorized in section 18-1501, any city or village may issue and sell bonds of such city or village to be designated aviation field bonds to provide the necessary funds for such aviation field in an amount not to exceed seven-tenths of one percent of the taxable valuation of all the taxable property in such city or village. Such bonds shall become due in not to exceed twenty years from the date of issuance and shall draw interest payable semiannually or annually. Such bonds may not be sold for less than par and in no case without the proposition of issuing the same having first been submitted to the legal electors of such city or village at a general or special election held in such city or village and a majority of the votes cast upon the question of issuing the bonds being in favor thereof. The authority to sell such bonds shall not be limited by any other provision of law.

Source: Laws 1929, c. 35, § 1, p. 148; C.S.1929, § 19-801; Laws 1943, c. 39, § 1(2), p. 182; R.S.1943, § 19-802; Laws 1945, c. 34, § 17, p. 170; Laws 1947, c. 15, § 12, p. 89; Laws 1947, c. 53, § 2, p. 181; Laws 1955, c. 50, § 2, p. 170; Laws 1969, c. 51, § 67, p. 313; Laws 1979, LB 187, § 76; Laws 1992, LB 719A, § 76; Laws 2021, LB163, § 85.

Cross References

Revised Airports Act, section included, see section 3-238.

Airport Authority Act did not amend this section as it was an independent act dealing with a different subject. Obitz v. Airport Authority of City of Red Cloud, 181 Neb. 410, 149 N.W.2d 105 (1967).

This section relates to right of municipality to acquire an airport or other air navigation facility. Brasier v. Cribbett, 166 Neb. 145, 88 N.W.2d 235 (1958).

18-1503 Tax in lieu of bonds; amount; approval by electors; limitations.

For the purpose of acquiring and improving an aviation field as provided in section 18-1501, a city or village may, in lieu of issuing and selling bonds, levy an annual tax of not to exceed seven cents on each one hundred dollars upon the taxable value of all the taxable property within the corporate limits of such city or village, which tax shall not be levied or collected until the proposition of levying such tax has first been submitted to the legal electors of such city or village at a general or special election held in such city or village and the majority of votes cast upon the question of levying such tax are in favor thereof. Such levy shall be authorized for a term not exceeding ten years, and the proposition submitted to the electors shall specify the number of years for which it is proposed to levy such tax. If funds for such purposes are raised by

the levy of tax, no part of the funds so accruing shall be used for any other purpose.

Source: Laws 1929, c. 35, § 1, p. 148; C.S.1929, § 19-801; Laws 1943, c. 39, § 1(3), p. 183; R.S.1943, § 19-803; Laws 1947, c. 53, § 3, p. 181; Laws 1953, c. 287, § 33, p. 950; Laws 1979, LB 187, § 77; Laws 1992, LB 719A, § 77; Laws 2021, LB163, § 86.

Airport Authority Act did not amend this section as it was an independent act dealing with a different subject. Obitz v. Airport Authority of City of Red Cloud, 181 Neb. 410, 149 N.W.2d 105 (1967).

18-1504 Acquisition by lease; election unnecessary.

It shall not be necessary, in order for a city or village to acquire the necessary land for an aviation field by lease, to submit the proposition of such acquisition by lease to the legal voters of such city or village.

Source: Laws 1943, c. 39, § 1(4), p. 183; R.S.1943, § 19-803.01; Laws 1947, c. 53, § 4, p. 182; Laws 2021, LB163, § 87.

18-1505 Construction, leasing, improvement, maintenance, and management; annual tax; election not required.

For the purpose of the construction, leasing, improvement, maintenance, and management of an aviation field and for the payment of persons employed in the performance of labor in connection therewith, any city or village may, without a vote of the legal electors, levy an annual tax of not to exceed three and five-tenths cents on each one hundred dollars upon the taxable value of all the taxable property in such city or village. No part of the funds so levied and collected shall be used for any other purpose.

Source: Laws 1943, c. 39, § 1(5), p. 183; R.S.1943, § 19-803.02; Laws 1953, c. 287, § 34, p. 950; Laws 1955, c. 51, § 1, p. 171; Laws 1979, LB 187, § 78; Laws 1992, LB 719A, § 78.

Airport Authority Act did not amend this section as it was an independent act dealing with a different subject. Obitz v. Airport Authority of City of Red Cloud, 181 Neb. 410, 149 N.W.2d 105 (1967).

18-1506 Repealed. Laws 2001, LB 173, § 22.

18-1507 Site; federal and state specifications.

No airport or land intended for airport purposes shall be acquired by any city or village through the issue and sale of bonds, or the levy of taxes, unless the site, when developed and ready for public use, meets federal and state specifications for an airport open to the public.

Source: Laws 1929, c. 35, § 3, p. 148; C.S.1929, § 19-803; R.S.1943, § 19-805; Laws 1955, c. 51, § 3, p. 172; Laws 1984, LB 837, § 2.

18-1508 Ordinances, rules, and regulations; authorized; applicability.

The governing body of any city or village shall have power to make and enforce such ordinances, rules, and regulations as shall lawfully be made, for the control and supervision of any airport, landing field, or airdrome acquired, established, or operated by such city or village, and for the control of aircraft and airmen, but such ordinances, rules, and regulations shall not conflict with the rules and regulations for the navigation of aircraft promulgated by the United States Government. This power shall extend to the space above the

lands and waters included within the corporate limits of such city or village and to the space above any airport, landing field, or airdrome outside such limits.

Source: Laws 1929, c. 35, § 4, p. 149; C.S.1929, § 19-804; R.S.1943, § 19-806; Laws 1955, c. 51, § 4, p. 172; Laws 2021, LB163, § 88.

18-1509 Lease or disposition; when authorized.

The governing body of any city or village, authorized by section 18-1501 to acquire an aviation field, shall have power to lease or dispose of such aviation field or any portion thereof when doing so will not damage the public need for such airfield.

Source: Laws 1929, c. 35, § 5, p. 149; C.S.1929, § 19-805; R.S.1943, § 19-807; Laws 1955, c. 51, § 5, p. 172; Laws 2021, LB163, § 89.

Municipality may lease an airport or other air navigation facility. Brasier v. Cribbett, 166 Neb. 145, 88 N.W.2d 235 (1958).

ARTICLE 16

INDUSTRIAL DEVELOPMENT

Section
18-1601. Repealed. Laws 1961, c. 285, § 1.
18-1602. Repealed. Laws 1961, c. 285, § 1.
18-1603. Repealed. Laws 1961, c. 285, § 1.
18-1604. Repealed. Laws 1961, c. 285, § 1.
18-1605. Repealed. Laws 1961, c. 285, § 1.
18-1606. Repealed. Laws 1961, c. 285, § 1.
18-1607. Repealed. Laws 1961, c. 285, § 1.
18-1608. Repealed. Laws 1961, c. 285, § 1.
18-1609. Repealed. Laws 1961, c. 285, § 1.
18-1610. Repealed. Laws 1961, c. 285, § 1.
18-1611. Repealed. Laws 1961, c. 285, § 1.
18-1612. Repealed. Laws 1961, c. 285, § 1.
18-1613. Repealed. Laws 1961, c. 285, § 1.
18-1614. Transferred to section 13-1101.
18-1615. Transferred to section 13-1102.
18-1616. Transferred to section 13-1103.
18-1617. Transferred to section 13-1104.
18-1618. Transferred to section 13-1105.
18-1619. Transferred to section 13-1106.
18-1620. Transferred to section 13-1107.
18-1621. Transferred to section 13-1108.
18-1622. Transferred to section 13-1109.
18-1623. Transferred to section 13-1110.

18-1601 Repealed. Laws 1961, c. 285, § 1.

18-1602 Repealed. Laws 1961, c. 285, § 1.

18-1603 Repealed. Laws 1961, c. 285, § 1.

18-1604 Repealed. Laws 1961, c. 285, § 1.

18-1605 Repealed. Laws 1961, c. 285, § 1.

18-1606 Repealed. Laws 1961, c. 285, § 1.

18-1607 Repealed. Laws 1961, c. 285, § 1.

18-1608 Repealed. Laws 1961, c. 285, § 1.

18-1609 Repealed. Laws 1961, c. 285, § 1.

18-1610 Repealed. Laws 1961, c. 285, § 1.

18-1611 Repealed. Laws 1961, c. 285, § 1.

18-1612 Repealed. Laws 1961, c. 285, § 1.

18-1613 Repealed. Laws 1961, c. 285, § 1.

18-1614 Transferred to section 13-1101.

18-1615 Transferred to section 13-1102.

18-1616 Transferred to section 13-1103.

18-1617 Transferred to section 13-1104.

18-1618 Transferred to section 13-1105.

18-1619 Transferred to section 13-1106.

18-1620 Transferred to section 13-1107.

18-1621 Transferred to section 13-1108.

18-1622 Transferred to section 13-1109.

18-1623 Transferred to section 13-1110.

ARTICLE 17

MISCELLANEOUS

Section

18-1701. Public records; disposition and destruction.
18-1702. Trainees; Nebraska Law Enforcement Training Center; costs and expenses.
18-1703. Ownership, possession, and transportation of concealed handguns; power of cities and villages; existing ordinance, permit, or regulation; null and void.
18-1704. Repealed. Laws 2000, LB 994, § 13.
18-1705. Road or street improvement; avoidance of menace to travel; additional land; acquisition by purchase, gift, or eminent domain.
18-1706. Fire, police, and emergency service; provision outside limits of city or village.
18-1707. Services, vehicles, and equipment; authority to contract for; requirements.
18-1708. City or village employees; serving outside corporate limits; regular line of duty.
18-1709. Fire protection; fire apparatus; emergency vehicles; contracts authorized.
18-1710. Repealed. Laws 1988, LB 369, § 4.
18-1711. Repealed. Laws 1973, LB 509, § 1.
18-1712. Fire training school; costs and expenses.
18-1713. Fire training school; contract with city fire department; costs and expenses.
18-1714. Fire training school; approved by State Fire Marshal and Nebraska Emergency Management Agency; attendance.
18-1715. Airport; park; waterworks system; sewerage system; outside corporate limits; police jurisdiction.
18-1716. Suburban regulations; exceptions.
18-1716.01. Annexation; property contiguous to or abutting county road; effect.

Section
18-1717. Repealed. Laws 1988, LB 809, § 1.
18-1718. Annexation; contest; limitation of action.
18-1719. Weeds; destruction and removal within right-of-way of railroads; powers; special assessment.
18-1720. Nuisances; definition; prevention; abatement; joint and cooperative action with county.
18-1721. Comprehensive zoning ordinance; requirements for street dedication.
18-1722. Buildings; repair, rehabilitate, or demolish; remove; cost; special assessment; civil action.
18-1722.01. Property or building; unsafe or unfit for human occupancy; duties.
18-1723. Firefighter; police officer; presumption of death or disability; rebuttable.
18-1724. Discrimination; employment, public accommodations, and housing; ordinance to prevent.
18-1725. Repealed. Laws 1973, LB 45, § 125.
18-1726. Repealed. Laws 1973, LB 45, § 125.
18-1727. Repealed. Laws 1973, LB 45, § 125.
18-1728. Repealed. Laws 1973, LB 45, § 125.
18-1729. Violations bureau; purpose; payment of penalties.
18-1730. Transferred to section 13-308.
18-1731. Transferred to section 13-309.
18-1732. Expiration of act.
18-1733. Expiration of act.
18-1734. Expiration of act.
18-1735. Transferred to section 13-604.
18-1735.01. Transferred to section 13-605.
18-1736. Handicapped or disabled persons; designation of parking spaces.
18-1737. Handicapped or disabled persons; offstreet parking facility; onstreet parking; designation; removal of unauthorized vehicle; penalty; state agency, defined.
18-1738. Repealed. Laws 2014, LB 657, § 14.
18-1738.01. Repealed. Laws 2014, LB 657, § 14.
18-1738.02. Repealed. Laws 2014, LB 657, § 14.
18-1739. Repealed. Laws 2014, LB 657, § 14.
18-1740. Repealed. Laws 2014, LB 657, § 14.
18-1741. Repealed. Laws 2014, LB 657, § 14.
18-1741.01. Handicapped parking infraction, defined; citation issuance; enforcement on state property.
18-1741.02. Handicapped parking infraction; penalties; suspension of permit; fine.
18-1741.03. Handicapped parking infraction; citation form; Supreme Court; powers.
18-1741.04. Handicapped parking citation; requirements; procedure; waivers; dismissal; credit card; payment authorized.
18-1741.05. Handicapped parking citation; violation; penalty.
18-1741.06. Handicapped parking infraction; trial; rights.
18-1741.07. Handicapped parking infractions; sections, how construed.
18-1742. Repealed. Laws 2014, LB 657, § 14.
18-1743. Building permit; duplicate; issued to county assessor; when.
18-1744. Repealed. Laws 1991, LB 825, § 53.
18-1745. Repealed. Laws 1991, LB 825, § 53.
18-1746. Repealed. Laws 1991, LB 825, § 53.
18-1747. Repealed. Laws 1991, LB 825, § 53.
18-1748. Sewer connection line; driveway approach; owner; duty to maintain; notice; assessment for cost.
18-1749. Pension or retirement plan; employee contribution authorized; manner of payment.
18-1750. Notes for anticipated receipts; issuance; payment; loans from federal government.
18-1751. Special improvement district; authorized; when; special assessment.
18-1752. Removal of garbage or refuse; authorized; procedure; costs.
18-1752.01. Solid waste collection service; commencement; resolution; requirements.
18-1752.02. Solid waste collection service; commencement; limitation.

Section
18-1753. Annexation; additional population; report to Tax Commissioner; calculations.
18-1754. Annexation report; Tax Commissioner; duties.
18-1755. Acquisition of real property; procedure; public right of access for recreational use.
18-1756. Purchase of personal property without bidding; when.
18-1757. Issuance of citations for violations; procedure.
18-1758. Short-term rentals; municipality; ordinance or other regulation; powers.

18-1701 Public records; disposition and destruction.

All cities and villages may provide for the disposition or destruction of public records when such records have been determined to be of no further legal, administrative, fiscal, or historical value by the State Records Administrator pursuant to the Records Management Act. This section shall not apply to the minutes of the city clerk or village clerk, the permanent ordinance and resolution books, or any other record classified as permanent by the State Records Administrator.

Source: Laws 1955, c. 53, § 1, p. 175; Laws 1969, c. 105, § 1, p. 480; Laws 2021, LB163, § 90.

Cross References

Records Management Act, see section 84-1220.

18-1702 Trainees; Nebraska Law Enforcement Training Center; costs and expenses.

Any city or village in the State of Nebraska may pay from municipal funds the cost of training and the expenses of trainees, designated by its governing body, to attend the Nebraska Law Enforcement Training Center.

Source: Laws 1957, c. 42, § 1, p. 218; Laws 2021, LB163, § 91.

18-1703 Ownership, possession, and transportation of concealed handguns; power of cities and villages; existing ordinance, permit, or regulation; null and void.

Cities and villages shall not have the power to regulate the ownership, possession, or transportation of a concealed handgun, as such ownership, possession, or transportation is authorized under the Concealed Handgun Permit Act, except as expressly provided by state law, and shall not have the power to require registration of a concealed handgun owned, possessed, or transported by a permitholder under the act. Any existing city or village ordinance, permit, or regulation regulating the ownership, possession, or transportation of a concealed handgun, as such ownership, possession, or transportation is authorized under the act, except as expressly provided under state law, and any existing city or village ordinance, permit, or regulation requiring the registration of a concealed handgun owned, possessed, or transported by a permitholder under the act, is declared to be null and void as against any permitholder possessing a valid permit under the act.

Source: Laws 2009, LB430, § 5; Laws 2010, LB817, § 2.

Cross References

Concealed Handgun Permit Act, see section 69-2427.

18-1704 Repealed. Laws 2000, LB 994, § 13.

18-1705 Road or street improvement; avoidance of menace to travel; additional land; acquisition by purchase, gift, or eminent domain.

Whenever any city or village shall need any additional land for the purpose of avoiding a menace to travel by caving, sliding, washing, or otherwise or for the purpose of improving, maintaining, or changing any road, street, alley, or other public highway, such city or village may acquire such needed land or an easement therein by purchase, gift, or eminent domain proceedings. Such land may be so acquired regardless of whether the land is contiguous or noncontiguous to such road, street, alley, or highway, or within or without the corporate limits of such city or village. In case of eminent domain proceedings, the procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Source: Laws 1957, c. 43, § 1, p. 219; Laws 2021, LB163, § 92.

18-1706 Fire, police, and emergency service; provision outside limits of city or village.

Any city or village may by resolution authorize its fire department or police department or any portion thereof to provide fire, police, and emergency service outside of the limits of such city or village either within or without the state.

Source: Laws 1959, c. 55, § 1, p. 248; Laws 1959, c. 56, § 1, p. 249; Laws 2021, LB163, § 93.

18-1707 Services, vehicles, and equipment; authority to contract for; requirements.

Any city or village shall have the authority to contract with other political subdivisions, government agencies, public corporations, private persons, or groups for (1) compensation for services rendered by such city or village or (2) the use of vehicles and equipment of the city or village. Such services shall be of a type which the city or village is empowered to perform and the vehicles or equipment shall be of a type which the city or village is empowered to use, as otherwise provided by law. Any person performing such services shall have completed any training requirements of his or her profession as required by law. The compensation agreed upon shall be a legal charge and collectible by the entity rendering such services in any court of competent jurisdiction.

Source: Laws 1959, c. 55, § 2, p. 248; Laws 1984, LB 782, § 1; Laws 2021, LB163, § 94.

18-1708 City or village employees; serving outside corporate limits; regular line of duty.

All city or village employees serving outside the corporate limits of the city or village as authorized in sections 18-1706 to 18-1709 shall be considered and held as serving in their regular line of duties as fully as if they were serving within the corporate limits of the city or village which employs them.

Source: Laws 1959, c. 55, § 3, p. 249; Laws 1959, c. 56, § 2, p. 250; Laws 1988, LB 369, § 3; Laws 2021, LB163, § 95.

18-1709 Fire protection; fire apparatus; emergency vehicles; contracts authorized.

Any city or village of this state may make arrangements and contracts with any other city or village for the purpose of fire protection and for the use of fire apparatus and emergency vehicles and equipment.

Source: Laws 1959, c. 55, § 4, p. 249; Laws 2021, LB163, § 96.

18-1710 Repealed. Laws 1988, LB 369, § 4.

18-1711 Repealed. Laws 1973, LB 509, § 1.

18-1712 Fire training school; costs and expenses.

Any city or village in the State of Nebraska may pay from city or village funds the cost of training and the expenses of such members of the city or village fire department as designated by the governing body of the city or village to attend the fire training school sponsored by the State Fire Marshal and the Nebraska Emergency Management Agency.

Source: Laws 1959, c. 58, § 1, p. 251; Laws 1961, c. 53, § 5, p. 199; Laws 1963, c. 83, § 1, p. 291; Laws 1994, LB 1027, § 1; Laws 1996, LB 43, § 2; Laws 2021, LB163, § 97.

18-1713 Fire training school; contract with city fire department; costs and expenses.

Any city or village in the State of Nebraska may enter into a contract with a fire department of any city of the metropolitan class or city of the primary class that maintains a fire training school for its own firefighters to train such firefighters as such city or village might designate and may pay from city or village funds the cost of such training and all of the expenses of such designated trainees during the time that they are undergoing such training.

Source: Laws 1959, c. 58, § 2, p. 252; Laws 2021, LB163, § 98.

18-1714 Fire training school; approved by State Fire Marshal and Nebraska Emergency Management Agency; attendance.

Any city or village in the State of Nebraska may send any person or persons designated by its governing body to attend any fire training school operating within the State of Nebraska and that has been approved as a proper fire department training school for such purposes by the State Fire Marshal and the Nebraska Emergency Management Agency.

Source: Laws 1959, c. 58, § 3, p. 252; Laws 1996, LB 43, § 3; Laws 2021, LB163, § 99.

18-1715 Airport; park; waterworks system; sewerage system; outside corporate limits; police jurisdiction.

Any municipality in Nebraska owning, controlling, or operating an airport, park, waterworks system, sewerage system, or any portion of the same, or any other municipal facility, outside the corporate limits of such municipality, may exercise police jurisdiction over the same, and with the same force and effect as

though such properties were located within the corporate limits of such municipality.

Source: Laws 1961, c. 55, § 1, p. 208.

18-1716 Suburban regulations; exceptions.

Any regulation of any municipality pertaining to any area outside of its corporate limits shall be subject to any lawful and existing regulation of another municipality pertaining to that same area except as otherwise provided by an agreement entered into pursuant to the Interlocal Cooperation Act or Joint Public Agency Act. However, any area annexed by any municipality shall only be subject to the ordinances of such annexing municipality after such annexation.

Source: Laws 1967, c. 75, § 6, p. 245; Laws 1998, LB 611, § 2; Laws 1999, LB 87, § 63; Laws 2021, LB163, § 100.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

Zoning for counties and municipalities are governed by different statutes, and the provisions to eliminate overlapping refer to municipalities only. Seward County Board of Commissioners v. City of Seward, 196 Neb. 266, 242 N.W.2d 849 (1976).

18-1716.01 Annexation; property contiguous to or abutting county road; effect.

Any city or village annexing property contiguous to or abutting upon any part of a county road shall be deemed to have annexed, without further action, all of the contiguous or abutting road at the time of such annexation, except that this section shall not apply to county roads separating counties.

Source: Laws 1977, LB 173, § 1; Laws 1993, LB 631, § 1.

18-1717 Repealed. Laws 1988, LB 809, § 1.

18-1718 Annexation; contest; limitation of action.

Any action or proceeding of any kind or nature, whether legal or equitable, which is brought to contest any annexation of property made by any city or village, shall be brought within one year from the effective date of such annexation or such action or proceeding shall be forever barred. The period of time prescribed by this section for bringing an action shall not be tolled or extended by nonresidence or disability.

Source: Laws 1967, c. 82, § 2, p. 258; Laws 2021, LB163, § 101.

18-1719 Weeds; destruction and removal within right-of-way of railroads; powers; special assessment.

Any city or village may provide for the destruction and removal of specified portions of weeds and worthless vegetation within the right-of-way of all railroads within the corporate limits of such city or village and may require the owner or owners of such right-of-way to destroy and remove the weeds or vegetation from such right-of-way. If such owner or owners fail, neglect, or refuse, after ten days' written notice to remove the weeds or vegetation, such city or village, by its proper officers, shall destroy and remove the weeds or vegetation or cause the weeds or vegetation to be destroyed or removed and shall assess the cost thereof against such property as a special assessment. No

city or village shall destroy or remove or otherwise treat such specified portions until after the time has passed in which the railroad company is required to destroy or remove such vegetation.

Source: Laws 1969, c. 599, § 2, p. 2454; Laws 2015, LB361, § 41; Laws 2021, LB163, § 102.

18-1720 Nuisances; definition; prevention; abatement; joint and cooperative action with county.

(1) All cities and villages in this state may by ordinance define, regulate, suppress, and prevent nuisances, declare what constitutes a nuisance, and abate and remove such nuisances. Every city and village may exercise such power and authority within its corporate limits and extraterritorial zoning jurisdiction.

(2) Any city or village may enter into an interlocal agreement pursuant to the Interlocal Cooperation Act with a county in which the extraterritorial zoning jurisdiction of the city or village is located to provide for joint and cooperative action to abate, remove, or prevent nuisances within such extraterritorial zoning jurisdiction. The governing body of such city or village and the county board of such county shall first approve such interlocal agreement by ordinance or resolution.

Source: Laws 1939, c. 10, § 1, p. 77; C.S.Supp.,1941, § 19-1201; R.S. 1943, § 19-1201; Laws 1969, c. 115, § 1, p. 529; Laws 2019, LB11, § 1; Laws 2021, LB163, § 103.

Cross References

Interlocal Cooperation Act, see section 13-801.

A city of the primary class possesses authority to sue and suppress nuisances. City of Lincoln v. ABC Books, Inc., 238 Neb. 378, 470 N.W.2d 760 (1991).

18-1721 Comprehensive zoning ordinance; requirements for street dedication.

In order to lessen congestion on the streets and to facilitate adequate provisions for community utilities and facilities such as transportation, any city or village which has a comprehensive zoning ordinance is authorized to require that no building or structure shall be erected or enlarged upon any lot in any zoning district unless the half of the street adjacent to such lot has been dedicated to its comprehensive plan width. The maximum area of land required to be so dedicated shall not exceed twenty-five percent of the area of any such lot and the dedication shall not reduce such a lot below a width of fifty feet or an area of five thousand square feet. Any owner of such a lot may submit an application for a variance and the city or village shall provide a procedure for such application to prevent unreasonable hardship under the facts of each case. The authority granted in this section is in addition to the authority of the city or village to require dedication of right-of-way as a condition of subdivision approval.

Source: Laws 1969, c. 99, § 1, p. 473; Laws 2021, LB163, § 104.

A city may not require a property owner to dedicate private property for some future public purpose as a condition for receiving a building permit unless such future use is directly occasioned by the construction for which the permit is sought. In other cases, eminent domain proceedings are required and compensation must be paid. Simpson v. City of North Platte, 206 Neb. 240, 292 N.W.2d 297 (1980).

18-1722 Buildings; repair, rehabilitate, or demolish; remove; cost; special assessment; civil action.

If any owner of any building or structure fails, neglects, or refuses to comply with notice by or on behalf of any city or village to repair, rehabilitate, or demolish and remove a building or structure which is an unsafe building or structure and a public nuisance, the city or village may proceed with the work specified in the notice to the property owner. A statement of the cost of such work shall be transmitted to the governing body. The governing body may:

(1) Levy the cost as a special assessment against the lot or real estate upon which the building or structure is located. Such special assessment shall be a lien on the real estate and shall be collected in the manner provided for special assessments; or

(2) Collect the cost from the owner of the building or structure and enforce the collection by civil action in any court of competent jurisdiction.

Source: Laws 1969, c. 101, § 1, p. 476; Laws 1990, LB 964, § 1.

Section 19-2422 applies to and authorizes an appeal from a special assessment levied under the authority of subdivision (1) of this section. Main St Properties v. City of Bellevue, 309 Neb. 738, 962 N.W.2d 333 (2021).

The notice provided an owner was not sufficient to meet due process requirements where the notice did not inform the owner of the specific allegations concerning the building's condition or what was necessary in order to repair or rehabilitate the structure. Blanchard v. City of Ralston, 4 Neb. App. 692, 549 N.W.2d 652 (1996).

18-1722.01 Property or building; unsafe or unfit for human occupancy; duties.

Whenever the governing body of a municipality has decided by resolution or other determination that a property is unsafe or unfit for human occupancy because of one or more violations of its minimum standard housing ordinance or has decided by resolution or other determination that a building is unsafe because of one or more violations of its local building or construction code, it shall be the duty of such municipality to post the property accordingly and to file a copy of such resolution or other determination in the office of the register of deeds of the county to be recorded. No fee shall be charged for such recording or for the release of such recording.

Source: Laws 1973, LB 373, § 1; Laws 1974, LB 654, § 1; Laws 2021, LB163, § 105.

18-1723 Firefighter; police officer; presumption of death or disability; rebuttable.

Whenever any firefighter who has served a total of five years as a member of a paid fire department of any city in this state or any police officer of any city or village, including any city having a home rule charter, shall suffer death or disability as a result of hypertension or heart or respiratory defect or disease, there shall be a rebuttable presumption that such death or disability resulted from accident or other cause while in the line of duty for all purposes of the Police Officers Retirement Act, sections 15-1012 to 15-1027 and 16-1020 to 16-1042, and any firefighter's or police officer's pension plan established pursuant to any home rule charter, the Legislature specifically finding the subject of this section to be a matter of general statewide concern. The rebuttable presumption shall apply to death or disability as a result of hypertension or heart or respiratory defect or disease after the firefighter or police officer separates from his or her applicable employment if the death or

disability occurs within three months after such separation. Such rebuttable presumption shall apply in any action or proceeding arising out of death or disability incurred prior to December 25, 1969, and which has not been processed to final administrative or judicial conclusion prior to such date.

Source: Laws 1969, c. 281, § 1, p. 1048; Laws 1985, LB 3, § 3; Laws 2010, LB373, § 1; Laws 2012, LB1082, § 17; Laws 2021, LB163, § 106.

Cross References

Police Officers Retirement Act, see section 16-1001.

The clear import of the language of this section is that the rebuttable presumption it creates applies only for purposes of the designated pension plans and retirement systems and not to workers' compensation cases. Spangler v. State, 233 Neb. 790, 448 N.W.2d 145 (1989).

18-1724 Discrimination; employment, public accommodations, and housing; ordinance to prevent.

Notwithstanding any other provision of law, all cities and villages in this state shall have the power by ordinance to define, regulate, suppress, and prevent discrimination on the basis of race, color, creed, religion, ancestry, sex, marital status, national origin, familial status as defined in section 20-311, disability as defined in section 20-308.01, or age in employment, public accommodation, and housing and may provide for the enforcement of such ordinances by providing appropriate penalties for the violation thereof. It shall not be an unlawful employment practice to refuse employment based on a policy of not employing both spouses if such policy is equally applied to both sexes.

Source: Laws 1971, LB 161, § 1; Laws 1978, LB 830, § 1; Laws 1991, LB 825, § 1; Laws 2021, LB163, § 107; Laws 2021, LB540, § 1.

18-1725 Repealed. Laws 1973, LB 45, § 125.

18-1726 Repealed. Laws 1973, LB 45, § 125.

18-1727 Repealed. Laws 1973, LB 45, § 125.

18-1728 Repealed. Laws 1973, LB 45, § 125.

18-1729 Violations bureau; purpose; payment of penalties.

Any city or village may, by ordinance, establish a violations bureau for the collection of penalties for nonmoving traffic violations within such city or village. Such violations shall not be subject to prosecution in the courts except when payment of the penalty is not made within the time prescribed by ordinance. When payment is not made within such time, the violations may be prosecuted in the same manner as other ordinance violations.

Source: Laws 1973, LB 226, § 33; Laws 2021, LB163, § 108.

18-1730 Transferred to section 13-308.

18-1731 Transferred to section 13-309.

18-1732 Expiration of act.

18-1733 Expiration of act.

18-1734 Expiration of act.

18-1735 Transferred to section 13-604.

18-1735.01 Transferred to section 13-605.

18-1736 Handicapped or disabled persons; designation of parking spaces.

(1) A city or village may designate parking spaces, including access aisles, for the exclusive use of (a) handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to handicapped or disabled persons pursuant to section 60-3,113, (b) handicapped or disabled persons whose motor vehicles display a distinguishing license plate issued to a handicapped or disabled person by another state, (c) such other handicapped or disabled persons or temporarily handicapped or disabled persons whose motor vehicles display a handicapped or disabled parking permit, and (d) such other motor vehicles which display a handicapped or disabled parking permit.

(2) If a city or village so designates a parking space or access aisle, it shall be indicated by posting aboveground and immediately adjacent to and visible from each space or access aisle a sign as described in section 18-1737. In addition to such sign, the space or access aisle may also be indicated by blue paint on the curb or edge of the paved portion of the street adjacent to the space or access aisle.

(3) For purposes of sections 18-1736 to 18-1741.07:

(a) Access aisle has the same meaning as in section 60-302.01;

(b) Handicapped or disabled parking permit has the same meaning as in section 60-331.01;

(c) Handicapped or disabled person has the same meaning as in section 60-331.02; and

(d) Temporarily handicapped or disabled person has the same meaning as in section 60-352.01.

Source: Laws 1977, LB 13, § 1; Laws 1979, LB 146, § 1; Laws 1980, LB 717, § 2; Laws 1984, LB 482, § 1; Laws 1987, LB 598, § 1; Laws 1995, LB 593, § 1; Laws 1996, LB 1211, § 1; Laws 1998, LB 299, § 1; Laws 2001, LB 809, § 1; Laws 2005, LB 274, § 225; Laws 2011, LB163, § 1; Laws 2014, LB657, § 1.

18-1737 Handicapped or disabled persons; offstreet parking facility; onstreet parking; designation; removal of unauthorized vehicle; penalty; state agency, defined.

(1) Any city or village, any state agency, and any person in lawful possession of any offstreet parking facility may designate stalls or spaces, including access aisles, in such facility owned or operated by the city, village, state agency, or person for the exclusive use of handicapped or disabled persons whose motor vehicles display the distinguishing license plates issued to such individuals pursuant to section 60-3,113, such other handicapped or disabled persons or temporarily handicapped or disabled persons whose motor vehicles display a handicapped or disabled parking permit, and such other motor vehicles which display a handicapped or disabled parking permit. Such designation shall be made by posting aboveground and immediately adjacent to and visible from each stall or space, including access aisles, a sign which is in conformance with the Manual on Uniform Traffic Control Devices adopted pursuant to section 60-6,118 and the federal Americans with Disabilities Act of 1990 and the

federal regulations adopted in response to the act, as the act and the regulations existed on January 1, 2011.

(2) The owner or person in lawful possession of an offstreet parking facility, after notifying the police or sheriff's department, as the case may be, and any city, village, or state agency providing onstreet parking or owning, operating, or providing an offstreet parking facility may cause the removal, from a stall or space, including access aisles, designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, of any vehicle not displaying the proper handicapped or disabled parking permit or the distinguishing license plates specified in this section if there is posted aboveground and immediately adjacent to and visible from such stall or space, including access aisles, a sign which clearly and conspicuously states the area so designated as a tow-in zone.

(3) A person who parks a vehicle in any onstreet parking space or access aisle which has been designated exclusively for handicapped or disabled persons or temporarily handicapped or disabled persons or motor vehicles for the transportation of handicapped or disabled persons or temporarily handicapped or disabled persons, or in any so exclusively designated parking space or access aisle in any offstreet parking facility, without properly displaying the proper license plates or handicapped or disabled parking permit or when the handicapped or disabled person to whom or for whom, as the case may be, the license plate or permit is issued will not enter or exit the vehicle while it is parked in the designated space or access aisle shall be guilty of a handicapped parking infraction as defined in section 18-1741.01 and shall be subject to the penalties and procedures set forth in sections 18-1741.01 to 18-1741.07. The display on a motor vehicle of a distinguishing license plate or permit issued to a handicapped or disabled person by and under the duly constituted authority of another state shall constitute a full and complete defense in any action for a handicapped parking infraction as defined in section 18-1741.01. If the identity of the person who parked the vehicle in violation of this section cannot be readily determined, the owner or person in whose name the vehicle is registered shall be held prima facie responsible for such violation and shall be guilty and subject to the penalties and procedures described in this section. In the case of a privately owned offstreet parking facility, a city or village shall not require the owner or person in lawful possession of such facility to inform the city or village of a violation of this section prior to the city or village issuing the violator a handicapped parking infraction citation.

(4) For purposes of this section and section 18-1741.01, state agency means any division, department, board, bureau, commission, or agency of the State of Nebraska created by the Constitution of Nebraska or established by act of the Legislature, including the University of Nebraska and the Nebraska state colleges, when the entity owns, leases, controls, or manages property which includes offstreet parking facilities.

Source: Laws 1977, LB 13, § 2; Laws 1979, LB 146, § 2; Laws 1980, LB 717, § 3; Laws 1987, LB 598, § 2; Laws 1991, LB 113, § 1; Laws 1992, LB 933, § 1; Laws 1993, LB 370, § 4; Laws 1993, LB 632, § 8; Laws 1995, LB 593, § 2; Laws 1996, LB 1211, § 2; Laws 1998, LB 299, § 2; Laws 2001, LB 809, § 2; Laws 2005, LB 274, § 226; Laws 2011, LB163, § 2.

18-1738 Repealed. Laws 2014, LB 657, § 14.

18-1738.01 Repealed. Laws 2014, LB 657, § 14.

18-1738.02 Repealed. Laws 2014, LB 657, § 14.

18-1739 Repealed. Laws 2014, LB 657, § 14.

18-1740 Repealed. Laws 2014, LB 657, § 14.

18-1741 Repealed. Laws 2014, LB 657, § 14.

18-1741.01 Handicapped parking infraction, defined; citation issuance; enforcement on state property.

(1) For purposes of sections 18-1741.01 to 18-1741.07, handicapped parking infraction means the violation of any statute or ordinance regulating (a) the use of parking spaces, including access aisles, designated for use by handicapped or disabled persons, (b) the unauthorized possession, use, or display of handicapped or disabled parking permits, or (c) the obstruction of any wheelchair ramps constructed or created in accordance and in conformity with the federal Americans with Disabilities Act of 1990, as the act existed on May 31, 2001.

(2) For any offense classified as a handicapped parking infraction, a handicapped parking citation may be issued by any peace officer or by any person designated by ordinance or resolution approved by a governing board of a county, city, or village to exercise the authority to issue a citation for any handicapped parking infraction. Such authorization shall be carried out in the manner specified in sections 18-1741.03 and 18-1741.04.

(3) A state agency as defined in section 18-1737 which owns, leases, controls, or manages state property on which public parking is allowed may enter into an agreement with the governing board of the county, city, or village in which the state property or any portion of it is located to allow the political subdivision to enforce sections 18-1736 to 18-1741.07 on such state property.

Source: Laws 1993, LB 632, § 1; Laws 1995, LB 593, § 8; Laws 1996, LB 1211, § 9; Laws 1998, LB 299, § 3; Laws 2001, LB 809, § 9.

18-1741.02 Handicapped parking infraction; penalties; suspension of permit; fine.

(1) Any person found guilty of a handicapped parking infraction shall be fined (a) not more than one hundred fifty dollars for the first offense, (b) not more than three hundred dollars for a second offense within a one-year period, and (c) not more than five hundred dollars for a third or subsequent offense within a one-year period.

(2) In addition to any fine imposed under subsection (1) of this section, any person found guilty of a handicapped parking infraction under section 60-3,113.06 shall be subject to suspension of such person's handicapped or disabled parking permit for six months and such other punishment as may be provided by local ordinance. In addition, the court shall impose a fine of not more than two hundred fifty dollars which may be waived by the court if, at the time of sentencing, all handicapped or disabled parking permits issued to or in the possession of the offender are returned to the court. At the expiration of

such six-month period, a suspended handicapped or disabled parking permit may be renewed in the manner provided for renewal of the original permit.

Source: Laws 1993, LB 632, § 2; Laws 2009, LB524, § 1; Laws 2011, LB163, § 9; Laws 2014, LB657, § 2.

18-1741.03 Handicapped parking infraction; citation form; Supreme Court; powers.

To ensure uniformity, the Supreme Court may prescribe the form of the handicapped parking citation to be used for handicapped parking infractions. The handicapped parking citation shall include a description of the handicapped parking infraction, the time and place at which the person cited is to appear, a warning that failure to appear in accordance with the command of the citation is a punishable offense, and such other matter as the Supreme Court deems appropriate, but shall not include a place for the cited person's social security number. The handicapped parking citation shall provide space for an affidavit by a peace officer certifying that the recipient of the citation is the lawful possessor in his or her own right of a handicapped or disabled parking permit and that the peace officer has personally viewed the permit. The Supreme Court may provide that a copy of the handicapped parking citation constitutes the complaint filed in the trial court.

Source: Laws 1993, LB 632, § 3; Laws 1996, LB 1211, § 10; Laws 2002, LB 82, § 2; Laws 2011, LB163, § 10; Laws 2021, LB163, § 109.

18-1741.04 Handicapped parking citation; requirements; procedure; waivers; dismissal; credit card; payment authorized.

When a handicapped parking citation is issued for a handicapped parking infraction, the person issuing the handicapped parking citation shall enter thereon all required information, including the name and address of the cited person or, if not known, the license number and description of the offending motor vehicle, the offense charged, and the time and place the person cited is to appear in court. Unless the person cited requests an earlier date, the time of appearance shall be at least three days after the issuance of the handicapped parking citation. One copy of the handicapped parking citation shall be delivered to the person cited or attached to the offending motor vehicle. At least twenty-four hours before the time set for the appearance of the cited person, either the prosecuting attorney or other person authorized by law to issue a complaint for the particular offense shall issue and file a complaint charging such person with a handicapped parking infraction or such person shall be released from the obligation to appear as specified. A person cited for a handicapped parking violation may waive his or her right to trial. For any handicapped parking citation issued for a handicapped parking infraction by reason of the failure of a vehicle to display a handicapped or disabled parking permit, the complaint shall be dismissed if, within seven business days after the date of issuance of the citation, the person cited files with the court the affidavit provided for in section 18-1741.03, signed by a peace officer certifying that the recipient is the lawful possessor in his or her own right of a handicapped or disabled parking permit and that the peace officer has personally viewed the permit. The Supreme Court may prescribe uniform rules for such waivers.

Anyone may use a credit card authorized by the court in which the person is cited as a means of payment of his or her fine and costs.

Source: Laws 1993, LB 632, § 4; Laws 1996, LB 1211, § 11; Laws 2011, LB163, § 11.

18-1741.05 Handicapped parking citation; violation; penalty.

Any person failing to appear or otherwise comply with the command of a handicapped parking citation for a handicapped parking infraction shall be guilty of a Class III misdemeanor.

Source: Laws 1993, LB 632, § 5.

18-1741.06 Handicapped parking infraction; trial; rights.

The trial of any person for a handicapped parking infraction shall be by the court without a jury. All other rights provided by the Constitution of the United States made applicable to the states by the Fourteenth Amendment to the Constitution of the United States and the Constitution of Nebraska shall apply to persons charged with a handicapped parking infraction.

Source: Laws 1993, LB 632, § 6.

18-1741.07 Handicapped parking infractions; sections, how construed.

Sections 18-1741.01 to 18-1741.07 shall not be construed to affect the rights, lawful procedures, or responsibilities of peace officers or law enforcement agencies using the handicapped parking citation for handicapped parking infractions.

Source: Laws 1993, LB 632, § 7.

18-1742 Repealed. Laws 2014, LB 657, § 14.

18-1743 Building permit; duplicate; issued to county assessor; when.

Any city or village which requires that a building permit be issued for the erection, alteration, or repair of any building within its corporate limits or extraterritorial zoning jurisdiction shall, if the improvement is two thousand five hundred dollars or more, issue a duplicate of such permit to the county assessor.

Source: Laws 1979, LB 47, § 1; Laws 2003, LB 292, § 1; Laws 2021, LB163, § 110.

18-1744 Repealed. Laws 1991, LB 825, § 53.

18-1745 Repealed. Laws 1991, LB 825, § 53.

18-1746 Repealed. Laws 1991, LB 825, § 53.

18-1747 Repealed. Laws 1991, LB 825, § 53.

18-1748 Sewer connection line; driveway approach; owner; duty to maintain; notice; assessment for cost.

(1) Any city or village may require the owner of any property which is within such city or village and connected to the public sewers or drains to repair or replace any connection line which serves the owner's property and is broken,

clogged, or otherwise in need of repair or replacement. The property owner's duty to repair or replace such a connection line shall include those portions upon the owner's property and those portions upon public property or easements up to and including the point of junction with the public main.

(2) Any city or village may require the owner of property served by a driveway approach constructed or maintained upon the street right-of-way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure including pavement or sidewalks.

(3) The city or village shall give the property owner notice by registered letter or certified mail, directed to the last-known address of such owner or the agent of such owner, directing the repair or replacement of such connection line or driveway approach. If within thirty days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the city or village may cause such work to be done and assess the cost upon the property served by such connection or approach.

Source: Laws 1984, LB 992, § 2; Laws 2021, LB163, § 111.

18-1749 Pension or retirement plan; employee contribution authorized; manner of payment.

Any city or village of this state may pick up the employee contributions required by a pension or retirement plan for all compensation paid on or after January 1, 1986, and the contributions so picked up shall be treated as employer contributions in determining the federal tax treatment under the Internal Revenue Code, except that the city or village shall continue to withhold federal income taxes based upon such contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, such contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The city or village shall pay the employee contributions from the same source of funds which is used in paying earnings to the employees. The city or village shall pick up the contributions by a salary deduction either through a reduction in the cash salary of the employee or a combination of a reduction in salary and offset against a future salary increase. Employee contributions picked up shall be treated in the same manner and to the same extent as employee contributions made prior to the date picked up.

Source: Laws 1985, LB 353, § 4; Laws 1995, LB 574, § 26.

18-1750 Notes for anticipated receipts; issuance; payment; loans from federal government.

(1) Municipalities may issue notes up to seventy percent of the unexpended balance of total anticipated receipts for the current year and the following year. Total anticipated receipts for the current year and the following year shall mean a sum equal to the anticipated receipts from the current existing total levy multiplied by two.

(2) Municipalities may execute and deliver in evidence of such anticipated receipts their promissory notes, which they may make and negotiate, bearing a rate of interest set by the city council or village board of trustees and maturing not more than two years from the date thereof. Such notes, before they are

negotiated, shall be presented to the city treasurer or village treasurer and registered by him or her and shall be payable out of the funds collected by such municipality in the order of their registration after the payment of prior registered warrants, but prior to the payment of any warrant subsequently registered, except that if both warrants and notes are registered, the total of such registered notes and warrants shall not exceed one hundred percent of the unexpended balance of the total anticipated receipts of such municipality for the current year and the following year. For the purpose of making such calculation, such total anticipated receipts shall not include any anticipated receipts against which the municipality has issued notes pursuant to this section in either the current or the immediately preceding year.

(3) In addition to the provisions of subsections (1) and (2) of this section, municipalities may accept interest-free or low-interest loans from the federal government and may execute and deliver in evidence thereof their promissory notes maturing not more than twenty years from the date of execution.

Source: Laws 1986, LB 1027, § 191; Laws 2021, LB163, § 112.

18-1751 Special improvement district; authorized; when; special assessment.

All cities and villages may create a special improvement district for the purpose of replacing, reconstructing, or repairing an existing street, alley, water line, or sewer line or any other such improvement. Except as provided in sections 19-2428 to 19-2431, the city council or village board of trustees may levy a special assessment, to the extent of such special benefits, for the costs of such improvements upon the properties found specially benefited thereby, whether or not such properties were previously assessed for the same general purpose. In creating such special improvement district, the city council or village board of trustees shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law.

Source: Laws 1987, LB 721, § 1; Laws 2015, LB361, § 42; Laws 2021, LB163, § 113.

18-1752 Removal of garbage or refuse; authorized; procedure; costs.

(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 extraterritorial 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, land, 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 shall, in addition to other proper remedies, remove the garbage or refuse, or cause it to be removed, from such lot, land, streets, roads, or alleys.

(3) If the mayor or city manager of such city or chairperson of the village board of trustees 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, such city or village shall, after a hearing conducted by the city council or village board of trustees, assess the cost of the removal against such lot or land.

Source: Laws 1988, LB 934, § 1; Laws 2021, LB163, § 114.

18-1752.01 Solid waste collection service; commencement; resolution; requirements.

Any municipality which intends to provide or expand municipal solid waste collection service in an area where the collection of solid waste has been provided by a private entity for a minimum of ninety days shall, by resolution, proclaim its intent to begin municipal solid waste collection in the area, whether by the use of municipal employees and equipment or by contract. The resolution shall be made by a vote of the governing body at a public meeting.

Source: Laws 1995, LB 629, § 1.

18-1752.02 Solid waste collection service; commencement; limitation.

A municipality shall not commence municipal solid waste collection in an area described in section 18-1752.01 for one year after the date of the resolution of intent to serve the area unless (1) the municipality contracts with the private entity currently providing the service to continue the service for the same one-year period of time, (2) the municipality provides for the service through property taxes or other general funds in whole or in part, (3) the private entity currently providing such service discontinues the service to the area, or (4) the private entity currently providing such service fails to provide such service under the same terms and conditions which the municipality provides to residents of the municipality through the municipal solid waste collection service.

Source: Laws 1995, LB 629, § 2.

18-1753 Annexation; additional population; report to Tax Commissioner; calculations.

(1) Any city or village annexing territory which thereby adds additional population to the city or village shall report such annexation to the Tax Commissioner. The annexing city or village shall provide the Tax Commissioner with a copy of the ordinance annexing the territory and specify the effective date of the annexation. The annexing city or village shall provide its calculation of the number of additional residents added to the population of the city or village by reason of the annexation and the new combined total population of the city or village and shall inform the Tax Commissioner of the source and date of the federal census relied upon in the calculations.

(2)(a) All calculations of additional population shall be based upon federal census figures from the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census.

(b) If the boundaries of the territory annexed and those of federal census enumeration districts are the same, or if federal census enumeration districts

are wholly contained within the boundaries of the area annexed, the most recent federal census figures for such enumeration districts shall be added directly to the population of the city or village.

(c) If the federal census enumeration districts are partly within and partly without the boundaries of the territory annexed, the federal census figures for such enumeration districts shall be adjusted by reasonable interpretation and supplemented by other evidence to arrive at a figure for the number of people residing in the area annexed as such population existed in that area at the time of the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census. Reasonable interpretation shall include, but not be limited to, the following methods: An actual house count of the annexed territory multiplied by the average number of persons per household as this information existed at the time of the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census; or multiplying the population that existed at the time of the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census in the enumeration district by a ratio of the actual current population of the enumeration district divided in the same manner as the annexation.

(d) The population of the city or village following annexation shall be (i) the population of the city or village as reported by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census or (ii) the population of the city or village as reported by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census plus the population of the territory annexed as calculated in subdivisions (b) and (c) of this subsection.

Source: Laws 1993, LB 726, § 1; Laws 1994, LB 1127, § 2; Laws 2017, LB113, § 21.

18-1754 Annexation report; Tax Commissioner; duties.

The Tax Commissioner shall review the report of the annexing city or village issued pursuant to section 18-1753 and its calculations as to the new population of the city or village as the result of the annexation. The Tax Commissioner shall determine if the methodology employed in determining such calculations has been made in conformity with section 18-1753 and shall, within sixty days of his or her receipt of a complete report from the annexing city or village, certify the total new population of the city or village following the annexation. The Tax Commissioner shall adopt and promulgate rules and regulations to carry out this section and section 18-1753.

Source: Laws 1993, LB 726, § 2; Laws 1994, LB 1127, § 3; Laws 2021, LB163, § 115.

18-1755 Acquisition of real property; procedure; public right of access for recreational use.

A city or village acquiring an interest in real property by purchase or eminent domain shall do so only after the governing body of such city or village has authorized the acquisition by action taken in a public meeting after notice and public hearing. The city or village shall provide to the public a right of access for recreational use to the real property acquired for public recreational purposes. Such access shall be at designated access points and shall be equal to

the right of access for recreational use held by adjacent landowners. The right of access granted to the public for recreational use shall meet or exceed such right held by a private landowner adjacent to the real property.

Source: Laws 1994, LB 188, § 3; Laws 1994, LB 441, § 1; Laws 2006, LB 1113, § 18; Laws 2021, LB163, § 116.

18-1756 Purchase of personal property without bidding; when.

(1) Notwithstanding any other provisions of law or a home rule charter, a city or village which has established, by an interlocal agreement with any county, a joint purchasing division or agency may purchase personal property without competitive bidding if the price for the property has been established by the federal General Services Administration or the materiel division of the Department of Administrative Services.

(2) For purposes of this section:

(a) Personal property includes, but is not limited to, supplies, materials, and equipment used by or furnished to any officer, office, department, institution, board, or other agency; and

(b) Purchasing or purchase means the obtaining of personal property by sale, lease, or other contractual means.

Source: Laws 1997, LB 315, § 1.

18-1757 Issuance of citations for violations; procedure.

(1) The fire chief or head official of the fire department, fire inspectors as may be designated by such fire chief or head official, or inspectors charged with the enforcement of fire, health, safety, and building or construction codes of a city of the metropolitan class, city of the primary class, or city of the first class shall have the authority, after being trained by a certified law enforcement officer in the policies and procedures for issuance of citations, to issue citations for violations of fire, health, safety, and building or construction codes (a) that constitute infractions or violations of city ordinances, (b) that are violations of the fire, health, safety, or building or construction code that the official or inspector issuing the citation is charged with enforcing, and (c) in which the circumstances do not pose a danger to the official or inspector.

(2) If a city of the second class or village has adopted and is enforcing a fire, health, safety, or building or construction code, the fire chief or head official of the fire department, fire inspectors designated by such fire chief or head official, or such inspectors charged with the enforcement of the fire, health, safety, or building or construction code shall have the authority, after being trained by a certified law enforcement officer in the policies and procedures for issuance of citations, to issue citations for violations of fire, health, safety, or building or construction codes (a) that constitute infractions or violations of city or village ordinances, (b) that are violations of the fire, health, safety, or building or construction code that the official or inspector issuing the citation is charged with enforcing, and (c) where the circumstances do not pose a danger to the official or inspector.

(3) A citation issued under this section shall be equivalent to and have the same legal effect as a citation issued in lieu of arrest or continued custody by a peace officer if the citation and procedures utilized meet the requirements of sections 29-422 to 29-429. The citation shall be on the same form prescribed

under section 29-423. Failure to appear or comply with a citation issued under this section shall be punishable in the same manner as provided in section 29-426. An official or inspector issuing a citation under this section shall not have authority to take a person into custody or detain a person under this section or section 29-427.

Source: Laws 1998, LB 109, § 1; R.S.Supp.,2004, § 19-4801; Laws 2006, LB 1175, § 3; Laws 2021, LB163, § 117.

18-1758 Short-term rentals; municipality; ordinance or other regulation; powers.

(1) For purposes of this section:

(a) Municipality means a city or village; and

(b) Short-term rental means a residential property, including a single-family dwelling or a unit in a condominium, cooperative, or time-share, that is rented wholly or partly for a fee for a period not longer than thirty consecutive days.

(2) A municipality shall not adopt or enforce an ordinance or other regulation that expressly or effectively prohibits the use of a property as a short-term rental.

(3) A municipality may adopt or enforce an ordinance or other regulation that specifically regulates property used as a short-term rental only if the municipality demonstrates that the primary purpose of the ordinance or other regulation is to protect the public's health and safety. An ordinance or other regulation authorized by this subsection includes:

(a) Requirements addressing:

(i) Fire and building codes;

(ii) Health and sanitation;

(iii) Traffic control; and

(iv) Solid or hazardous waste and pollution control; and

(b) Requirements regarding the designation of an emergency contact for the property.

(4) A municipality may adopt or enforce an ordinance or other regulation that imposes a sales tax or an occupation tax on short-term rentals if the tax is otherwise permitted by applicable law.

(5) A municipality may adopt or enforce an ordinance or other regulation that limits or prohibits the use of a short-term rental only if the law limits or prohibits the use of a short-term rental for the purpose of:

(a) Housing sex offenders;

(b) Operating a structured sober living home or similar enterprise;

(c) Selling illegal drugs;

(d) Selling alcohol or another activity that requires a permit or license under the Nebraska Liquor Control Act; or

(e) Operating a sexually oriented business.

(6) A municipality shall apply an ordinance or other regulation regulating land use to a short-term rental in the same manner as another similar property. An ordinance or other regulation described by this subsection includes:

(a) Residential use and other zoning matters;

(b) Noise and other nuisances; and

(c) Property maintenance.

(7) This section shall not be construed to affect regulations of a private entity, including a homeowners association organized under the Condominium Property Act or the Nebraska Condominium Act.

Source: Laws 2019, LB57, § 1.

Cross References

Condominium Property Act, see section 76-801.
Nebraska Condominium Act, see section 76-825.
Nebraska Liquor Control Act, see section 53-101.

ARTICLE 18
BONDS

Section
18-1801. Various purpose bonds; power to issue.
18-1802. Various purpose bonds; terms; payment.
18-1803. Revenue bonds; purpose; issuance; terms, defined.
18-1804. Revenue bonds; general provisions; enumerated.
18-1805. Revenue bonds issued prior to October 23, 1967; sections, how construed.

18-1801 Various purpose bonds; power to issue.

Whenever any city or village is authorized to issue bonds that would constitute a general obligation of the city or village and such city or village has taken all preliminary steps required for the issuance of two or more issuances of such bonds, except the enactment of an ordinance or resolution prescribing the form of such bonds, the city or village may combine all such proposed bonds into a single issue in the total amount of the aggregate of the proposed separate issues and issue and sell such bonds at not less than par. The bonds shall be known as Various Purpose Bonds of the City (or Village) of . . . . . .

Source: Laws 1961, c. 56, § 1, p. 209; Laws 2021, LB163, § 118.

18-1802 Various purpose bonds; terms; payment.

Any various purpose bonds issued under section 18-1801 shall be authorized by an ordinance enacted by a majority vote of the governing body of the city or village. The ordinance shall state the various proposed bonds and the amount of each proposed issue which have been combined in the various purpose bonds. The various purpose bonds may mature and bear interest as the governing body may determine but the amount of each proposed separate issue included therein shall mature and bear interest within the maturity and interest limitations which would be applicable to such separate issue as if it were issued independently. The proceeds received from the sale of such bonds shall be allocated and applied to the same purposes as the proceeds of the separate bond issues would have been applied if issued. All money collected from special assessments or other special funds which might have been applied on the payment of any bonds if issued separately shall be kept in a special account and used to pay the principal and interest on the various purpose bonds of the city or village.

Source: Laws 1961, c. 56, § 2, p. 209; Laws 1972, LB 885, § 1; Laws 2021, LB163, § 119.

18-1803 Revenue bonds; purpose; issuance; terms, defined.

Any city or village shall have the power to issue revenue bonds for the purpose of acquiring, constructing, reconstructing, improving, extending, equipping, or furnishing any revenue-producing facility within or without its corporate limits that the city or village has power to acquire, construct, reconstruct, extend, equip, improve, or operate and for any purpose necessary or incidental to any such purpose and for the purpose of refunding any such bonds and for the purpose of refunding general obligation bonds of the city or village issued to construct part or all of such revenue-producing facilities including refunding any general obligation bonds which may have been issued to refund any bonds issued to construct part or all of such revenue-producing facilities. Cities of the primary class may also issue revenue bonds for any public purpose in connection with or related to any such revenue-producing facility. For the purposes of sections 18-1803 to 18-1805, bonds shall mean and include bonds, notes, warrants, or debentures, including notes issued pending permanent revenue bond financing. For the purposes of sections 18-1803 to 18-1805, facility means and includes, but is not limited to, all or part of a revenue-producing undertaking, such as a health care facility, waterworks plant, water system, sanitary sewer system, sewage disposal plant, gas plant, electric light and power plant, electric distribution system, or airport facility, including an ownership interest in any such undertaking, or any combination of two or more such undertakings or an interest or interests therein.

Source: Laws 1967, c. 80, § 1, p. 254; Laws 1976, LB 825, § 6; Laws 2005, LB 169, § 1; Laws 2021, LB163, § 120.

18-1804 Revenue bonds; general provisions; enumerated.

General provisions relating to the form, sale, issuance, and other matters concerning revenue bonds issued by municipalities shall be as follows:

(1) The form, denominations, and other features of such bond issues shall be as prescribed by the governing body in the ordinance authorizing the issuance of such bonds. The official designated shall be responsible for the sale and issuance of such bonds, for their delivery, for promptly and properly depositing the proceeds from such bonds, and for other ministerial acts relating to bonds;

(2) Revenue bonds shall be issued for such terms as the ordinance authorizing such bonds shall prescribe but shall not mature later than fifty years after the date of issuance thereof and may be issued with or without an option of redemption as shall be determined by the governing body;

(3) Revenue bonds shall be sold for such price, bear interest at such rate or rates, and be payable as to principal and interest at such time or times and at such place or places within or without the state as shall be determined by the governing body;

(4) Any ordinance authorizing revenue bonds may contain such covenants and provisions to protect and safeguard the security of the holders of such bonds as shall be deemed necessary to assure the prompt payment of the principal thereof and the interest thereon. Such covenants and provisions may establish or provide for, but shall not be limited to, (a) the payment of interest on such bonds from the proceeds thereof for such period as the governing body deems advisable, the creation of reserve funds from bond proceeds, revenue of the facility for or with respect to which the bonds were issued or other available money, the creation of trust funds, and the appointment of trustees for the

purpose of receiving and disbursing bond proceeds or the collection and disbursement of revenue from the facility for or with respect to which the bonds were issued, (b) the limitations or conditions upon the issuance of additional bonds payable from the revenue of the facility for or with respect to which the bonds were issued, (c) the operation, maintenance, management, accounting, and auditing procedures to be followed in the operation of the facility, and (d) the conditions under which any trustee or bondholders committee shall be entitled to the appointment of a receiver to take possession of the facility, to manage it, and to receive and apply revenue from the facility;

(5) The provisions of this section and any ordinances authorizing the issuance of revenue bonds pursuant to this section shall constitute a contract of the municipality with every holder of such bonds and shall be enforceable by any bondholder by mandamus or other appropriate action at law or in equity in any court of competent jurisdiction;

(6) Bonds issued pursuant to this section shall not be a debt of the municipality within the meaning of any constitutional, statutory, or charter limitation upon the creation of general obligation indebtedness of the municipality, and the municipality shall not be liable for the payment of such bonds out of any money of the municipality other than the revenue pledged to the payment thereof, and all bonds issued pursuant to this section shall contain a recital to that effect. The holders of all revenue bonds shall have a lien on the revenue of the facility for or with respect to which they are issued subject to conditions provided in the ordinance authorizing the issuance of such bonds;

(7) Whenever the governing body shall have issued any revenue bonds, the governing body shall establish, maintain, revise, and collect charges and rates throughout the life of the bonds at least sufficient to provide for all costs associated with the ownership, operation, maintenance, renewal, and replacement of the facility for or with respect to which the bonds were issued and the payment of the principal and interest on all indebtedness incurred with respect thereto and to provide adequate reserves therefor, to maintain such coverage for the payment of such indebtedness as the governing body may deem advisable, to maintain such other reserves as provided in the ordinances authorizing the issuance of such bonds, and to carry out the provisions of such ordinances; and

(8) Bonds issued pursuant to this section shall be signed by the mayor or chairperson of the village board of trustees and countersigned by the official designated. Signatures upon such bonds and coupons shall be in such form as the governing body may prescribe in the bond ordinance concerned. At least one manual signature shall be affixed to each bond, but other required signatures may be affixed as facsimile signatures. The use on bonds and coupons of a printed facsimile of the municipal seal is also authorized.

Source: Laws 1967, c. 80, § 2, p. 254; Laws 1969, c. 51, § 68, p. 314; Laws 1976, LB 825, § 7; Laws 2021, LB163, § 121.

18-1805 Revenue bonds issued prior to October 23, 1967; sections, how construed.

The provisions of sections 18-1803 to 18-1805 shall not in any way govern, impair, or restrict the issuance of revenue bonds authorized by the municipality prior to October 23, 1967.

The provisions of sections 18-1803 to 18-1805 shall be independent of and in addition to any other provisions of the laws of the State of Nebraska or provisions of home rule charters, and revenue bonds may be issued under the provisions of sections 18-1803 to 18-1805 for any purpose authorized in such sections even though other provisions of the laws of the State of Nebraska or provisions of home rule charters may provide for the issuance of revenue bonds for the same or similar purposes. The provisions of sections 18-1803 to 18-1805 shall not be considered amendatory of or limited by any other provisions of the laws of the State of Nebraska or provisions of home rule charters, and revenue bonds may be issued under the provisions of sections 18-1803 to 18-1805 without complying with the restrictions or requirements of any other provisions of the laws of the State of Nebraska, except when specifically required by sections 18-1803 to 18-1805, or without complying with the restrictions or requirements of home rule charters. Nothing in sections 18-1803 to 18-1805 shall prohibit or limit the issuance of revenue bonds in accordance with the provisions of other applicable laws of the State of Nebraska or of home rule charters if the governing body shall determine to issue such revenue bonds under such other laws or charter or otherwise limit the provisions of any home rule charter.

Source: Laws 1967, c. 80, § 3, p. 256; Laws 1976, LB 825, § 8; Laws 2001, LB 420, § 19.

ARTICLE 19

PLUMBING INSPECTION

Section

18-1901. Plumbing board; members; appointment; qualifications; terms; quorum; organization; vacancies; how filled; bond; duties.
18-1902. Plumbing board; organization; records.
18-1903. Plumbing board members; compensation.
18-1904. Plumbing board; meetings; examination for license; rules and regulations.
18-1905. Assistant inspector; plumbing board members; compensation; meetings, restriction.
18-1906. Construction, alteration, and inspection; rules and regulations; powers of plumbing board; variances; fee; plans and specifications; approval; Building Board of Review; appeals.
18-1907. License; examination; when; subject matter.
18-1908. License; renewal; reexamination; when.
18-1909. License; term; revocation; suspension; grounds; notice and hearing.
18-1910. License; required; compliance with codes; exception.
18-1911. License; fees; disposition.
18-1912. Inspector; duties; assistants.
18-1913. Defective work; cessation; removal.
18-1914. Violations; penalties.
18-1915. Permit fees; inspection; provisions applicable.
18-1916. Installation; repair; permit required.
18-1917. Installation; repair; who can perform.
18-1918. Permit fees; installation or repair without permit; penalty.
18-1919. License requirement; exemption.
18-1920. Scald prevention device requirements; compliance required.

18-1901 Plumbing board; members; appointment; qualifications; terms; quorum; organization; vacancies; how filled; bond; duties.

(1) In cities of the metropolitan class, there shall be a plumbing board of eight members. The plumbing board shall consist of an architect licensed to

practice in the State of Nebraska and engaged in business in a city of the metropolitan class, a mechanical engineer licensed to practice in the State of Nebraska and engaged in business in a city of the metropolitan class, two journeymen plumbers, two master plumbers, one member of the general public who is not associated with the plumbing business, and a chief health officer who shall serve as a nonvoting member of the board. Such members shall be appointed by the mayor by and with the consent of the city council. A member shall continue to serve until his or her successor has been appointed and qualified.

(2) In cities of the primary class, there may be a plumbing board consisting of five members. The plumbing board shall consist of the Director of Building and Safety of the city, a registered professional mechanical engineer licensed to practice in the State of Nebraska and engaged in business in the city, the chief plumbing inspector for the city, one master plumber, and one journeyman plumber. The mechanical engineer, the master plumber, and the journeyman plumber shall be appointed by the mayor by and with the consent of the city council or, in cities having a city manager, by the city manager.

(3) In all cities of the first class, cities of the second class, and villages, there may be a plumbing board of not less than four members, consisting of at least one member to be known as the chief health officer of the city or village, one member to be known as the plumbing inspector of the city or village, one journeyman plumber, and one master plumber. The journeyman and master plumbers shall be appointed by the mayor by and with the consent of the city council, by the chairperson by and with the consent of the village board of trustees, or, in cities having a city manager, by the city manager.

(4) For purposes of this section, in cities where a city-county health department has been established and is maintained as provided in section 71-1628, chief health officer shall mean the health director of such department.

(5) Except for cities of the metropolitan class and primary class and as provided in subsection (4) of this section, the chief health officer and plumbing inspector shall be appointed by and hold office during the term of office of the mayor, city manager, or chairperson of the village board of trustees, as the case may be. The terms of office of the journeymen and master plumbers shall be for four years. Upon expiration of the term of each appointed member, appointments shall be made for succeeding terms by the same process as the previous appointments.

(6) The plumbing inspector and journeymen and master plumbers shall be licensed plumbers. The plumbers appointed to the plumbing board in cities of the metropolitan class shall be licensed within such cities. The chief plumbing inspector shall be licensed within such city or village and shall act in a direct advisory capacity to the plumbing board.

(7) In cities of the metropolitan class, four voting members of the plumbing board shall constitute a quorum, and in all other cities and villages, three members of the plumbing board shall constitute a quorum. The plumbing board shall organize by selecting a chairperson, and in cities of the metropolitan class a recording secretary shall be furnished to the plumbing board. The city or village shall make available to the plumbing board a location for the board to meet and conduct business at a time convenient for the members of the board. All vacancies in the plumbing board may be filled by the mayor and city council, city manager, or chairperson and village board of trustees as provided

in this section. Any member of the plumbing board may be removed from office for cause by the district court of the county in which such city or village is situated. The governing body of the city or village may require that each member of the plumbing board give bond in the sum of one thousand dollars, conditioned according to law, the cost of which may be paid by such city or village.

(8) The plumbing board in a city of the metropolitan class shall maintain a record of all complaints filed in the city regarding violations of the plumbing code and a record of the disposition of each such complaint.

(9) If two or more municipalities organize a joint plumbing board pursuant to the Interlocal Cooperation Act, appointments shall be made according to the agreements providing for such joint board and the members of such board shall be residents of such cities or villages or live within the extraterritorial zoning jurisdiction of such cities or villages.

Source: Laws 1901, c. 21, § 1, p. 321; R.S.1913, § 5274; C.S.1922, § 4497; C.S.1929, § 19-301; R.S.1943, § 19-301; Laws 1961, c. 57, § 1, p. 210; Laws 1973, LB 103, § 1; Laws 1975, LB 153, § 1; Laws 1989, LB 53, § 1; Laws 1990, LB 1221, § 1; Laws 1995, LB 36, § 1; Laws 1997, LB 666, § 1; Laws 2020, LB107, § 1.

Cross References

Interlocal Cooperation Act, see section 13-801.

18-1902 Plumbing board; organization; records.

The plumbing board shall organize by selecting one member as chairperson. The plumbing inspector shall be the secretary of the board. It shall be the duty of the secretary to keep full, true, and correct minutes and records of all licenses issued by the plumbing board, together with their kinds and dates, and the names of the persons to whom issued, in books to be provided by such city or village for that purpose, which books and records shall be open for free inspection by all persons during business hours.

Source: Laws 1901, c. 21, § 2, p. 322; R.S.1913, § 5275; C.S.1922, § 4498; C.S.1929, § 19-302; R.S.1943, § 19-302; Laws 1961, c. 57, § 2, p. 211; Laws 2020, LB107, § 2; Laws 2021, LB163, § 122.

18-1903 Plumbing board members; compensation.

On being appointed, the members of the plumbing board shall each receive as a salary an amount to be determined by the city council or chairperson and village board of trustees.

Source: Laws 1901, c. 21, § 12, p. 325; R.S.1913, § 5276; C.S.1922, § 4499; C.S.1929, § 19-303; R.S.1943, § 19-303; Laws 1955, c. 54, § 1, p. 176; Laws 1961, c. 57, § 3, p. 211; Laws 1973, LB 103, § 2; Laws 1995, LB 36, § 2; Laws 2020, LB107, § 3.

18-1904 Plumbing board; meetings; examination for license; rules and regulations.

The plumbing board shall fix stated times and places of meeting, which times shall not be less than once each year, and meetings may be held more often

upon written call of the chairperson of the board. The chairperson of the plumbing board shall also call a meeting of the plumbing board upon the written request of a license applicant, licensee, or another member of the plumbing board. Such meeting shall be held within four weeks of such written request. The plumbing board shall adopt and promulgate rules and regulations for the examination, at such times and places, of all persons who desire a license to work at the construction or repairing of plumbing within the city or village, and also within the area of the extraterritorial zoning jurisdiction of cities of the metropolitan class.

Source: Laws 1901, c. 21, § 4, p. 323; R.S.1913, § 5277; C.S.1922, § 4500; C.S.1929, § 19-304; R.S.1943, § 19-304; Laws 1961, c. 57, § 4, p. 212; Laws 1965, c. 76, § 1, p. 310; Laws 2020, LB107, § 4.

18-1905 Assistant inspector; plumbing board members; compensation; meetings, restriction.

The assistant inspectors shall receive a salary in an amount to be determined by the city council or village board of trustees. The members of the plumbing board, not ex officio members, shall be paid an amount to be determined by the city council or village board of trustees. No meeting of the plumbing board shall be held at any time, except on the call of the chairperson of such board. All salaries shall be paid out of the general fund of the city or village, where the plumbing board is located, the same as other city or village officers are paid. Vouchers for the same shall be duly certified by the chairperson and secretary of such plumbing board to the city council, city manager, or village board of trustees.

Source: Laws 1901, c. 21, § 13, p. 325; R.S.1913, § 5278; C.S.1922, § 4501; C.S.1929, § 19-305; R.S.1943, § 19-305; Laws 1955, c. 54, § 2, p. 176; Laws 1961, c. 57, § 5, p. 212; Laws 1973, LB 103, § 3; Laws 2021, LB163, § 123.

18-1906 Construction, alteration, and inspection; rules and regulations; powers of plumbing board; variances; fee; plans and specifications; approval; Building Board of Review; appeals.

The plumbing board shall have the power and duty to adopt and promulgate rules and regulations, not inconsistent with the laws of the state or the ordinances of the city or village, for the sanitary construction, alteration, and inspection of plumbing and sewerage connections and drains placed in, or in connection with, any and every building in such city or village or within the area of the extraterritorial zoning jurisdiction of cities of the metropolitan class. Such rules and regulations shall prescribe the kind and size of materials to be used in such plumbing and the manner in which such work shall be done. Such rules and regulations, except such as are adopted for its own convenience only, shall be approved by ordinance by the mayor and city council of such city or by the chairperson and village board of trustees. The plumbing board shall have the power to amend or repeal its rules and regulations, subject, except such as relate to its own convenience only, to the approval of the mayor and city council of such city or chairperson and village board of trustees. In cities of the metropolitan class, the plumbing board shall have the power, without the approval of the mayor and city council, to grant a variance from the ordi-

nances, rules, and regulations in the kind and size of materials to be used or in the manner in which the work is to be performed. The variance shall apply only to a single building and shall not be considered as a part of the ordinances, rules, and regulations of the plumbing board. If there are practical difficulties or unnecessary hardships in the manner of strictly carrying out such ordinance, the plumbing board shall have the power, in passing upon a variance, to vary or modify the application of any of the regulations or provisions of such ordinance relating to the use, construction, or alteration of buildings or structures or the use of land, so that the intent of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. The plumbing board shall have power to compel the owner or contractor to first submit the plans and specifications for plumbing that is to be placed in any building or adjoining premises to the board for approval before it shall be installed in such building or premises. When an owner or contractor submits a request for a variance, the plumbing board shall charge a reasonable fee, payable to the general fund, as set by the city council or village board of trustees. The Building Board of Review shall have the authority to hear appeals from the plumbing board in matters regarding variances and interpretation of ordinances, plumbing code changes, rules, and regulations. The Building Board of Review shall adopt and promulgate rules and regulations governing such appeals.

Source: Laws 1901, c. 21, § 3, p. 322; R.S.1913, § 5279; C.S.1922, § 4502; C.S.1929, § 19-306; R.S.1943, § 19-306; Laws 1961, c. 57, § 6, p. 212; Laws 1975, LB 153, § 2; Laws 1990, LB 1221, § 2; Laws 2020, LB107, § 5.

18-1907 License; examination; when; subject matter.

Any person desiring to do any plumbing, or to work at the business of plumbing, in any city or village which has established a plumbing board, shall make written application to the plumbing board for examination for a license, which examination shall be made at the next meeting of the plumbing board, or at an adjourned meeting. The plumbing board shall examine the applicant as to his or her practical knowledge of plumbing, house drainage, ventilation, and sanitation, which examination shall be practical as well as theoretical, and if the applicant has shown himself or herself competent, the plumbing board shall cause its chairperson and secretary to execute and deliver to the applicant a license authorizing him or her to do plumbing in such city or village and also within the area of extraterritorial zoning jurisdiction of cities of the metropolitan class.

Source: Laws 1901, c. 21, § 5, p. 323; R.S.1913, § 5280; C.S.1922, § 4503; C.S.1929, § 19-307; R.S.1943, § 19-307; Laws 1961, c. 57, § 7, p. 213; Laws 1965, c. 76, § 2, p. 310; Laws 1997, LB 752, § 76; Laws 2021, LB163, § 124.

18-1908 License; renewal; reexamination; when.

All original and renewal licenses may be renewed by the plumbing board at the dates of their expiration. Such renewal licenses shall be granted, without a reexamination, upon the written application of the licensee filed with the plumbing board and showing that his or her purposes and condition remain unchanged and that he or she has complied with all other applicable rules and

regulations required by the city council or village board of trustees. If it is made to appear by affidavit before the plumbing board that the applicant is no longer competent or entitled to such renewal license, then the renewal license shall not be granted until the applicant has undergone the examination required pursuant to sections 18-1901 to 18-1913.

Source: Laws 1901, c. 21, § 6, p. 323; R.S.1913, § 5281; C.S.1922, § 4504; C.S.1929, § 19-308; R.S.1943, § 19-308; Laws 2020, LB107, § 6.

18-1909 License; term; revocation; suspension; grounds; notice and hearing.

All original and renewal plumbing licenses shall be good for one year or two years from the date of issuance as determined by the plumbing board, except that any license may be revoked or suspended by the plumbing board at any time upon a hearing upon sufficient written, sworn charges filed with the plumbing board showing the holder of the license to be incompetent or guilty of a willful breach of the rules, regulations, or requirements of the plumbing board or of the laws or ordinances relating thereto or of other causes sufficient for the revocation or suspension of his or her license, of which charges and hearing the holder of such license shall have written notice.

Source: Laws 1901, c. 21, § 7, p. 324; R.S.1913, § 5282; C.S.1922, § 4505; C.S.1929, § 19-309; R.S.1943, § 19-309; Laws 1990, LB 1221, § 3; Laws 1995, LB 36, § 3; Laws 2021, LB163, § 125.

18-1910 License; required; compliance with codes; exception.

It shall be unlawful for any person to do any plumbing in any city or village, or within the area of extraterritorial zoning jurisdiction of cities of the metropolitan class, which has established a plumbing board unless the person holds a proper license. It shall be unlawful for any person to make any connection to water mains extended from within and beyond the extraterritorial zoning jurisdiction of a city of the metropolitan class which has established a plumbing board, unless the person complies with the applicable plumbing codes of the city of the metropolitan class and holds a proper license as required by such city. The requirements of this section shall not apply to employees of the water utility of such city or village acting within the scope of their employment.

Source: Laws 1901, c. 21, § 8, p. 324; R.S.1913, § 5283; C.S.1922, § 4506; C.S.1929, § 19-310; R.S.1943, § 19-310; Laws 1961, c. 57, § 8, p. 213; Laws 1965, c. 76, § 3, p. 310; Laws 1972, LB 1257, § 1; Laws 2021, LB163, § 126.

18-1911 License; fees; disposition.

The amount of the fees for original and renewal licenses shall be as established by the city council or village board of trustees based on the amounts actually necessary to administer the licensing program, but not to exceed twenty-five dollars per license. All license fees shall be paid to the city treasurer or village treasurer to be distributed in accordance with Article VII, section 5, of the Constitution of Nebraska.

Source: Laws 1901, c. 21, § 9, p. 324; R.S.1913, § 5284; C.S.1922, § 4507; C.S.1929, § 19-311; R.S.1943, § 19-311; Laws 1961, c. 57, § 9, p. 214; Laws 1995, LB 36, § 4; Laws 2020, LB107, § 7.

18-1912 Inspector; duties; assistants.

The city or village plumbing inspector shall inspect all plumbing work in process of construction, alteration, or repair within the inspector's respective jurisdiction, and for which a permit either has or has not been granted, and shall report to the plumbing board all violations of any law, ordinance, or rule or regulation of the plumbing board, in connection with the plumbing work being done, and shall perform such other appropriate duties as may be required of such inspector by the plumbing board. If necessary, the mayor, by the consent of the city council, the city manager, or the chairperson of the village board of trustees, shall employ one or more assistant inspectors, who shall be licensed plumbers, to assist in the performance of the duties of the plumbing inspector.

Source: Laws 1901, c. 21, § 10, p. 324; R.S.1913, § 5285; C.S 1922, § 4508; C.S.1929, § 19-312; R.S.1943, § 19-312; Laws 1961, c. 57, § 10, p. 214; Laws 2021, LB163, § 127.

18-1913 Defective work; cessation; removal.

The plumbing inspector shall be required to stop any plumbing work not being done in accordance with the requirements of the rules and regulations of the plumbing board. The plumbing board shall have the power to cause plumbing to be removed, if, after notice to the owner or plumber doing the work, the plumbing board shall find the work or any part thereof to be defective.

Source: Laws 1901, c. 21, § 11, p. 325; R.S.1913, § 5286; C.S.1922, § 4509; C.S.1929, § 19-313; R.S.1943, § 19-313; Laws 2021, LB163, § 128.

18-1914 Violations; penalties.

Any person violating sections 18-1901 to 18-1913 or any lawful ordinance or rules and regulations authorized by such sections shall be guilty of a misdemeanor, and shall be fined not more than five hundred dollars nor less than fifty dollars for each and every violation thereof. If such person holds a plumber's license, he or she shall forfeit the same, and it shall be void, and he or she shall not be entitled to another plumber's license for one year after such forfeiture is declared against him or her by the plumbing board.

Source: Laws 1901, c. 21, § 14, p. 325; R.S.1913, § 5287; C.S.1922, § 4510; C.S.1929, § 19-314; R.S.1943, § 19-314; Laws 2020, LB107, § 8.

18-1915 Permit fees; inspection; provisions applicable.

The State of Nebraska shall permit cities and villages to collect permit fees and inspect all sanitary plumbing installed or repaired, except for a single-family dwelling or a farm or ranch structure, within the State of Nebraska outside of the corporate limits or extraterritorial zoning jurisdiction of cities and villages. The city or village nearest the construction site shall have jurisdiction to collect such permit fees and conduct the inspection of the sanitary plumbing. If such city or village has a plumbing ordinance in force and effect, such ordinance will govern the installation of the sanitary plumbing. If there is no plumbing ordinance in effect for such city or village, the 2018 Uniform

Plumbing Code designated by the American National Standards Institute as an American National Standard shall apply to all buildings except single-family dwellings and farm and ranch structures.

Source: Laws 1969, c. 100, § 1, p. 474; Laws 1996, LB 1304, § 2; Laws 2012, LB42, § 2; Laws 2021, LB131, § 17; Laws 2021, LB163, § 129.

18-1916 Installation; repair; permit required.

No sanitary plumbing shall be installed or repaired in any building except a single-family dwelling or a farm or ranch structure by any person, partnership, limited liability company, corporation, or other legal entity without a permit issued by the city or village nearest the construction site.

Source: Laws 1969, c. 100, § 2, p. 475; Laws 1993, LB 121, § 140.

18-1917 Installation; repair; who can perform.

Any person, partnership, limited liability company, corporation, or other legal entity who installs or repairs any sanitary plumbing within the state shall be a duly qualified master plumber licensed by the city or village nearest the construction site. The employees of the master plumbers who perform the actual installation or repair of sanitary plumbing shall also be licensed as journeymen plumbers by the city or village nearest the construction site.

Source: Laws 1969, c. 100, § 3, p. 475; Laws 1993, LB 121, § 141.

18-1918 Permit fees; installation or repair without permit; penalty.

The city or village which has jurisdiction of the construction or repair of the sanitary plumbing shall be entitled to permit fees, according to its ordinance. Any person, partnership, limited liability company, corporation, or other legal entity making installation or repair of sanitary plumbing in any building except a single-family dwelling without the required permit from the city or village shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than fifty dollars nor more than five hundred dollars.

Source: Laws 1969, c. 100, § 4, p. 475; Laws 1993, LB 121, § 142.

18-1919 License requirement; exemption.

Nothing in sections 18-1915 to 18-1919 shall be construed to require an employee working for a single employer as part of such employer's full-time staff and not holding himself or herself out to the public for hire to hold a license while acting within the scope of employment for such employer.

Source: Laws 1969, c. 100, § 5, p. 475; Laws 2021, LB163, § 130.

18-1920 Scald prevention device requirements; compliance required.

Nothing in sections 18-1901 to 18-1919 shall be construed to exempt persons from compliance with sections 71-1569 to 71-1571.

Source: Laws 1987, LB 264, § 4.

ARTICLE 20
STREET IMPROVEMENTS

Section
18-2001. Street improvements; without petition or creation of district; when.
18-2002. Street improvements; additional authorization.
18-2003. Special taxes and assessments; bonds; warrants; interest on amounts due; contractor; sinking fund.
18-2004. Sections, how construed.
18-2005. Street; common boundary with county or other municipality; concurrent and joint jurisdiction; limitation.

18-2001 Street improvements; without petition or creation of district; when.

Any city or village may, without petition or creating a street improvement district, grade, curb, gutter, and pave any portion of a street otherwise paved so as to make one continuous paved street, but the portion to be so improved shall not exceed two blocks, including intersections, or thirteen hundred and twenty-five feet, whichever is the lesser. Such city or village may also grade, curb, gutter, and pave any unpaved street or alley which intersects a paved street for a distance of not to exceed one block on either side of such paved street. The improvements authorized by this section may be performed upon any portion of a street or any unpaved street or alley not previously improved to meet or exceed the minimum standards for pavement set by the city or village for its paved streets.

Source: Laws 1963, c. 76, § 1, p. 280; Laws 1965, c. 75, § 1, p. 307; Laws 1974, LB 652, § 1; Laws 1999, LB 738, § 1.

The plain language of this section authorized the city to extend paving on one block of a street and assess the paving costs against abutting property owners where, at one end, the new paving adjoined a paved intersection of two paved streets. Johnson v. City of Fremont, 287 Neb. 960, 845 N.W.2d 279 (2014).

City improperly used this section to pave a three-block area with two gap paving districts. Iverson v. City of North Platte, 243 Neb. 506, 500 N.W.2d 574 (1993).

The authorization for special assessment for street improvements in sections 18-2001 to 18-2003 does not extend to a street section already paved. Turner v. City of North Platte, 203 Neb. 706, 279 N.W.2d 868 (1979).

These statutes are clear, unambiguous, and constitutional. Gaughen v. Sloup, 197 Neb. 762, 250 N.W.2d 915 (1977).

A street covered with material forming a solid aggregate 3 to 5 inches thick consisting of compacted layers of gravel and an oil-type substance and creating a firm, level surface for vehicular travel is paved within the meaning of Nebraska's ''gap and extend'' law. Benesch v. City of Schuyler, 5 Neb. App. 59, 555 N.W.2d 63 (1996).

18-2002 Street improvements; additional authorization.

Any city or village may, without petition or creating a street improvement district, order the grading, curbing, guttering, and paving of any side street or alley within its corporate limits connecting with a major traffic street for a distance not to exceed one block from such major traffic street. The improvements authorized by this section may be performed upon any side street or alley not previously improved to meet or exceed the minimum standards for pavement set by the city or village for its paved streets.

Source: Laws 1963, c. 76, § 2, p. 280; Laws 1965, c. 75, § 2, p. 308; Laws 1999, LB 738, § 2.

The authorization for special assessment for street improvements in sections 18-2001 to 18-2003 does not extend to a street section already paved. Turner v. City of North Platte, 203 Neb. 706, 279 N.W.2d 868 (1979).

18-2003 Special taxes and assessments; bonds; warrants; interest on amounts due; contractor; sinking fund.

In order to defray the costs and expenses of the improvements authorized by sections 18-2001 and 18-2002, the mayor and city council or chairperson and

village board of trustees, as the case may be, may levy and collect special taxes and assessments upon the lots and parcels of real estate adjacent to or abutting upon the portion of the street or alley improved, or which may be specially benefited by such improvements, notwithstanding that such lots and parcels may be unplatted and not subdivided. The method of levying, equalizing, and collecting such special assessments, and generally financing such improvements by bond issues and other means, shall be as provided by law for paving and street improvements in such city or village. For the purpose of paying the cost of street improvements as provided in section 18-2001, the mayor and city council or chairperson and village board of trustees, as the case may be, shall have the power, after the improvements have been completed and accepted, to issue negotiable bonds of such city or village to be called Paving Bonds, payable in not exceeding fifteen years and bearing interest payable annually or semiannually, which may be sold by the city or village for not less than the par value of such bonds. For the purpose of making partial payments as the work progresses, warrants bearing interest may be issued by the city council or village board of trustees upon certificates of the engineer in charge showing the amount of work completed and materials necessarily purchased and delivered for the orderly and proper continuation of the project, in a sum not exceeding ninety-five percent of the cost thereof until the work has been completed and accepted by the city or village, at which time a warrant for the balance of the amount may be issued, which warrants shall be redeemed and paid upon the sale of the bonds or from any other funds available. The city or village shall pay to the contractor interest at the rate of eight percent per annum on the amounts due on partial and final payments beginning forty-five days after the certification of the amounts due by the engineer in charge and approval by the city council or village board of trustees, and running until the date that the warrant is tendered to the contractor. All special assessments which may be levied upon property specially benefited by such work or improvements shall, when collected, be set aside and constitute a sinking fund for the payment of the interest and principal of such bonds. There shall be levied annually upon all taxable property in such city or village a tax which, together with such sinking fund derived from special assessments, shall be sufficient to meet payments of interest and principal as the same become due.

Source: Laws 1963, c. 76, § 3, p. 280; Laws 1965, c. 75, § 3, p. 308; Laws 1969, c. 51, § 69, p. 316; Laws 1974, LB 636, § 6; Laws 2021, LB163, § 131.

''Adjacent,'' as used in this section, means to lie near, close, or contiguous. Iverson v. City of North Platte, 243 Neb. 506, 500 N.W.2d 574 (1993).

The authorization for special assessment for street improvements in sections 18-2001 to 18-2003 does not extend to a street section already paved. Turner v. City of North Platte, 203 Neb. 706, 279 N.W.2d 868 (1979).

18-2004 Sections, how construed.

Nothing in sections 18-2001 to 18-2004 shall be construed to repeal or amend any statutes except those specifically repealed, and sections 18-2001 to 18-2004 shall be supplemental to and in addition to any other laws of the State of Nebraska related to street improvements. Other statutes may be relied upon, if need be, to supplement and effectuate the purposes of sections 18-2001 to 18-2004.

Source: Laws 1965, c. 75, § 4, p. 309; Laws 2021, LB163, § 132.

18-2005 Street; common boundary with county or other municipality; concurrent and joint jurisdiction; limitation.

The city council of any city shall have concurrent and joint jurisdiction with the county board of any county and the governing body of any other municipality over any street which is contiguous to and forms a common boundary between such city and county or municipality. The city council of such city shall have the right and authority to exercise all powers over such street as it may over streets within its corporate limits with the cooperation and concurrence of the county board or the governing body of any other municipality. Nothing in this section shall be construed as granting any power of annexation which is not otherwise granted by law.

Source: Laws 1973, LB 71, § 1; Laws 2021, LB163, § 133.

ARTICLE 21

COMMUNITY DEVELOPMENT

Section

18-2101. Act, how cited.
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18-2101.02. Extremely blighted area; governing body; duties; review; public hearing.
18-2102. Legislative findings and declarations.
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18-2103. Terms, defined.
18-2103.01. Repealed. Laws 1969, c. 257, § 44.
18-2103.02. Acquisition of housing property; relocation of persons displaced.
18-2104. Exercise of powers; objective.
18-2105. Formulation of workable program; disaster assistance; effect.
18-2106. Authority; member or employee; interest in project or property; restriction; disclosure.
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18-2115.01. Notice; manner.
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18-2117.03. Redevelopment project; inclusion of certain costs.
18-2117.04. City; retain plans and documents.
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18-2120. Project; conveyance of property for public use.
18-2121. Real property; temporary operation, when.
18-2122. Real property; eminent domain; effect of resolution.

Section
18-2123. Undeveloped vacant land; land outside city; acquisition, when.
18-2123.01. Redevelopment project with property outside corporate limits; formerly used defense site; agreement with county authorized.
18-2124. Bonds; issuance; sources of payment; limitations.
18-2125. Bonds; liability; exempt from taxation; anticipation notes; renewal notes; terms; declaration of intent.
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18-2128. Bonds; signatures; validity.
18-2129. Bonds; actions; effect.
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18-2131. Bonds; default; causes of action.
18-2132. Repealed. Laws 2001, LB 420, § 38.
18-2133. Bonds; obligee; causes of action.
18-2134. Bonds; who may purchase.
18-2135. Federal government; contract for financial assistance; default; effect of cure.
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18-2138. Public body; cooperate in planning; powers.
18-2139. Public body; sale, conveyance, lease, or agreement; how made.
18-2140. Estimate of expenditures; cities; grant funds; levy taxes; issue bonds.
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18-2142.02. Enhanced employment area; redevelopment project; levy of general business occupation tax authorized; governing body; powers; occupation tax; power to levy; exceptions.
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18-2142.04. Enhanced employment area; authorized work within area; levy of general business occupation tax authorized; exceptions; governing body; powers; revenue bonds authorized; terms and conditions.
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18-2143. Community Development Law, how construed.
18-2144. Community Development Law; controlling over other laws and city charters.
18-2145. Limited community redevelopment authority; laws applicable.
18-2146. Minimum standards housing ordinance; adopt, when.
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18-2149. Project valuation; how treated.
18-2150. Financing; pledge of taxes.
18-2151. Redeveloper; penal bond; when required; purpose.
18-2152. Repealed. Laws 1988, LB 809, § 1.
18-2153. Sections, how construed.
18-2154. Authority; relocate individuals and businesses; replace housing units.
18-2155. Plan; expedited review; eligibility; procedure; projects; use of property taxes; requirements.

18-2101 Act, how cited.

Sections 18-2101 to 18-2155 shall be known and may be cited as the Community Development Law.

Source: Laws 1951, c. 224, § 1, p. 797; R.R.S.1943, § 14-1601; Laws 1957, c. 52, § 1, p. 247; R.R.S.1943, § 19-2601; Laws 1973, LB 299, § 1; Laws 1997, LB 875, § 2; Laws 2007, LB562, § 1; Laws 2013, LB66, § 1; Laws 2018, LB496, § 1; Laws 2018, LB874, § 4; Laws 2019, LB86, § 1; Laws 2020, LB1021, § 1.

In considering a challenge to actions taken by a community redevelopment authority pursuant to the Community Development Law, a district court may disturb the decision of the community redevelopment authority only if it determines that the decision was illegal or is not supported by the evidence and is thus arbitrary, unreasonable, or clearly wrong. Under the Community Development Law, land cannot be added to an existing community redevelopment area unless (1) the additional land is declared blighted or substandard within the meaning of the Community Development Law or (2) the additional land is reasonably necessary to accomplish the implementation of the existing redevelopment plan. Fitzke v. City of Hastings, 255 Neb. 46, 582 N.W.2d 301 (1998).

18-2101.01 Creation of agency; cooperation with federal government; taxes, bonds, and notes; other powers.

Cities of all classes and villages of this state are hereby granted power and authority to create a community development agency by ordinance, which agency may consist of the governing body of the city or village or a new or existing municipal division or department, or combination thereof. When such an agency is created, it shall function in the manner prescribed by ordinance and may exercise all of the power and authority granted to a community redevelopment authority under the Community Development Law. Cities of all classes and villages of this state are also granted power and authority to do all community development activities, and to do all things necessary to cooperate with the federal government in all matters relating to community development program activities as a grantee, or as an agent or otherwise, under the provisions of the federal Housing and Community Development Act of 1974, as amended through the Housing and Community Development Amendments of 1981. Whenever such a city exercises the power conferred in this section, it may levy taxes for the exercise of such jurisdiction and authority and may issue general obligation bonds, general obligation notes, revenue bonds, and revenue notes including general obligation and revenue refunding bonds and notes for the purposes set forth in the Community Development Law and under the power granted to any authority described.

Source: Laws 1973, LB 299, § 2; Laws 1976, LB 445, § 1; Laws 1979, LB 158, § 1; Laws 1980, LB 986, § 1; Laws 1983, LB 71, § 7; Laws 2018, LB874, § 5.

18-2101.02 Extremely blighted area; governing body; duties; review; public hearing.

(1) For any city that (a) intends to carry out a redevelopment project which will involve the construction of workforce housing in an extremely blighted area as authorized under subdivision (28)(g) of section 18-2103, (b) intends to prepare a redevelopment plan that will divide ad valorem taxes for a period of more than fifteen years but not more than twenty years as provided in subdivision (3)(a) of section 18-2147, (c) intends to declare an area as an extremely blighted area for purposes of funding decisions under subdivision (1)(b) of section 58-708, or (d) intends to declare an area as an extremely blighted area in order for individuals purchasing residences in such area to qualify for the income tax credit authorized in subsection (7) of section 77-2715.07, the governing body of such city shall first declare, by resolution adopted after the public hearings required under this section, such area to be an extremely blighted area.

(2) Prior to making such declaration, the governing body of the city shall conduct or cause to be conducted a study or an analysis on whether the area is extremely blighted and shall submit the question of whether such area is extremely blighted to the planning commission or board of the city for its review and recommendation. The planning commission or board shall hold a

public hearing on the question after giving notice of the hearing as provided in section 18-2115.01. The planning commission or board shall submit its written recommendations to the governing body of the city within thirty days after the public hearing.

(3) Upon receipt of the recommendations of the planning commission or board, or if no recommendations are received within thirty days after the public hearing required under subsection (2) of this section, the governing body shall hold a public hearing on the question of whether the area is extremely blighted after giving notice of the hearing as provided in section 18-2115.01. At the public hearing, all interested parties shall be afforded a reasonable opportunity to express their views respecting the proposed declaration. After such hearing, the governing body of the city may make its declaration.

(4) Copies of each study or analysis conducted pursuant to subsection (2) of this section shall be posted on the city's public website or made available for public inspection at a location designated by the city.

(5) The study or analysis required under subsection (2) of this section may be conducted in conjunction with the study or analysis required under section 18-2109. The hearings required under this section may be held in conjunction with the hearings required under section 18-2109.

Source: Laws 2019, LB86, § 2; Laws 2020, LB1003, § 172; Laws 2021, LB25, § 1; Laws 2022, LB1065, § 1.
Effective date July 21, 2022.

18-2102 Legislative findings and declarations.

It is hereby found and declared that there exist in cities of all classes and villages of this state areas which have deteriorated and become substandard and blighted because of the unsafe, insanitary, inadequate, or overcrowded condition of the dwellings therein, or because of inadequate planning of the area, or excessive land coverage by the buildings thereon, or the lack of proper light and air and open space, or because of the defective design and arrangement of the buildings thereon, or faulty street or lot layout, or congested traffic conditions, or economically or socially undesirable land uses. Such conditions or a combination of some or all of them have resulted and will continue to result in making such areas economic or social liabilities harmful to the social and economic well-being of the entire communities in which they exist, needlessly increasing public expenditures, imposing onerous municipal burdens, decreasing the tax base, reducing tax revenue, substantially impairing or arresting the sound growth of municipalities, aggravating traffic problems, substantially impairing or arresting the elimination of traffic hazards and the improvement of traffic facilities, and depreciating general community-wide values. The existence of such areas contributes substantially and increasingly to the spread of disease and crime, necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, punishment and the treatment of juvenile delinquency, and for the maintenance of adequate police, fire, and accident protection and other public services and facilities. These conditions are beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids herein provided. The elimination of such conditions and the acquisition and preparation of land in or

necessary to the renewal of substandard and blighted areas and its sale or lease for development or redevelopment in accordance with general plans and redevelopment plans of communities and any assistance which may be given by any state public body in connection therewith are public uses and purposes for which public money may be expended and private property acquired. The necessity in the public interest for the provisions of the Community Development Law is hereby declared to be a matter of legislative determination.

It is further found and declared that the prevention and elimination of blight is a matter of state policy, public interest, and statewide concern and within the powers and authority inhering in and reserved to the state, in order that the state and its municipalities shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, and consume an excessive proportion of their revenue.

It is further found and declared that certain substandard and blighted areas, or portions thereof, may require acquisition, clearance, and disposition, subject to use restrictions, as provided in the Community Development Law, since the prevailing conditions of decay may make impracticable the reclamation of the area by conservation or rehabilitation; that other areas or portions thereof may, through the means provided in the Community Development Law, be susceptible of conservation or rehabilitation in such a manner that the conditions and evils, hereinbefore enumerated, may be eliminated, remedied, or prevented; and that salvageable substandard and blighted areas can be conserved and rehabilitated through appropriate public action and the cooperation and voluntary action of the owners and tenants of property in such areas.

Source: Laws 1951, c. 224, § 2, p. 797; R.R.S.1943, § 14-1602; Laws 1957, c. 52, § 2, p. 247; Laws 1961, c. 61, § 1, p. 223; R.R.S. 1943, § 19-2602; Laws 1965, c. 74, § 1, p. 298; Laws 1997, LB 875, § 3.

18-2102.01 Creation of authority or limited authority; name; membership; terms; optional election; officers and employees; quorum; interest in contracts; accounts; loan from city; finances; deposits; audit.

Cities of all classes and villages of this state are hereby granted power and authority to create community redevelopment authorities and limited community redevelopment authorities.

(1) Whenever an authority or limited authority is created it shall bear the name of the city creating it and shall be legally known as the Community Redevelopment Authority of the City (or Village) of . . . . . (name of city or village) or the Limited Community Redevelopment Authority of the City (or Village) of . . . . . (name of city or village).

(2) When it is determined by the governing body of any city by ordinance in the exercise of its discretion that it is expedient to create a community redevelopment authority or limited community redevelopment authority, the mayor of the city or, if the mayor shall fail to act within ninety days after the passage of the ordinance, the president or other presiding officer other than the mayor of the governing body, with the approval of the governing body of the city, shall appoint five or seven persons who shall constitute the authority or the limited authority. The terms of office of the members of a five-member authority initially appointed shall be for one year, two years, three years, four years, and five years, as designated by the mayor, president, other presiding

officer, or city manager in making the respective appointments. The terms of office of the members of a seven-member authority initially appointed shall be one member each for one year, two years, and five years, and two members each for three years and four years, as designated by the mayor, president, other presiding officer, or city manager in making the respective appointments. As the terms of the members of the authority expire in cities not having the city manager plan of government, the mayor, with the approval of the governing body of the city, shall appoint or reappoint a member of the authority for a term of five years to succeed the member whose term expires. In cities having the city manager plan of government, the city manager shall appoint or reappoint the members with the approval of the governing body. The terms of office of the members of a limited community redevelopment authority shall be for the duration of only one single specific limited pilot project authorized in the ordinance creating the limited community redevelopment authority, and the terms of the members of a limited community redevelopment authority shall expire upon the completion of the single specific limited pilot project authorized in the ordinance creating the limited community redevelopment authority.

(3) A governing body may at its option submit an ordinance which creates a community redevelopment authority or a limited community redevelopment authority to the electors of the city for approval by a majority vote of the electors voting on the ordinance. On submitting the ordinance for approval, the governing body is authorized to call, by the ordinance, a special or general election and to submit, after thirty days' notice of the time and place of holding the election and according to the manner and method otherwise provided by law for the calling, conducting, canvassing, and certifying of the result of city elections on the submission of propositions to the electors, the proposition to be stated on the ballot as follows:

Shall the City (or Village) of . . . . . (name of city or village) create a Community Redevelopment Authority of the City (or Village) of . . . . . (name of city or village)?

. . . Yes

. . . No.

When the ordinance submitted to the electors for approval by a majority vote of the electors voting on the ordinance is to create a limited community redevelopment authority the proposition shall be stated on the ballot as follows:

Shall the City (or Village) of . . . . . (name of city or village) create a Limited Community Redevelopment Authority of the City (or Village) of . . . . . (name of city or village)?

. . . Yes

. . . No.

(4) Vacancies shall be filled for any unexpired term in the same manner as the original appointment. Members of the authority so appointed shall hold office until their successors have been appointed and qualified. Members of a limited authority shall hold office as provided in this section. All members of the authority shall serve without compensation, but shall be entitled to be reimbursed for all necessary expenses incurred.

(5) Any authority established under this section shall organize by electing one of its members chairperson and another vice-chairperson, shall have power to employ counsel, a director who shall be ex officio secretary of the authority,

and such other officers and employees as may be desired, and shall fix the term of office, qualifications, and compensation of each. The holder of the office of community redevelopment administrator or coordinator of the city may, but need not, be appointed the director but at no additional compensation by the authority. Community redevelopment authorities of cities of the first and second class and villages may secure the services of a director, community redevelopment administrator, or coordinator, and other officers and employees as may be desired through contract with the Department of Economic Development upon terms which are mutually agreeable. Any authority established under this section may validly and effectively act on all matters requiring a resolution or other official action by the concurrence of three members of a five-member authority or four members of a seven-member authority present and voting at a meeting of the authority. Orders, requisitions, warrants, and other documents may be executed by the chairperson or vice-chairperson or by or with others designated in its bylaws.

(6) No member or employee of any authority established under this section shall have any interest directly or indirectly in any contract for property, materials, or services to be required by such authority. No member of any authority established under this section shall also be a member of any planning commission created under section 19-925.

(7) The authority shall keep an accurate account of all its activities and of all receipts and disbursements and make an annual report of such activities, receipts, and disbursements to the governing body of the city.

(8) The governing body of a city creating a community redevelopment authority or a limited community redevelopment authority is hereby authorized to appropriate and loan to the authority a sum not exceeding ten thousand dollars for the purposes of paying expenses of organizing and supervising the work of the authority at the beginning of its activities. The loan shall be authorized by resolution of the governing body which shall set forth the terms and time of the repayment of the loan. The loan may be appropriated out of the general funds or any sinking fund.

(9) All income, revenue, profits, and other funds received by any authority established under this section from whatever source derived, or appropriated by the city, or realized from tax receipts or comprised in the special revenue fund of the city designated for the authority or from the proceeds of bonds, or otherwise, shall be deposited with the city treasurer as ex officio treasurer of the authority without commingling the money with any other money under his or her control and disbursed by him or her by check, draft, or order only upon warrants, orders, or requisitions by the chairperson of the authority or other person authorized by the authority which shall state distinctly the purpose for which the same are drawn. A permanent record shall be kept by the authority of all warrants, orders, or requisitions so drawn, showing the date, amount, consideration, and to whom payable. When paid, the same shall be canceled and kept on file by the city treasurer. The books of any authority established under this section shall from time to time be audited upon the order of the governing body of the municipality in such manner as it may direct, and all books and records of the authority shall at all times be open to public inspection. The Auditor of Public Accounts may audit, or cause to be audited, any authority established under this section or any redevelopment plan of such authority when the Auditor of Public Accounts determines such audit is necessary or when requested by the governing body, and such audit shall be at the

expense of the authority. The authority may contract with the holders of any of its bonds or notes as to collection, custody, securing investment, and payment of any money of the authority or any money held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes. The authority may carry out the contract notwithstanding that such contract may be inconsistent with the previous provisions of this subdivision. All banks, capital stock financial institutions, qualifying mutual financial institutions, and trust companies are hereby authorized to give security for the deposits of money of any authority established under the provisions of this section pursuant to the Public Funds Deposit Security Act. Section 77-2366 applies to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1957, c. 52, § 3, p. 248; Laws 1961, c. 61, § 2, p. 224; Laws 1963, c. 89, § 9, p. 307; R.S.Supp.,1963, § 19-2602.01; Laws 1965, c. 74, § 2, p. 300; Laws 1967, c. 87, § 1, p. 273; Laws 1969, c. 106, § 1, p. 484; Laws 1969, c. 107, § 1, p. 499; Laws 1989, LB 33, § 23; Laws 1997, LB 875, § 4; Laws 1999, LB 396, § 19; Laws 2001, LB 362, § 26; Laws 2009, LB339, § 1; Laws 2017, LB383, § 1; Laws 2018, LB874, § 6; Laws 2019, LB193, § 8.

Cross References

Public Funds Deposit Security Act, see section 77-2386.

18-2103 Terms, defined.

For purposes of the Community Development Law, unless the context otherwise requires:

(1) Area of operation means and includes the area within the corporate limits of the city and such land outside the city as may come within the purview of sections 18-2123 and 18-2123.01;

(2) Authority means any community redevelopment authority created pursuant to section 18-2102.01 and any community development agency created pursuant to section 18-2101.01 and does not include a limited community redevelopment authority;

(3) Blighted area means an area (a) which, by reason of the presence of a substantial number of deteriorated or deteriorating structures, existence of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations, or constitutes an economic or social liability and is detrimental to the public health, safety, morals, or welfare in its present condition and use and (b) in which there is at least one of the following conditions: (i) Unemployment in the designated area is at least one hundred twenty percent of the state or national average; (ii) the average age of the residential or commercial units in the area is at least forty years; (iii) more than half of the plotted and subdivided property in an area is unimproved land that has been within the city for forty years and has remained unimproved during that time; (iv) the per capita

income of the area is lower than the average per capita income of the city or village in which the area is designated; or (v) the area has had either stable or decreasing population based on the last two decennial censuses. In no event shall a city of the metropolitan, primary, or first class designate more than thirty-five percent of the city as blighted, a city of the second class shall not designate an area larger than fifty percent of the city as blighted, and a village shall not designate an area larger than one hundred percent of the village as blighted. A redevelopment project involving a formerly used defense site as authorized under section 18-2123.01 and any area declared to be an extremely blighted area under section 18-2101.02 shall not count towards the percentage limitations contained in this subdivision;

(4) Bonds means any bonds, including refunding bonds, notes, interim certificates, debentures, or other obligations issued pursuant to the Community Development Law except for bonds issued pursuant to section 18-2142.04;

(5) Business means any private business located in an enhanced employment area;

(6) City means any city or incorporated village in the state;

(7) Clerk means the clerk of the city or village;

(8) Community redevelopment area means a substandard and blighted area which the community redevelopment authority designates as appropriate for a redevelopment project;

(9) Employee means a person employed at a business as a result of a redevelopment project;

(10) Employer-provided health benefit means any item paid for by the employer in total or in part that aids in the cost of health care services, including, but not limited to, health insurance, health savings accounts, and employer reimbursement of health care costs;

(11) Enhanced employment area means an area not exceeding six hundred acres (a) within a community redevelopment area which is designated by an authority as eligible for the imposition of an occupation tax or (b) not within a community redevelopment area as may be designated under section 18-2142.04;

(12) Equivalent employees means the number of employees computed by (a) dividing the total hours to be paid in a year by (b) the product of forty times the number of weeks in a year;

(13) Extremely blighted area means a substandard and blighted area in which: (a) The average rate of unemployment in the area during the period covered by the most recent federal decennial census or American Community Survey 5-Year Estimate is at least two hundred percent of the average rate of unemployment in the state during the same period; and (b) the average poverty rate in the area exceeds twenty percent for the total federal census tract or tracts or federal census block group or block groups in the area;

(14) Federal government means the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America;

(15) Governing body or local governing body means the city council, board of trustees, or other legislative body charged with governing the municipality;

(16) Limited community redevelopment authority means a community redevelopment authority created pursuant to section 18-2102.01 having only one single specific limited pilot project authorized;

(17) Mayor means the mayor of the city or chairperson of the board of trustees of the village;

(18) New investment means the value of improvements to real estate made in an enhanced employment area by a developer or a business;

(19) Number of new employees means the number of equivalent employees that are employed at a business as a result of the redevelopment project during a year that are in excess of the number of equivalent employees during the year immediately prior to the year that a redevelopment plan is adopted;

(20) Obligee means any bondholder, agent, or trustee for any bondholder, or lessor demising to any authority, established pursuant to section 18-2102.01, property used in connection with a redevelopment project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with such authority;

(21) Occupation tax means a tax imposed under section 18-2142.02;

(22) Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic and includes any trustee, receiver, assignee, or other similar representative thereof;

(23) Public body means the state or any municipality, county, township, board, commission, authority, district, or other political subdivision or public body of the state;

(24) Real property means all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise, and the indebtedness secured by such liens;

(25) Redeveloper means any person, partnership, or public or private corporation or agency which enters or proposes to enter into a redevelopment contract;

(26) Redevelopment contract means a contract entered into between an authority and a redeveloper for the redevelopment of an area in conformity with a redevelopment plan;

(27) Redevelopment plan means a plan, as it exists from time to time for one or more community redevelopment areas, or for a redevelopment project, which (a) conforms to the general plan for the municipality as a whole and (b) is sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the community redevelopment area, zoning and planning changes, if any, land uses, maximum densities, and building requirements;

(28) Redevelopment project means any work or undertaking in one or more community redevelopment areas: (a) To acquire substandard and blighted areas or portions thereof, including lands, structures, or improvements the acquisition of which is necessary or incidental to the proper clearance, development, or redevelopment of such substandard and blighted areas; (b) to clear any such areas by demolition or removal of existing buildings, structures, streets, utili-

ties, or other improvements thereon and to install, construct, or reconstruct streets, utilities, parks, playgrounds, public spaces, public parking facilities, sidewalks or moving sidewalks, convention and civic centers, bus stop shelters, lighting, benches or other similar furniture, trash receptacles, shelters, skywalks and pedestrian and vehicular overpasses and underpasses, enhancements to structures in the redevelopment plan area which exceed minimum building and design standards in the community and prevent the recurrence of substandard and blighted conditions, and any other necessary public improvements essential to the preparation of sites for uses in accordance with a redevelopment plan; (c) to sell, lease, or otherwise make available land in such areas for residential, recreational, commercial, industrial, or other uses, including parking or other facilities functionally related or subordinate to such uses, or for public use or to retain such land for public use, in accordance with a redevelopment plan; and may also include the preparation of the redevelopment plan, the planning, survey, and other work incident to a redevelopment project and the preparation of all plans and arrangements for carrying out a redevelopment project; (d) to dispose of all real and personal property or any interest in such property, or assets, cash, or other funds held or used in connection with residential, recreational, commercial, industrial, or other uses, including parking or other facilities functionally related or subordinate to such uses, or any public use specified in a redevelopment plan or project, except that such disposition shall be at its fair value for uses in accordance with the redevelopment plan; (e) to acquire real property in a community redevelopment area which, under the redevelopment plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitate the structures, and resell the property; (f) to carry out plans for a program of voluntary or compulsory repair, rehabilitation, or demolition of buildings in accordance with the redevelopment plan; and (g) in a rural community or in an extremely blighted area within a municipality that is not a rural community, to carry out construction of workforce housing;

(29) Redevelopment project valuation means the valuation for assessment of the taxable real property in a redevelopment project last certified for the year prior to the effective date of the provision authorized in section 18-2147;

(30) Rural community means any municipality in a county with a population of fewer than one hundred thousand inhabitants as determined by the most recent federal decennial census;

(31) Substandard area means an area in which there is a predominance of buildings or improvements, whether nonresidential or residential in character, which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, (which cannot be remedied through construction of prisons), and is detrimental to the public health, safety, morals, or welfare; and

(32) Workforce housing means:

(a) Housing that meets the needs of today's working families;

(b) Housing that is attractive to new residents considering relocation to a rural community;

(c) Owner-occupied housing units that cost not more than two hundred seventy-five thousand dollars to construct or rental housing units that cost not more than two hundred thousand dollars per unit to construct. For purposes of this subdivision (c), housing unit costs shall be updated annually by the Department of Economic Development based upon the most recent increase or decrease in the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics;

(d) Owner-occupied and rental housing units for which the cost to substantially rehabilitate exceeds fifty percent of a unit's assessed value; and

(e) Upper-story housing.

Source: Laws 1951, c. 224, § 3, p. 797; R.R.S.1943, § 14-1603; Laws 1957, c. 52, § 4, p. 249; Laws 1961, c. 61, § 3, p. 227; R.R.S. 1943, § 19-2603; Laws 1965, c. 74, § 3, p. 303; Laws 1969, c. 106, § 2, p. 488; Laws 1973, LB 299, § 3; Laws 1979, LB 158, § 2; Laws 1980, LB 986, § 2; Laws 1984, LB 1084, § 2; Laws 1993, LB 121, § 143; Laws 1997, LB 875, § 5; Laws 2007, LB562, § 2; Laws 2012, LB729, § 1; Laws 2013, LB66, § 2; Laws 2014, LB1012, § 1; Laws 2018, LB496, § 2; Laws 2018, LB874, § 7; Laws 2019, LB86, § 3; Laws 2020, LB1003, § 173; Laws 2021, LB131, § 18.

18-2103.01 Repealed. Laws 1969, c. 257, § 44.

18-2103.02 Acquisition of housing property; relocation of persons displaced.

When any property consisting of housing is acquired for redevelopment by the authority, the authority shall provide for relocation of any persons displaced as a result thereof.

Source: Laws 1965, c. 74, § 5, p. 306.

18-2104 Exercise of powers; objective.

The governing body of a city, to the greatest extent it deems to be feasible in carrying out the provisions of the Community Development Law, shall afford maximum opportunity, consistent with the sound needs of the city as a whole, to the rehabilitation or redevelopment of the community redevelopment area by private enterprises. The governing body of a city shall give consideration to this objective in exercising its powers under the Community Development Law, including the formulation of a workable program, the approval of community redevelopment plans consistent with the general plan for the development of the city, the exercise of its zoning powers, the enforcement of other laws, codes, and regulations, relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the providing of necessary public improvements.

Source: Laws 1951, c. 224, § 4(1), p. 800; R.R.S.1943, § 14-1604; Laws 1957, c. 52, § 5, p. 252; Laws 1961, c. 61, § 4, p. 230; R.R.S. 1943, § 19-2604; Laws 2018, LB874, § 8.

18-2105 Formulation of workable program; disaster assistance; effect.

The governing body of a city or an authority at its direction for the purposes of the Community Development Law may formulate for the entire municipality a workable program for utilizing appropriate private and public resources to

eliminate or prevent the development or spread of urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of substandard and blighted areas, or to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include, without limitation, provision for the prevention of the spread of blight into areas of the municipality which are free from blight through diligent enforcement of housing, zoning, and occupancy controls and standards; the rehabilitation or conservation of substandard and blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds, and other public improvements by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of substandard and blighted areas or portions thereof.

Notwithstanding any other provisions of the Community Development Law, where the local governing body certifies that an area is in need of redevelopment or rehabilitation as a result of flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the Governor of the state has certified the need for disaster assistance under federal law, the local governing body may approve a redevelopment plan and a redevelopment project with respect to such area without regard to the provisions of the Community Development Law requiring a general plan for the municipality and notice and public hearing or findings other than herein set forth.

Source: Laws 1951, c. 224, § 4(2), p. 800; R.R.S.1943, § 14-1605; Laws 1957, c. 52, § 6, p. 253; Laws 1961, c. 61, § 5, p. 231; R.R.S.1943, § 19-2605; Laws 1997, LB 875, § 6.

The Community Development Law gives local governing bodies the discretion to remove blighted designations as they see fit to best serve the sound needs of the community. Prime Realty Dev., Inc. v. City of Omaha, 258 Neb. 72, 602 N.W.2d 13 (1999).

18-2106 Authority; member or employee; interest in project or property; restriction; disclosure.

No member or employee of an authority shall voluntarily acquire any interest, direct or indirect, in any redevelopment project or in any property included or planned by the authority to be included in any such project, or in any contract or proposed contract in connection with any such project. Where the acquisition is not voluntary, such member or employee shall immediately disclose such interest in writing to the authority and such disclosure shall be entered upon the minutes of the authority. If any member or employee of an authority presently owns or controls or owned or controlled within the preceding two years an interest, direct or indirect, in any property included or planned by the authority to be included in any redevelopment project, he immediately shall disclose such interest in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Upon such disclosure such member or employee of an authority shall not participate in any action by the authority affecting such property.

Source: Laws 1951, c. 224, § 4(3), p. 801; R.R.S.1943, § 14-1606; R.R.S.1943, § 19-2606.

18-2107 Authority; powers and duties.

An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of the Community Development Law, including the power:

(1) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules, and regulations not inconsistent with the Community Development Law;

(2) To prepare or cause to be prepared and recommend redevelopment plans to the governing body of the city and to undertake and carry out redevelopment projects within its area of operation;

(3) To arrange or contract for the furnishing or repair, by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities, or other facilities for or in connection with a redevelopment project; and, notwithstanding anything to the contrary contained in the Community Development Law or any other provision of law, to agree to any conditions that it may deem reasonable and appropriate attached to federal financial assistance and imposed pursuant to federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of a redevelopment project, and to include in any contract let in connection with such a project provisions to fulfill such federally imposed conditions as it may deem reasonable and appropriate;

(4) Within its area of operation, to purchase, lease, obtain options upon, or acquire by gift, grant, bequest, devise, eminent domain, or otherwise any real or personal property or any interest therein, together with any improvements thereon, necessary or incidental to a redevelopment project; to hold, improve, clear, or prepare for redevelopment any such property; to sell, lease for a term not exceeding ninety-nine years, exchange, transfer, assign, subdivide, retain for its own use, mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real or personal property or any interest therein; to enter into contracts with redevelopers of property containing covenants, restrictions, and conditions regarding the use of such property for residential, commercial, industrial, or recreational purposes or for public purposes in accordance with the redevelopment plan and such other covenants, restrictions, and conditions as the authority may deem necessary to prevent a recurrence of substandard and blighted areas or to effectuate the purposes of the Community Development Law; to make any of the covenants, restrictions, or conditions of the foregoing contracts covenants running with the land and to provide appropriate remedies for any breach of any such covenants or conditions, including the right in the authority to terminate such contracts and any interest in the property created pursuant thereto; to borrow money, issue bonds, and provide security for loans or bonds; to establish a revolving loan fund; to insure or provide for the insurance of any real or personal property or the operation of the authority against any risks or hazards, including the power to pay premiums on any such insurance; to enter into any contracts necessary to effectuate the purposes of the Community Development Law; and to provide grants, loans, or other means of financing to public or private parties in order to accomplish the rehabilitation or redevelopment in accordance with a redevelopment plan, except that the proceeds from indebtedness incurred for the purpose of financing a redevelopment project that includes the division of taxes as provided in section

18-2147 shall not be used to establish a revolving loan fund. No statutory provision with respect to the acquisition, clearance, or disposition of property by other public bodies shall restrict an authority exercising powers hereunder, in such functions, unless the Legislature shall specifically so state;

(5) To invest any funds held in reserves or sinking funds or any funds not required for immediate disbursement in property or securities in which savings banks or other banks may legally invest funds subject to their control; and to redeem its bonds at the redemption price established therein or to purchase its bonds at less than redemption price, and such bonds redeemed or purchased shall be canceled;

(6) To borrow money and to apply for and accept advances, loans, grants, contributions, and any other form of financial assistance from the federal government, from the state, county, municipality, or other public body, or from any sources, public or private, including charitable funds, foundations, corporations, trusts, or bequests, for purposes of the Community Development Law, to give such security as may be required, and to enter into and carry out contracts in connection therewith; and notwithstanding any other provision of law, to include in any contract for financial assistance with the federal government for a redevelopment project such conditions imposed pursuant to federal law as the authority may deem reasonable and appropriate and which are not inconsistent with the purposes of the Community Development Law;

(7) Acting through one or more members of an authority or other persons designated by the authority, to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority or excused from attendance; and to make available to appropriate agencies or public officials, including those charged with the duty of abating or requiring the correction of nuisances or like conditions, demolishing unsafe or insanitary structures, or eliminating conditions of blight within its area of operation, its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, safety, morals, or welfare;

(8) Within its area of operation, to make or have made all surveys, appraisals, studies, and plans, but not including the preparation of a general plan for the community, necessary to the carrying out of the purposes of the Community Development Law and to contract or cooperate with any and all persons or agencies, public or private, in the making and carrying out of such surveys, appraisals, studies, and plans;

(9) To prepare plans and provide reasonable assistance for the relocation of families, business concerns, and others displaced from a redevelopment project area to permit the carrying out of the redevelopment project to the extent essential for acquiring possession of and clearing such area or parts thereof; and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government;

(10) To make such expenditures as may be necessary to carry out the purposes of the Community Development Law; and to make expenditures from

funds obtained from the federal government without regard to any other laws pertaining to the making and approval of appropriations and expenditures;

(11) To certify on or before September 30 of each year to the governing body of the city the amount of tax to be levied for the succeeding fiscal year for community redevelopment purposes, not to exceed two and six-tenths cents on each one hundred dollars upon the taxable value of the taxable property in such city, which levy is subject to allocation under section 77-3443 on and after July 1, 1998. The governing body shall levy and collect the taxes so certified at the same time and in the same manner as other city taxes are levied and collected, and the proceeds of such taxes, when due and as collected, shall be set aside and deposited in the special account or accounts in which other revenue of the authority is deposited. Such proceeds shall be employed to assist in the defraying of any expenses of redevelopment plans and projects, including the payment of principal and interest on any bonds issued to pay the costs of any such plans and projects;

(12) To exercise all or any part or combination of powers granted in this section;

(13) To plan, undertake, and carry out neighborhood development programs consisting of redevelopment project undertakings and activities in one or more community redevelopment areas which are planned and carried out on the basis of annual increments in accordance with the Community Development Law for planning and carrying out redevelopment projects;

(14) To agree with the governing body of the city for the imposition of an occupation tax for an enhanced employment area; and

(15) To demolish any structure determined by the governing body of the city to be unsafe or unfit for human occupancy in accordance with section 18-1722.01.

Source: Laws 1951, c. 224, § 5, p. 801; R.R.S.1943, § 14-1607; Laws 1957, c. 52, § 7, p. 253; Laws 1961, c. 61, § 6, p. 232; R.R.S. 1943, § 19-2607; Laws 1969, c. 106, § 3, p. 491; Laws 1979, LB 158, § 3; Laws 1979, LB 187, § 79; Laws 1980, LB 986, § 3; Laws 1985, LB 52, § 1; Laws 1992, LB 1063, § 11; Laws 1992, Second Spec. Sess., LB 1, § 11; Laws 1993, LB 734, § 28; Laws 1995, LB 452, § 5; Laws 1997, LB 269, § 20; Laws 1997, LB 875, § 7; Laws 2007, LB562, § 3; Laws 2012, LB729, § 2; Laws 2018, LB874, § 9; Laws 2021, LB644, § 10.

The taking of substandard or blighted areas by a city for redevelopment and resale in accordance with an approved redevelopment plan which is in conformity with a general plan for the municipality as a whole as provided for in these sections, is a proper public use for a municipality. Monarch Chemical Works, Inc. v. City of Omaha, 203 Neb. 33, 277 N.W.2d 423 (1979).

18-2108 Real estate; acquisition; requirement.

An authority shall not acquire real property for a redevelopment project unless the governing body of the city in which the redevelopment project area is located has approved the redevelopment plan, as prescribed in section 18-2116 or 18-2155.

Source: Laws 1951, c. 224, § 6(1), p. 804; R.R.S.1943, § 14-1608; R.R.S. 1943, § 19-2608; Laws 2020, LB1021, § 2.

18-2109 Redevelopment plan; preparation; requirements; planning commission or board; public hearing; notice; governing body; public hearing; notice.

(1) A redevelopment plan for a redevelopment project area shall not be prepared and the governing body of the city in which such area is located shall not approve a redevelopment plan unless the governing body has, by resolution adopted after the public hearings required under this section, declared such area to be a substandard and blighted area in need of redevelopment.

(2) Prior to making such declaration, the governing body of the city shall conduct or cause to be conducted a study or an analysis on whether the area is substandard and blighted and shall submit the question of whether such area is substandard and blighted to the planning commission or board of the city for its review and recommendation. The planning commission or board shall hold a public hearing on the question after giving notice of the hearing as provided in section 18-2115.01. The planning commission or board shall submit its written recommendations to the governing body of the city within thirty days after the public hearing.

(3) Upon receipt of the recommendations of the planning commission or board, or if no recommendations are received within thirty days after the public hearing required under subsection (2) of this section, the governing body shall hold a public hearing on the question of whether the area is substandard and blighted after giving notice of the hearing as provided in section 18-2115.01. At the public hearing, all interested parties shall be afforded a reasonable opportunity to express their views respecting the proposed declaration. After such hearing, the governing body of the city may declare such area or any portion of such area to be a substandard and blighted area.

(4) Copies of each substandard and blighted study or analysis conducted pursuant to subsection (2) of this section shall be posted on the city's public website or made available for public inspection at a location designated by the city.

Source: Laws 1951, c. 224, § 6(2), p. 805; R.R.S.1943, § 14-1609; Laws 1957, c. 52, § 8, p. 257; Laws 1961, c. 61, § 7, p. 236; R.R.S. 1943, § 19-2609; Laws 1997, LB 875, § 8; Laws 2018, LB874, § 10; Laws 2020, LB1003, § 174; Laws 2020, LB1021, § 3; Laws 2022, LB1065, § 2.
Effective date July 21, 2022.

18-2110 Plan; submission or recommendation; requirement.

A redevelopment plan shall not be submitted or recommended to the governing body of the city in which the redevelopment project area is located until a general plan for the development of the city has been prepared.

Source: Laws 1951, c. 224, § 6(3), p. 805; R.R.S.1943, § 14-1610; R.R.S. 1943, § 19-2610; Laws 2020, LB1021, § 4.

18-2111 Plan; who may prepare; contents.

(1) The authority may itself prepare or cause to be prepared a redevelopment plan or any person or agency, public or private, may submit such a plan to an authority. A redevelopment plan shall be sufficiently complete to indicate its relationship to definite local objectives as to appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements, and the proposed land uses and building requirements in the redevelopment project area, and shall include without being limited to: (a) The boundaries of the redevelopment project area, with a

map showing the existing uses and condition of the real property therein; (b) a land-use plan showing proposed uses of the area; (c) information showing the standards of population densities, land coverage, and building intensities in the area after redevelopment; (d) a statement of the proposed changes, if any, in zoning ordinances or maps, street layouts, street levels or grades, or building codes and ordinances; (e) a site plan of the area; and (f) a statement as to the kind and number of additional public facilities or utilities which will be required to support the new land uses in the area after redevelopment. Any redevelopment plan may include a proposal for the designation of an enhanced employment area.

(2) This section shall not apply to a redevelopment plan that receives an expedited review under section 18-2155.

Source: Laws 1951, c. 224, § 6(4), p. 805; R.R.S.1943, § 14-1611; R.R.S. 1943, § 19-2611; Laws 2007, LB562, § 4; Laws 2020, LB1021, § 5.

18-2112 Plan; submit to planning commission or board; recommendations.

(1) Prior to recommending a redevelopment plan to the governing body for approval, an authority shall submit such plan to the planning commission or board of the city in which the redevelopment project area is located for review and recommendations as to its conformity with the general plan for the development of the city as a whole. The planning commission or board shall submit its written recommendations with respect to the proposed redevelopment plan to the authority within thirty days after receipt of the plan for review. Upon receipt of the recommendations of the planning commission or board or, if no recommendations are received within such thirty days, then without such recommendations, an authority may recommend the redevelopment plan to the governing body of the city for approval.

(2) This section shall not apply to a redevelopment plan that receives an expedited review under section 18-2155.

Source: Laws 1951, c. 224, § 6(5), p. 805; R.R.S.1943, § 14-1612; Laws 1961, c. 61, § 8, p. 236; R.R.S.1943, § 19-2612; Laws 2020, LB1021, § 6.

18-2113 Plan; considerations; cost-benefit analysis.

(1) Prior to recommending a redevelopment plan to the governing body for approval, an authority shall consider whether the proposed land uses and building requirements in the redevelopment project area are designed with the general purpose of accomplishing, in conformance with the general plan, a coordinated, adjusted, and harmonious development of the city and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic, and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage, and other public utilities, schools, parks, recreational and community facilities, and other public requirements, the promotion of sound design and arrangement, the wise and

efficient expenditure of public funds, and the prevention of the recurrence of insanitary or unsafe dwelling accommodations or conditions of blight.

(2) The authority shall conduct a cost-benefit analysis for each redevelopment project whose redevelopment plan includes the division of taxes as provided in section 18-2147. In conducting the cost-benefit analysis, the authority shall use a cost-benefit model developed for use by local projects. Any cost-benefit model used by the authority shall consider and analyze the following factors:

(a) Tax shifts resulting from the division of taxes as provided in section 18-2147;

(b) Public infrastructure and community public service needs impacts and local tax impacts arising from the approval of the redevelopment project;

(c) Impacts on employers and employees of firms locating or expanding within the boundaries of the area of the redevelopment project;

(d) Impacts on other employers and employees within the city or village and the immediate area that are located outside of the boundaries of the area of the redevelopment project;

(e) Impacts on the student populations of school districts within the city or village; and

(f) Any other impacts determined by the authority to be relevant to the consideration of costs and benefits arising from the redevelopment project.

(3) Copies of each cost-benefit analysis conducted pursuant to subsection (2) of this section shall be posted on the city's public website or made available for public inspection at a location designated by the city.

(4) This section shall not apply to a redevelopment plan that receives an expedited review under section 18-2155.

Source: Laws 1951, c. 224, § 6(6), p. 806; R.R.S.1943, § 14-1613; Laws 1957, c. 52, § 9, p. 257; R.R.S.1943, § 19-2613; Laws 1997, LB 875, § 9; Laws 1999, LB 774, § 1; Laws 2018, LB874, § 11; Laws 2020, LB1021, § 7.

18-2114 Plan; recommendations to governing body; statements required.

(1) The recommendation of a redevelopment plan by an authority to the governing body shall be accompanied by the recommendations, if any, of the planning commission or board concerning the redevelopment plan; a statement of the proposed method and estimated cost of the acquisition and preparation for redevelopment of the redevelopment project area and the estimated proceeds or revenue from its disposal to redevelopers; a statement of the proposed method of financing the redevelopment project; and a statement of a feasible method proposed for the relocation of families to be displaced from the redevelopment project area.

(2) This section shall not apply to a redevelopment plan that receives an expedited review under section 18-2155.

Source: Laws 1951, c. 224, § 6(7), p. 806; R.R.S.1943, § 14-1614; Laws 1961, c. 61, § 9, p. 236; R.R.S.1943, § 19-2614; Laws 2020, LB1021, § 8.

18-2115 Redevelopment plan or substantial modification; public hearing; notice; governing body hearing; notice.

(1) The planning commission or board of the city shall hold a public hearing on any redevelopment plan or substantial modification thereof after giving notice of the hearing as provided in section 18-2115.01.

(2) After the hearing required under subsection (1) of this section, the governing body of the city shall hold a public hearing on any redevelopment plan or substantial modification thereof after giving notice of the hearing as provided in section 18-2115.01. At the public hearing, all interested parties shall be afforded a reasonable opportunity to express their views respecting the proposed redevelopment plan.

(3) For purposes of this section, substantial modification means a change to a redevelopment plan that (a) materially alters or reduces existing areas or structures otherwise available for public use or access, (b) substantially alters the use of the community redevelopment area as contemplated in the redevelopment plan, or (c) increases the amount of ad valorem taxes pledged under section 18-2150 by more than five percent, if the amount of such taxes is included in the redevelopment plan.

(4) This section shall not apply to a redevelopment plan that receives an expedited review under section 18-2155.

Source: Laws 1951, c. 224, § 6(8), p. 807; R.R.S.1943, § 14-1615; Laws 1957, c. 52, § 10, p. 258; R.R.S.1943, § 19-2615; Laws 1995, LB 140, § 1; Laws 1997, LB 875, § 10; Laws 2014, LB679, § 2; Laws 2018, LB874, § 12; Laws 2020, LB1003, § 175; Laws 2020, LB1021, § 9.

18-2115.01 Notice; manner.

(1) For any hearing to be held pursuant to section 18-2101.02, 18-2109, or 18-2115:

(a) The notice of hearing shall:

(i) Be published at least once a week for two consecutive weeks in a legal newspaper in or of general circulation in the community;

(ii) Be given to any neighborhood association which is registered under subsection (2) of this section and whose area of representation is located in whole or in part within a one-mile radius of the area to be declared extremely blighted under section 18-2101.02, the area to be declared substandard and blighted under section 18-2109, or the area to be redeveloped in the redevelopment plan or substantial modification thereof under section 18-2115; and

(iii) Be given to the president or chairperson of the governing body of each county, school district, community college area, educational service unit, and natural resources district that includes the real property to be declared extremely blighted under section 18-2101.02, the real property to be declared substandard and blighted under section 18-2109, or the real property subject to the redevelopment plan or substantial modification thereof under section 18-2115;

(b) The time of the hearing shall be at least ten days from the last publication of notice under subdivision (1)(a)(i) of this section;

(c) The notice of hearing described in subdivision (1)(a)(ii) of this section shall be given at least ten days prior to the hearing, shall be sent in the manner requested by the neighborhood association, and shall be deemed given on the date it is sent to the neighborhood association. The notice of hearing described

in subdivision (1)(a)(iii) of this section shall be given at least ten days prior to the hearing, shall be sent by certified mail, return receipt requested, to the president or chairperson of the governing body, and shall be deemed given on the date it is mailed by certified mail to the president or chairperson; and

(d) The notice of hearing shall include the following information:

(i) The time, date, place, and purpose of the hearing;

(ii) A map of sufficient size to show the area to be declared extremely blighted under section 18-2101.02, the area to be declared substandard and blighted under section 18-2109, or the area to be redeveloped in the redevelopment plan or substantial modification thereof under section 18-2115, or information on where to find such map;

(iii) For a hearing held pursuant to section 18-2101.02, information on where to find copies of the study or analysis conducted pursuant to subsection (2) of section 18-2101.02;

(iv) For a hearing held pursuant to section 18-2109, information on where to find copies of the study or analysis conducted pursuant to subsection (2) of section 18-2109; and

(v) For a hearing held pursuant to section 18-2115, a specific identification of the area to be redeveloped under the plan and information on where to find copies of any cost-benefit analysis conducted pursuant to section 18-2113.

(2) Each neighborhood association desiring to receive notice of any hearing required under section 18-2101.02, 18-2109, or 18-2115 shall register with the city's planning department or, if there is no planning department, with the city clerk. The registration shall include a description of the area of representation of the association, the name of and contact information for the individual designated by the association to receive the notice on its behalf, and the requested manner of service, whether by email, first-class mail, or certified mail. Registration of the neighborhood association for purposes of this section shall be accomplished in accordance with such other rules and regulations as may be adopted and promulgated by the city.

Source: Laws 2018, LB874, § 13; Laws 2019, LB86, § 4; Laws 2020, LB1003, § 176.

18-2116 Plan; approval; findings.

(1) Following the public hearings required under section 18-2115, the governing body may approve a redevelopment plan if (a) it finds and documents in writing that the plan is feasible and in conformity with the general plan for the development of the city as a whole and the plan is in conformity with the legislative declarations and determinations set forth in the Community Development Law and (b) it finds and documents in writing that, if the plan uses funds authorized in section 18-2147, (i) the redevelopment project in the plan would not be economically feasible without the use of tax-increment financing, (ii) the redevelopment project would not occur in the community redevelopment area without the use of tax-increment financing, and (iii) the costs and benefits of the redevelopment project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services, have been analyzed by the governing body and have been found to be in the long-term best interest of the community impacted by the redevelopment project.

(2) In connection with the approval of any redevelopment plan which includes the designation of an enhanced employment area, the governing body may approve the redevelopment plan if it determines that any new investment within such enhanced employment area will result in at least (a) two new employees and new investment of one hundred twenty-five thousand dollars in counties with fewer than fifteen thousand inhabitants, (b) five new employees and new investment of two hundred fifty thousand dollars in counties with at least fifteen thousand inhabitants but fewer than twenty-five thousand inhabitants, (c) ten new employees and new investment of five hundred thousand dollars in counties with at least twenty-five thousand inhabitants but fewer than fifty thousand inhabitants, (d) fifteen new employees and new investment of one million dollars in counties with at least fifty thousand inhabitants but fewer than one hundred thousand inhabitants, (e) twenty new employees and new investment of one million five hundred thousand dollars in counties with at least one hundred thousand inhabitants but fewer than two hundred thousand inhabitants, (f) twenty-five new employees and new investment of two million dollars in counties with at least two hundred thousand inhabitants but fewer than four hundred thousand inhabitants, or (g) thirty new employees and new investment of three million dollars in counties with at least four hundred thousand inhabitants. Any business that has one hundred thirty-five thousand square feet or more and annual gross sales of ten million dollars or more shall provide an employer-provided health benefit of at least three thousand dollars annually to all new employees who are working thirty hours per week or more on average and have been employed at least six months. In making such determination, the governing body may rely upon written undertakings provided by any redeveloper in connection with application for approval of the redevelopment plan.

(3) This section shall not apply to a redevelopment plan that receives an expedited review under section 18-2155.

Source: Laws 1951, c. 224, § 6(9), p. 807; R.R.S.1943, § 14-1616; Laws 1957, c. 52, § 11, p. 258; R.R.S.1943, § 19-2616; Laws 1997, LB 875, § 11; Laws 2007, LB562, § 5; Laws 2018, LB874, § 14; Laws 2020, LB1021, § 10.

18-2117 Plan; modification; conditions.

A redevelopment plan which has not been approved by the governing body when submitted by a redeveloper under section 18-2155 or when recommended by the authority may again be submitted or recommended to the governing body with any modifications deemed advisable. A redevelopment plan may be modified at any time by the authority, except that if modified after the lease or sale of real property in the redevelopment project area, the modification must be consented to by the redeveloper or redevelopers of such real property or his or her successor, or their successors, in interest affected by the proposed modification. Where the proposed modification will substantially change the redevelopment plan as previously approved by the governing body the modification must similarly be approved by the governing body.

Source: Laws 1951, c. 224, § 6(10), p. 807; R.R.S.1943, § 14-1617; R.R.S. 1943, § 19-2617; Laws 2020, LB1021, § 12.

18-2117.01 Plan; report to Property Tax Administrator; contents; compilation of data.

(1)(a) On or before December 1 each year, each city which has approved one or more redevelopment plans which are financed in whole or in part through the division of taxes as provided in section 18-2147 shall provide a report to the Property Tax Administrator on each such redevelopment plan which includes the following information:

(i) A copy of the redevelopment plan and any amendments thereto, including the date upon which the redevelopment plan was approved, the effective date for dividing the ad valorem tax as provided to the county assessor pursuant to subsection (5) of section 18-2147, and the location and boundaries of the property in the redevelopment project; and

(ii) A short narrative description of the type of development undertaken by the city or village with the financing and the type of business or commercial activity locating within the redevelopment project area as a result of the redevelopment project.

(b) If a city has approved one or more redevelopment plans using an expedited review under section 18-2155, the city may file a single report under this subsection for all such redevelopment plans.

(2) The report required under subsection (1) of this section must be filed each year, regardless of whether the information in the report has changed, except that a city is not required to refile a copy of the redevelopment plan or an amendment thereto if such copy or amendment has previously been filed.

(3) The Property Tax Administrator shall compile a report for each active redevelopment project, based upon information provided by the cities pursuant to subsection (1) of this section and information reported by the county assessor or county clerk on the certificate of taxes levied pursuant to section 77-1613.01. Each report shall be electronically transmitted to the Clerk of the Legislature not later than March 1 each year. The report may include any recommendations of the Property Tax Administrator as to what other information should be included in the report from the cities so as to facilitate analysis of the uses, purposes, and effectiveness of tax-increment financing and the process for its implementation or to streamline the reporting process provided for in this section to eliminate unnecessary paperwork.

Source: Laws 1997, LB 875, § 12; Laws 1999, LB 774, § 2; Laws 2006, LB 808, § 1; Laws 2012, LB782, § 19; Laws 2018, LB874, § 15; Laws 2020, LB1021, § 13.

18-2117.02 Redevelopment projects; annual report; contents.

On or before May 1 of each year, each authority, or such other division or department of the city as designated by the governing body, shall compile information regarding the approval and progress of redevelopment projects that are financed in whole or in part through the division of taxes as provided in section 18-2147 and report such information to the governing body of the city and to the governing body of each county, school district, community college area, educational service unit, and natural resources district whose property taxes are affected by such division of taxes. The report shall include, but not be limited to, the following information:

(1) The total number of active redevelopment projects within the city that have been financed in whole or in part through the division of taxes as provided in section 18-2147;

(2) The total estimated project costs for all such redevelopment projects;

(3) A comparison between the initial projected valuation of property included in each such redevelopment project as described in the redevelopment contract or, for redevelopment projects approved using an expedited review under section 18-2155, in the redevelopment plan and the assessed value of the property included in each such redevelopment project as of January 1 of the year of the report;

(4) The number of such redevelopment projects approved by the governing body in the previous calendar year;

(5) Information specific to each such redevelopment project approved by the governing body in the previous calendar year, including the project area, project type, amount of financing approved, and total estimated project costs;

(6) The number of redevelopment projects for which financing has been paid in full during the previous calendar year and for which taxes are no longer being divided pursuant to section 18-2147; and

(7) The percentage of the city that has been designated as blighted.

Source: Laws 2018, LB874, § 16; Laws 2020, LB1003, § 177; Laws 2020, LB1021, § 14.

18-2117.03 Redevelopment project; inclusion of certain costs.

(1) A redevelopment project that includes the division of taxes as provided in section 18-2147 shall not provide for the reimbursement of costs incurred prior to approval of the redevelopment project, except for costs relating to:

(a) The preparation of materials and applications related to the redevelopment project;

(b) The preparation of a cost-benefit analysis conducted pursuant to section 18-2113;

(c) The preparation of a redevelopment contract;

(d) The preparation of bond and other financing instruments;

(e) Land acquisition and related due diligence activities, including, but not limited to, surveys and environmental studies; and

(f) Site demolition and preparation.

(2) This section shall not be construed to require the reimbursement of legal fees incurred prior to approval of the redevelopment project.

Source: Laws 2018, LB874, § 17; Laws 2020, LB1003, § 178.

18-2117.04 City; retain plans and documents.

(1) On and after October 1, 2018, each city that has approved one or more redevelopment plans or redevelopment projects that are financed in whole or in part through the division of taxes as provided in section 18-2147 shall retain copies of (a) all such redevelopment plans and (b) all supporting documents associated with the redevelopment plans or redevelopment projects, with any related substandard and blighted declaration under section 18-2109, and with

any related extremely blighted declaration under section 18-2101.02 that are received or generated by the city.

(2) The city shall retain the redevelopment plans and supporting documents described in subsection (1) of this section for the period of time required under any applicable records retention schedule adopted under the Records Management Act or for three years following the end of the last fiscal year in which ad valorem taxes are divided, whichever period is longer.

(3) For purposes of this section, supporting document includes any substandard and blighted study or analysis conducted pursuant to section 18-2109, any extremely blighted study or analysis conducted pursuant to section 18-2101.02, any cost-benefit analysis conducted pursuant to section 18-2113, and any invoice, receipt, claim, or contract received or generated by the city that provides support for receipts or payments associated with the redevelopment plan or redevelopment project.

Source: Laws 2018, LB874, § 18; Laws 2019, LB86, § 5.

Cross References

Records Management Act, see section 84-1220.

18-2118 Real estate; sell; lease; transfer; terms.

An authority may sell, lease for a term not exceeding ninety-nine years, exchange, or otherwise transfer real property or any interest therein in a redevelopment project area to any redeveloper for residential, recreational, commercial, industrial, or other uses, including parking or other facilities functionally related or subordinate to such uses, or for public use in accordance with the redevelopment plan, subject to such covenants, conditions, and restrictions as it may deem to be in the public interest or to carry out the purposes of the Community Development Law. Such real property shall be sold, leased, or transferred at its fair value for uses in accordance with the redevelopment plan. In determining the fair value of real property for uses in accordance with the redevelopment plan, an authority shall take into account and give consideration to the uses and purposes required by such plan; the restrictions upon, and the covenants, conditions, and obligations assumed by the redeveloper of such property; the objectives of the redevelopment plan for the prevention of the recurrence of substandard and blighted areas; and such other matters as the authority shall specify as being appropriate. In fixing rentals and selling prices, an authority shall give consideration to appraisals of the property for such uses made by land experts employed by the authority.

Source: Laws 1951, c. 224, § 7(1), p. 808; R.R.S.1943, § 14-1618; Laws 1957, c. 52, § 12, p. 258; Laws 1961, c. 61, § 10, p. 237; R.R.S.1943, § 19-2618; Laws 1979, LB 158, § 4; Laws 1997, LB 875, § 13.

18-2119 Redevelopment contract proposal; notice; considerations; acceptance; disposal of real property; contract relating to real estate within an enhanced employment area; recordation; division of taxes; certification by redeveloper; retention of documents; additional requirements.

(1) An authority shall, by public notice by publication once each week for two consecutive weeks in a legal newspaper having a general circulation in the city, prior to the consideration of any redevelopment contract proposal relating to

real estate owned or to be owned by the authority, invite proposals from, and make available all pertinent information to, private redevelopers or any persons interested in undertaking the redevelopment of an area, or any part thereof, which the governing body has declared to be in need of redevelopment. Such notice shall identify the area, and shall state that such further information as is available may be obtained at the office of the authority. The authority shall consider all redevelopment proposals and the financial and legal ability of the prospective redevelopers to carry out their proposals and may negotiate with any redevelopers for proposals for the purchase or lease of any real property in the redevelopment project area. The authority may accept such redevelopment contract proposal as it deems to be in the public interest and in furtherance of the purposes of the Community Development Law if the authority has, not less than thirty days prior thereto, notified the governing body in writing of its intention to accept such redevelopment contract proposal. Thereafter, the authority may execute such redevelopment contract in accordance with the provisions of section 18-2118 and deliver deeds, leases, and other instruments and take all steps necessary to effectuate such redevelopment contract. In its discretion, the authority may, without regard to the foregoing provisions of this section, dispose of real property in a redevelopment project area to private redevelopers for redevelopment under such reasonable competitive bidding procedures as it shall prescribe, subject to the provisions of section 18-2118.

(2) In the case of any real estate owned by a redeveloper, the authority may enter into a redevelopment contract providing for such undertakings as the authority shall determine appropriate. Any such redevelopment contract relating to real estate within an enhanced employment area shall include a statement of the redeveloper's consent with respect to the designation of the area as an enhanced employment area, shall be recorded with respect to the real estate owned by the redeveloper, and shall be binding upon all future owners of such real estate.

(3)(a) Prior to entering into a redevelopment contract pursuant to this section for a redevelopment plan that includes the division of taxes as provided in section 18-2147, the authority shall require the redeveloper to certify the following to the authority:

(i) Whether the redeveloper has filed or intends to file an application to receive tax incentives under the Nebraska Advantage Act or the ImagiNE Nebraska Act for a project located or to be located within the redevelopment project area;

(ii) Whether such application includes or will include, as one of the tax incentives, a refund of the city's local option sales tax revenue; and

(iii) Whether such application has been approved under the Nebraska Advantage Act or the ImagiNE Nebraska Act.

(b) The authority may consider the information provided under subdivision (3)(a) of this section in determining whether to enter into the redevelopment contract.

(4) A redevelopment contract for a redevelopment plan or redevelopment project that includes the division of taxes as provided in section 18-2147 shall include a provision requiring that the redeveloper retain copies of all supporting documents that are associated with the redevelopment plan or redevelopment project and that are received or generated by the redeveloper for three years following the end of the last fiscal year in which ad valorem taxes are

divided and provide such copies to the city as needed to comply with the city's retention requirements under section 18-2117.04. For purposes of this subsection, supporting document includes any cost-benefit analysis conducted pursuant to section 18-2113 and any invoice, receipt, claim, or contract received or generated by the redeveloper that provides support for receipts or payments associated with the division of taxes.

(5) A redevelopment contract for a redevelopment plan that includes the division of taxes as provided in section 18-2147 may include a provision requiring that all ad valorem taxes levied upon real property in a redevelopment project be paid before the taxes become delinquent in order for such redevelopment project to receive funds from such division of taxes.

(6) A redevelopment contract for a redevelopment plan or redevelopment project that includes the division of taxes as provided in section 18-2147 may include any additional requirements deemed necessary by the city to ensure that such plan or project complies with the city's comprehensive development plan, the city's affordable housing action plan required under section 19-5505, city zoning regulations, and any other reasonable planning requirements or goals established by the city.

Source: Laws 1951, c. 224, § 7(2), p. 809; R.R.S.1943, § 14-1619; R.R.S. 1943, § 19-2619; Laws 2007, LB562, § 6; Laws 2016, LB1059, § 1; Laws 2018, LB874, § 19; Laws 2020, LB1107, § 116; Laws 2021, LB131, § 19.

Cross References

ImagiNE Nebraska Act, see section 77-6801.
Nebraska Advantage Act, see section 77-5701.

18-2120 Project; conveyance of property for public use.

In carrying out a redevelopment project, an authority may: (1) Convey to the city in which the project is located, such real property as, in accordance with the redevelopment plan, is to be laid out into streets, alleys, and public ways; (2) grant servitudes, easements, and rights-of-way, for public utilities, sewers, streets, and other similar facilities, in accordance with the redevelopment plan; and (3) convey to the municipality, county, or other appropriate public body, such real property as, in accordance with the redevelopment plan, is to be used for parks, schools, public buildings, facilities, or other public purposes.

Source: Laws 1951, c. 224, § 7(3), p. 809; R.R.S.1943, § 14-1620; R.R.S. 1943, § 19-2620.

18-2121 Real property; temporary operation, when.

An authority may temporarily operate and maintain real property in a redevelopment project area pending the disposition of the property for redevelopment, without regard to the provisions of sections 18-2118 and 18-2119, for such uses and purposes as may be deemed desirable even though not in conformity with the redevelopment plan.

Source: Laws 1951, c. 224, § 7(4), p. 810; R.R.S.1943, § 14-1621; R.R.S. 1943, § 19-2621.

18-2122 Real property; eminent domain; effect of resolution.

An authority shall have the right to acquire by the exercise of the power of eminent domain any real property which it may deem necessary for a redevelopment project or for its purposes under the Community Development Law after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

When an authority has found and determined by resolution that certain real property described therein is necessary for a redevelopment project or for its purposes under the Community Development Law, the resolution shall be conclusive evidence that the acquisition of such real property is necessary for the purposes described therein.

Source: Laws 1951, c. 224, § 8, p. 810; R.R.S.1943, § 14-1622; Laws 1961, c. 61, § 11, p. 237; R.R.S.1943, § 19-2622; Laws 2018, LB874, § 20.

The taking of substandard or blighted areas by a city for redevelopment and resale in accordance with an approved redevelopment plan which is in conformity with a general plan for the municipality as a whole as provided for in these sections, is a proper public use for a municipality. Monarch Chemical Works, Inc. v. City of Omaha, 203 Neb. 33, 277 N.W.2d 423 (1979).

18-2123 Undeveloped vacant land; land outside city; acquisition, when.

Upon a determination, by resolution, of the governing body of the city in which such land is located, that the acquisition and development of undeveloped vacant land, not within a substandard and blighted area, is essential to the proper clearance or redevelopment of substandard and blighted areas or a necessary part of the general community redevelopment program of the city, or that the acquisition and development of land outside the city, but within a radius of three miles thereof, is necessary or convenient to the proper clearance or redevelopment of one or more substandard and blighted areas within the city or is a necessary adjunct to the general community redevelopment program of the city, the acquisition, planning, and preparation for development or disposal of such land shall constitute a redevelopment project which may be undertaken by the authority in the manner provided in the Community Development Law.

Source: Laws 1951, c. 224, § 9, p. 810; R.R.S.1943, § 14-1623; Laws 1957, c. 52, § 13, p. 259; Laws 1961, c. 61, § 12, p. 238; R.R.S.1943, § 19-2623; Laws 2021, LB163, § 134.

18-2123.01 Redevelopment project with property outside corporate limits; formerly used defense site; agreement with county authorized.

(1) Notwithstanding any other provisions of the Community Development Law to the contrary, a city may undertake a redevelopment project that includes real property located outside the corporate limits of such city if the following requirements have been met:

(a) The real property located outside the corporate limits of the city is a formerly used defense site;

(b) The formerly used defense site is located within the same county as the city approving such redevelopment project;

(c) The formerly used defense site is located within a sanitary and improvement district;

(d) The governing body of the city approving such redevelopment project passes an ordinance stating such city's intent to annex the formerly used defense site in the future; and

(e) The redevelopment project has been consented to by any city exercising extraterritorial jurisdiction over the formerly used defense site.

(2) For purposes of this section, formerly used defense site means real property that was formerly owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the United States Secretary of Defense. Formerly used defense site does not include missile silos.

(3) The inclusion of a formerly used defense site in any redevelopment project under this section shall not result in:

(a) Any change in the service area of any electric utility or natural gas utility unless such change has been agreed to by the electric utility or natural gas utility serving the formerly used defense site at the time of approval of such redevelopment project; or

(b) Any change in the service area of any communications company as defined in section 77-2734.04 unless (i) such change has been agreed to by the communications company serving the formerly used defense site at the time of approval of such redevelopment project or (ii) such change occurs pursuant to sections 86-135 to 86-138.

(4) A city approving a redevelopment project under this section and the county in which the formerly used defense site is located may enter into an agreement pursuant to the Interlocal Cooperation Act in which the county agrees to reimburse such city for any services the city provides to the formerly used defense site after approval of the redevelopment project.

Source: Laws 2013, LB66, § 3.

Cross References

Interlocal Cooperation Act, see section 13-801.

18-2124 Bonds; issuance; sources of payment; limitations.

An authority may issue bonds from time to time in its discretion for any of its corporate purposes, including the payment of principal and interest upon any advances for surveys and plans for redevelopment projects. An authority may also issue refunding bonds for the purpose of paying, retiring, or otherwise refinancing or in exchange for any or all of the principal or interest upon bonds previously issued by the authority. An authority may issue such types of bonds as it may determine, including, without limiting the generality of the foregoing, bonds on which the principal and interest are payable: (1) Exclusively from the income, proceeds, and revenue of the redevelopment project financed with proceeds of such bonds; (2) exclusively from the income, proceeds, and revenue of any of its redevelopment projects whether or not they are financed in whole or in part with the proceeds of such bonds; (3) exclusively from its revenue and income, including any special assessment levied pursuant to section 18-1722 and such tax revenue or receipts as may be authorized under the Community Development Law, including those which may be pledged under section 18-2150, and from such grants and loans as may be received; or (4) from all or part of the income, proceeds, and revenue enumerated in subdivisions (1), (2), and (3) of this section. Any such bonds may be additionally secured by a pledge of any loan, grant, or contributions, or parts thereof, from the federal govern-

ment or other source or a mortgage of any redevelopment project or projects of the authority. The authority shall not pledge the credit or taxing power of the state or any political subdivision thereof, except such tax receipts as may be authorized under this section or pledged under section 18-2150, or place any lien or encumbrance on any property owned by the state, county, or city used by the authority.

Source: Laws 1951, c. 224, § 10(1), p. 811; R.R.S.1943, § 14-1624; Laws 1961, c. 61, § 13, p. 238; R.R.S.1943, § 19-2624; Laws 1979, LB 158, § 5; Laws 2012, LB729, § 3; Laws 2021, LB163, § 135.

18-2125 Bonds; liability; exempt from taxation; anticipation notes; renewal notes; terms; declaration of intent.

Neither the members of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of the authority, and such bonds and obligations shall so state on their face, shall not be a debt of the city and the city shall not be liable on such bonds, except to the extent authorized by sections 18-2147 to 18-2150, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority acquired for the purposes of the Community Development Law, except to the extent authorized by sections 18-2147 to 18-2150. Except to the extent otherwise authorized, the bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from all taxes. All bonds shall be general obligations of the authority issuing same and shall be payable out of any revenue, income, receipts, proceeds, or other money of the authority, except as may be otherwise provided in the instruments themselves.

An authority shall have power from time to time to issue bond anticipation notes, referred to as notes herein, and from time to time to issue renewal notes, such notes in any case to mature not later than thirty months from the date of incurring the indebtedness represented thereby in an amount not exceeding in the aggregate at any time outstanding the amount of bonds then or theretofore authorized. Payment of such notes shall be made from any money or revenue which the authority may have available for such purpose or from the proceeds of the sale of bonds of the authority, or such notes may be exchanged for a like amount of such bonds. The authority may pledge such money or revenue of the authority, subject to prior pledges thereof, if any, for the payment of such notes, and may in addition secure the notes in the same manner as herein provided for bonds. All notes shall be issued and sold in the same manner as bonds, and any authority shall have power to make contracts for the future sale from time to time of notes on terms and conditions stated in such contracts, and the authority shall have power to pay such consideration as it shall deem proper for any commitments to purchase notes and bonds in the future. Such notes shall also be collaterally secured by pledges and deposits with a bank or trust company, in trust for the payment of such notes, of bonds in an aggregate amount at least equal to the amount of such notes and, in any event, in an amount deemed by the issuing authority sufficient to provide for the payment of the notes in full at the maturity thereof. The authority may provide in the collateral agreement that the notes may be exchanged for bonds held as

collateral security for the notes, or that the trustee may sell the bonds if the notes are not otherwise paid at maturity, and apply the proceeds of such sale to the payment of the notes. Such notes shall bear interest at a rate set by the authority, and shall be sold at such price as shall cause an interest cost thereon not to exceed such rate.

It is the intention hereof that any pledge of revenue, income, receipts, proceeds, or other money made by an authority for the payment of bonds or notes shall be valid and binding from the time such pledge is made; that the revenue, income, receipts, proceeds, and other money so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without the physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

Source: Laws 1951, c. 224, § 10(2), p. 811; R.R.S.1943, § 14-1625; Laws 1961, c. 61, § 14, p. 239; R.R.S.1943, § 19-2625; Laws 1969, c. 51, § 70, p. 317; Laws 1979, LB 158, § 6; Laws 2018, LB874, § 21.

18-2126 Bonds; terms.

Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, its trust indenture, or mortgage may provide.

Source: Laws 1951, c. 224, § 10(3), p. 812; R.R.S.1943, § 14-1626; R.R.S. 1943, § 19-2626; Laws 1969, c. 51, § 71, p. 319.

18-2127 Bonds; sale.

The bonds may be sold by the authority in such manner and for such price as the authority may determine, at par or above par, at private sale or at public sale after notice published prior to such sale in a legal newspaper having general circulation in the municipality, or in such other medium of publication as the authority may deem appropriate, or may be exchanged by the authority for other bonds issued by it under the Community Development Law. Bonds which are issued under this section may be sold by the authority to the federal government at private sale at par or above par, and, in the event that less than all of the authorized principal amount of such bonds is sold by the authority to the federal government, the balance or any portion of the balance may be sold by the authority at private sale at par or above par.

Source: Laws 1951, c. 224, § 10(4), p. 812; R.R.S.1943, § 14-1627; R.R.S. 1943, § 19-2627; Laws 1979, LB 158, § 7; Laws 2018, LB874, § 22.

18-2128 Bonds; signatures; validity.

In case any of the members or officers of the authority whose signatures appear on any bonds or coupons shall cease to be such members or officers before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such members or officers had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to the provisions of section 18-2124 shall be fully negotiable.

Source: Laws 1951, c. 224, § 10(5), p. 812; R.R.S.1943, § 14-1628; R.R.S. 1943, § 19-2628.

18-2129 Bonds; actions; effect.

In any suit, action, or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a redevelopment project, as herein defined, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of the Community Development Law.

Source: Laws 1951, c. 224, § 10(6), p. 813; R.R.S.1943, § 14-1629; R.R.S. 1943, § 19-2629; Laws 2018, LB874, § 23.

Any suit, action, or proceeding brought outside the 30-day period in section 18-2142.01 is subject to the conclusive presumption of this section and section 18-2142.01 as long as the action is one challenging the validity or enforceability of a redevelopment bond or contract and the bond or contract recites in substance the language required by the two sections. Salem Grain Co. v. City of Falls City, 302 Neb. 548, 924 N.W.2d 678 (2019).

18-2130 Bonds; authority; powers.

In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, an authority, in addition to its other powers, shall have power: (1) To pledge all or any part of its gross or net rents, fees, or revenue to which its right then exists or may thereafter come into existence; (2) to mortgage all or any part of its real or personal property, then owned or thereafter acquired; (3) to covenant against pledging all or any part of its rents, fees, and revenue, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence, or against permitting or suffering any lien on such revenue or property; to covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any redevelopment project, or any part thereof; and to covenant as to what other or additional debts or obligations may be incurred by it; (4) to covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed, or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon; and to covenant for the redemption of the bonds and to provide the terms and conditions thereof; (5) to covenant, subject to the limitations contained in the Community Development Law, as to the amount of revenue to be raised each year or other period of time by rents, fees, and other revenue, and as to the use and disposition to be made thereof; to establish or to authorize the establishment of special funds for money held for operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the money held in such funds; (6) to prescribe the procedure, if any, by which the terms of any contract with

bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given; (7) to covenant as to the use, maintenance, and replacement of any or all of its real or personal property, the insurance to be carried thereon, and the use and disposition of insurance money, and to warrant its title to such property; (8) to covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenants, conditions, or obligations; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived; (9) to vest in any obligees of the authority the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in any obligee or obligees holding a specified amount in bonds the right, in the event of a default by the authority, to take possession of and use, operate, and manage any redevelopment project or any part thereof, title to which is in the authority, or any funds connected therewith, and to collect the rents and revenue arising therefrom and to dispose of such money in accordance with the agreement of the authority with such obligees; to provide for the powers and duties of such obligees and to limit the liabilities thereof; and to provide the terms and conditions upon which such obligees may enforce any covenant or rights securing or relating to the bonds; (10) to pledge all of the revenue from any occupation tax received or to be received with respect to any enhanced employment area; and (11) to exercise all or any part or combination of the powers herein granted; to make such covenants, other than and in addition to the covenants herein expressly authorized, and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of the authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts, or things may not be enumerated herein.

Source: Laws 1951, c. 224, § 11(1), p. 813; R.R.S.1943, § 14-1630; R.R.S. 1943, § 19-2630; Laws 2007, LB562, § 7.

18-2131 Bonds; default; causes of action.

An authority may by resolution, trust indenture, mortgage, lease, or other instrument confer upon any obligee holding or representing a specified amount in bonds, the right, in addition to all rights that may otherwise be conferred, upon the happening of an event of default as defined in such resolution or instruments, by suit, action, or proceeding in any court of competent jurisdiction: (1) To cause possession of any redevelopment project or any part thereof, title to which is in the authority, to be surrendered to any such obligee; (2) to obtain the appointment of a receiver of any redevelopment project of such authority or any part thereof, title to which is in the authority, and of the rents and profits therefrom. If such receiver be appointed, the receiver may enter and take possession of, carry out, operate, and maintain such project or any part thereof and collect and receive all fees, rents, revenue, or other charges thereafter arising from such project, and shall keep such money in a separate account or accounts and apply the same in accordance with the obligations of such authority as the court shall direct; and (3) to require the authority and the members, officers, agents, and employees thereof to account as if it and they were the trustees of an express trust.

Source: Laws 1951, c. 224, § 11(2), p. 815; R.R.S.1943, § 14-1631; R.R.S. 1943, § 19-2631; Laws 2021, LB163, § 136.

18-2132 Repealed. Laws 2001, LB 420, § 38.

18-2133 Bonds; obligee; causes of action.

An obligee of an authority shall have the right in addition to all other rights which may be conferred upon such obligee, subject only to any contractual restrictions binding upon such obligee:

(1) By mandamus, suit, action, or proceeding at law or in equity to compel such authority and the members, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any contract of such authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements to the authority and the fulfillment of all duties imposed upon the authority by the Community Development Law; and

(2) By suit, action, or proceeding in equity to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of the authority.

Source: Laws 1951, c. 224, § 13, p. 816; R.R.S.1943, § 14-1633; R.R.S. 1943, § 19-2633; Laws 2018, LB874, § 24; Laws 2021, LB163, § 137.

18-2134 Bonds; who may purchase.

All public officers, municipal corporations, political subdivisions, and public bodies; all banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries may legally invest any sinking funds, money, or other funds belonging to them or within their control in any bonds or other obligations issued by an authority pursuant to the Community Development Law or by any public housing or redevelopment authority or commission, or agency or any other public body in the United States for redevelopment purposes, when such bonds and other obligations are secured by an agreement between the issuing agency and the federal government in which the issuing agency agrees to borrow from the federal government and the federal government agrees to lend to the issuing agency, prior to the maturity of such bonds or other obligations, money in an amount which, together with any other money irrevocably committed to the payment of interest on such bonds or other obligations, will suffice to pay the principal of such bonds or other obligations with interest to maturity thereon, which money under the terms of the agreement is required to be used for the purpose of paying the principal of and the interest on such bonds or other obligations at their maturity, and such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions, and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. However, nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in the selection of securities.

Source: Laws 1951, c. 224, § 14, p. 816; R.R.S.1943, § 14-1634; R.R.S. 1943, § 19-2634; Laws 2018, LB874, § 25.

18-2135 Federal government; contract for financial assistance; default; effect of cure.

In any contract for financial assistance with the federal government, an authority may obligate itself, which obligation shall be specifically enforceable and shall not constitute a mortgage, notwithstanding any other laws, to convey to the federal government possession of or title to a redevelopment project and land therein to which such contract relates which is owned by the authority, upon the occurrence of a substantial default, as defined in such contract, with respect to the covenants or conditions to which the authority is subject. Such contract may further provide that in case of such conveyance, the federal government may complete, operate, manage, lease, convey, or otherwise deal with the redevelopment project in accordance with the terms of such contract, if the contract requires that, as soon as practicable after the federal government is satisfied that all defaults with respect to the redevelopment project have been cured and that the redevelopment project will thereafter be operated in accordance with the terms of the contract, the federal government shall reconvey to the authority the redevelopment project as then constituted.

Source: Laws 1951, c. 224, § 15, p. 817; R.R.S.1943, § 14-1635; R.R.S. 1943, § 19-2635; Laws 2021, LB163, § 138.

18-2136 Property; exempt from execution.

All property including funds of an authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against such property nor shall judgment against an authority be a charge or lien upon its property. The provisions of this section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of an authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees, grants, or revenue.

Source: Laws 1951, c. 224, § 16(1), p. 817; R.R.S.1943, § 14-1636; R.R.S. 1943, § 19-2636; Laws 2021, LB163, § 139.

18-2137 Property; exempt from taxation; payments in lieu of taxes.

The property of an authority is declared to be public property used for essential public and governmental purposes and shall be exempt from all taxes. Whenever such authority shall purchase or acquire real property pursuant to the Community Development Law, the authority shall annually, so long as it shall continue to own such property, pay out of its revenue to the State of Nebraska, county, city, township, school district, or other taxing subdivision in which such real property is located, in lieu of taxes, a sum equal to the amount which such state, county, city, township, school district or other taxing subdivision received from taxation from such real property during the year immediately preceding the purchase or acquisition of such real property by the authority. The county board of equalization may, in any year subsequent to the purchase or acquisition of such property by the authority, determine the amount that said authority shall pay out of its revenue to the State of Nebraska and its several governmental subdivisions in lieu of taxes, which sum shall be as justice and equity may require, notwithstanding the amount which the state and its governmental subdivisions may have received from taxation during the year immediately preceding the purchase or acquisition of such property. With respect to any property in a redevelopment project, the tax exemption provided

herein shall terminate when the authority sells, leases, or otherwise disposes of such property to a redeveloper for redevelopment. The members of the authority shall not incur any personal liability by reason of the making of such payments.

Source: Laws 1951, c. 224, § 16(2), p. 818; R.R.S.1943, § 14-1637; Laws 1957, c. 52, § 14, p. 260; R.R.S.1943, § 19-2637; Laws 2018, LB874, § 26.

18-2138 Public body; cooperate in planning; powers.

In addition to any other provisions governing any public body set forth in the Community Development Law, for the purpose of aiding and cooperating in the planning, undertaking, or carrying out of a redevelopment project located within the area in which it is authorized to act, any public body may, upon such terms, with or without consideration, as it may determine: (1) Dedicate, sell, convey, or lease any of its interest in any property, or grant easements, licenses, or any other rights or privileges therein to an authority; (2) cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished in connection with a redevelopment project; (3) furnish, dedicate, close, vacate, pave, install, grade, regrade, plan, or replan streets, roads, sidewalks, ways, or other places, which it is otherwise empowered to undertake; (4) plan or replan, zone or rezone any part of the public body, or make exceptions from building regulations and ordinances if such functions are of the character which the public body is otherwise empowered to perform; (5) cause administrative and other services to be furnished to the authority of the character which the public body is otherwise empowered to undertake or furnish for the same or other purposes; (6) incur the entire expense of any public improvements made by such public body in exercising the powers granted in this section; (7) do any and all things necessary or convenient to aid and cooperate in the planning or carrying out of a redevelopment plan; (8) lend, grant, or contribute funds to an authority; (9) employ any funds belonging to or within the control of such public body, including funds derived from the sale or furnishing of property, service, or facilities to an authority, in the purchase of the bonds or other obligations of an authority and, as the holder of such bonds or other obligations, exercise the rights connected therewith; and (10) enter into agreements, which may extend over any period, notwithstanding any provision or rule of law to the contrary, with an authority respecting action to be taken by such public body pursuant to any of the powers granted by the Community Development Law. If at any time title to, or possession of, any redevelopment project is held by any public body or governmental agency, other than the authority, authorized by law to engage in the undertaking, carrying out or administration of redevelopment projects, including any agency or instrumentality of the United States of America, the provisions of such agreements shall inure to the benefit of and may be enforced by such public body or governmental agency.

Source: Laws 1951, c. 224, § 17(1), p. 818; R.R.S.1943, § 14-1638; R.R.S. 1943, § 19-2638; Laws 1979, LB 158, § 8; Laws 2018, LB874, § 27.

18-2139 Public body; sale, conveyance, lease, or agreement; how made.

Any sale, conveyance, lease, or agreement provided for in section 18-2138 may be made by a public body without appraisal, public notice, advertisement, or public bidding.

Source: Laws 1951, c. 224, § 17(2), p. 819; R.R.S.1943, § 14-1639; R.R.S. 1943, § 19-2639.

18-2140 Estimate of expenditures; cities; grant funds; levy taxes; issue bonds.

An authority may, at such time as it may deem necessary, file with the governing body an estimate of the amounts necessary to be appropriated by the governing body to defray the expense of the authority. The governing body of such city is hereby authorized, in its discretion, to appropriate from its general fund and to place at the disposal of the authority an amount sufficient to assist in defraying such expense. Any city located within the area of operation of an authority may grant funds to an authority for the purpose of aiding such authority in carrying out any of its powers and functions under the Community Development Law. To obtain funds for this purpose, the city may levy taxes and may issue and sell its bonds. Any bonds to be issued by the city pursuant to the provisions of this section shall be issued in the manner and within the limitations, except as otherwise provided by the Community Development Law, prescribed by the laws of this state for the issuance and authorization of bonds by a city for any public purpose.

Source: Laws 1951, c. 224, § 18, p. 819; R.R.S.1943, § 14-1640; Laws 1961, c. 61, § 15, p. 241; R.R.S.1943, § 19-2640; Laws 2018, LB874, § 28.

18-2141 Instrument of conveyance; execution; effect.

Any instrument executed by an authority and purporting to convey any right, title, or interest in any property under the Community Development Law shall be conclusive evidence of compliance with the Community Development Law insofar as title or other interest of any bona fide purchasers, lessees, or other transferees of such property is concerned.

Source: Laws 1951, c. 224, § 19, p. 820; R.R.S.1943, § 14-1641; R.R.S. 1943, § 19-2641; Laws 2018, LB874, § 29.

18-2142 Repealed. Laws 1997, LB 875, § 21.

18-2142.01 Validity and enforceability of bonds and agreements; presumption.

(1) In any suit, action, or proceeding involving the validity or enforceability of any bond of a city, village, or authority or the security therefor brought after the lapse of thirty days after the issuance of such bonds has been authorized, any such bond reciting in substance that it has been authorized by the city, village, or authority to aid in financing a redevelopment project shall be conclusively deemed to have been authorized for such purpose and such redevelopment project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of the Community Development Law.

(2) In any suit, action, or proceeding involving the validity or enforceability of any agreement of a city, village, or authority brought after the lapse of thirty days after the agreement has been formally entered into, any such agreement

reciting in substance that it has been entered into by the city, village, or authority to provide financing for an approved redevelopment project shall be conclusively deemed to have been entered into for such purpose and such project shall be conclusively deemed to have been planned, located, and carried out in accordance with the purposes and provisions of the Community Development Law.

Source: Laws 1997, LB 875, § 16; Laws 2018, LB874, § 30.

Any suit, action, or proceeding brought outside the 30-day period in this section is subject to the conclusive presumption of section 18-2129 and this section as long as the action is one challenging the validity or enforceability of a redevelopment bond or contract and the bond or contract recites in substance the language required by the two sections. Salem Grain Co. v. City of Falls City, 302 Neb. 548, 924 N.W.2d 678 (2019).

Subsection (2) of this section requires that a party wishing to challenge a contract that provides financing for an approved redevelopment project initiate any suit, action, or challenge within 30 days of the party's formally entering into the contract; after 30 days, the project shall be conclusively deemed to have complied with Nebraska's community development laws. Community Dev. Agency v. PRP Holdings, 277 Neb. 1015, 767 N.W.2d 68 (2009).

18-2142.02 Enhanced employment area; redevelopment project; levy of general business occupation tax authorized; governing body; powers; occupation tax; power to levy; exceptions.

A city may levy a general business occupation tax upon the businesses and users of space within an enhanced employment area for the purpose of paying all or any part of the costs and expenses of any redevelopment project within such enhanced employment area. After March 27, 2014, any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under section 77-2704.24. The collection of a tax imposed pursuant to this section shall be made and enforced in such a manner as the governing body shall by ordinance determine to produce the required revenue. The governing body may provide that failure to pay the tax imposed pursuant to this section shall constitute a violation of the ordinance and subject the violator to a fine or other punishment as provided by ordinance. Any such occupation tax agreed to by the authority and the city shall remain in effect so long as the authority has bonds outstanding which have been issued stating such occupation tax as an available source for payment.

Source: Laws 2007, LB562, § 8; Laws 2014, LB474, § 6.

18-2142.03 Enhanced employment area; use of eminent domain prohibited.

Eminent domain shall not be used to acquire property that will be transferred to a private party in the enhanced employment area.

Source: Laws 2007, LB562, § 9.

18-2142.04 Enhanced employment area; authorized work within area; levy of general business occupation tax authorized; exceptions; governing body; powers; revenue bonds authorized; terms and conditions.

(1) For purposes of this section:

(a) Authorized work means the performance of any one or more of the following purposes within an enhanced employment area designated pursuant to this section:

(i) The acquisition, construction, maintenance, and operation of public off-street parking facilities for the benefit of the enhanced employment area;

(ii) Improvement of any public place or facility in the enhanced employment area, including landscaping, physical improvements for decoration or security purposes, and plantings;

(iii) Construction or installation of pedestrian shopping malls or plazas, sidewalks or moving sidewalks, parks, meeting and display facilities, bus stop shelters, lighting, benches or other seating furniture, sculptures, trash receptacles, shelters, fountains, skywalks, and pedestrian and vehicular overpasses and underpasses, and any useful or necessary public improvements;

(iv) Leasing, acquiring, constructing, reconstructing, extending, maintaining, or repairing parking lots or parking garages, both above and below ground, or other facilities for the parking of vehicles, including the power to install such facilities in public areas, whether such areas are owned in fee or by easement, in the enhanced employment area;

(v) Creation and implementation of a plan for improving the general architectural design of public areas in the enhanced employment area;

(vi) The development of any public activities and promotion of public events, including the management, promotion, and advocacy of retail trade activities or other promotional activities, in the enhanced employment area;

(vii) Maintenance, repair, and reconstruction of any improvements or facilities authorized by the Community Development Law;

(viii) Any other project or undertaking for the betterment of the public facilities in the enhanced employment area, whether the project is capital or noncapital in nature;

(ix) Enforcement of parking regulations and the provision of security within the enhanced employment area; or

(x) Employing or contracting for personnel, including administrators for any improvement program under the Community Development Law, and providing for any service as may be necessary or proper to carry out the purposes of the Community Development Law;

(b) Employee means a person employed at a business located within an enhanced employment area; and

(c) Number of new employees means the number of equivalent employees that are employed at a business located within an enhanced employment area designated pursuant to this section during a year that are in excess of the number of equivalent employees during the year immediately prior to the year the enhanced employment area was designated pursuant to this section.

(2) If an area is not blighted or substandard, a city may designate an area as an enhanced employment area if the governing body determines that new investment within such enhanced employment area will result in at least (a) two new employees and new investment of one hundred twenty-five thousand dollars in counties with fewer than fifteen thousand inhabitants, (b) five new employees and new investment of two hundred fifty thousand dollars in counties with at least fifteen thousand inhabitants but fewer than twenty-five thousand inhabitants, (c) ten new employees and new investment of five hundred thousand dollars in counties with at least twenty-five thousand inhabitants but fewer than fifty thousand inhabitants, (d) fifteen new employees and new investment of one million dollars in counties with at least fifty thousand

inhabitants but fewer than one hundred thousand inhabitants, (e) twenty new employees and new investment of one million five hundred thousand dollars in counties with at least one hundred thousand inhabitants but fewer than two hundred thousand inhabitants, (f) twenty-five new employees and new investment of two million dollars in counties with at least two hundred thousand inhabitants but fewer than four hundred thousand inhabitants, or (g) thirty new employees and new investment of three million dollars in counties with at least four hundred thousand inhabitants. Any business that has one hundred thirty-five thousand square feet or more and annual gross sales of ten million dollars or more shall provide an employer-provided health benefit of at least three thousand dollars annually to all new employees who are working thirty hours per week or more on average and have been employed at least six months. In making such determination, the governing body may rely upon written undertakings provided by any owner of property within such area.

(3) Upon designation of an enhanced employment area under this section, a city may levy a general business occupation tax upon the businesses and users of space within such enhanced employment area for the purpose of paying all or any part of the costs and expenses of authorized work within such enhanced employment area. After March 27, 2014, any occupation tax imposed pursuant to this section shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax, except that no occupation tax shall be imposed on any transaction which is subject to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 or which is exempt from tax under section 77-2704.24. The collection of a tax imposed pursuant to this section shall be made and enforced in such a manner as the governing body shall by ordinance determine to produce the required revenue. The governing body may provide that failure to pay the tax imposed pursuant to this section shall constitute a violation of the ordinance and subject the violator to a fine or other punishment as provided by ordinance. Any occupation tax levied by the city under this section shall remain in effect so long as the city has bonds outstanding which have been issued under the authority of this section and are secured by such occupation tax or that state such occupation tax as an available source for payment. The total amount of occupation taxes levied shall not exceed the total costs and expenses of the authorized work including the total debt service requirements of any bonds the proceeds of which are expended for or allocated to such authorized work. The assessments or taxes levied must be specified by ordinance and the proceeds shall not be used for any purpose other than the making of such improvements and for the repayment of bonds issued in whole or in part for the financing of such improvements. The authority to levy the general business occupation tax contained in this section and the authority to issue bonds secured by or payable from such occupation tax shall be independent of and separate from any occupation tax referenced in section 18-2103.

(4) A city may issue revenue bonds for the purpose of defraying the cost of authorized work and to secure the payment of such bonds with the occupation tax revenue described in this section. Such revenue bonds may be issued in one or more series or issues where deemed advisable, and each such series or issue may contain different maturity dates, interest rates, priorities on revenue available for payment of such bonds and priorities on securities available for guaranteeing payment thereof, and such other differing terms and conditions as are deemed necessary. The following shall apply to any such bonds:

(a) Such bonds shall be limited obligations of the city. Bonds and interest on such bonds, issued under the authority of this section, shall not constitute nor give rise to a pecuniary liability of the city or a charge against its general credit or taxing powers. Such limitation shall be plainly stated upon the face of each of such bonds;

(b) Such bonds may (i) be executed and delivered at any time and from time to time, (ii) be in such form and denominations, (iii) be of such tenor, (iv) be payable in such installments and at such time or times not exceeding twenty years from their date, (v) be payable at such place or places, (vi) bear interest at such rate or rates, payable at such place or places, and evidenced in such manner, (vii) be redeemable prior to maturity, with or without premium, and (viii) contain such provisions as shall be deemed in the best interest of the city and provided for in the proceedings of the governing body under which the bonds shall be authorized to be issued;

(c) The authorization, terms, issuance, execution, or delivery of such bonds shall not be subject to sections 10-101 to 10-126; and

(d) Such bonds may be sold at public or private sale in such manner and at such time or times as may be determined by the governing body to be most advantageous. The city may pay all expenses, premiums, and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale, and issuance thereof from the proceeds or the sale of the bonds or from the revenue of the occupation tax described in this section.

Source: Laws 2007, LB562, § 10; Laws 2014, LB474, § 7.

18-2142.05 Construction of workforce housing; governing body; duties.

Prior to approving a redevelopment project that expressly carries out the construction of workforce housing, a governing body shall (1) receive a housing study which is current within twenty-four months, (2) prepare an incentive plan for construction of housing in the municipality targeted to house existing or new workers, (3) hold a public hearing on such incentive plan with notice which complies with the conditions set forth in section 18-2115.01, and (4) after the public hearing find that such incentive plan is necessary to prevent the spread of blight and substandard conditions within the municipality, will promote additional safe and suitable housing for individuals and families employed in the municipality, and will not result in the unjust enrichment of any individual or company. A public hearing held under this section shall be separate from any public hearing held under section 18-2115.

Source: Laws 2018, LB496, § 3; Laws 2020, LB1003, § 179.

18-2143 Community Development Law, how construed.

The powers conferred by the Community Development Law shall be in addition and supplemental to the powers conferred by any other law and shall be independent of and in addition to any other provision of the laws of the State of Nebraska with reference to the matters covered in the Community Development Law and shall be considered as a complete and independent act and not as amendatory of or limited by any other provision of the laws of the State of Nebraska. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of the Community Development Law, or the application thereof to any person or circumstances is held unconstitutional or invalid, it shall not affect the other

provisions of the Community Development Law or the application of such provision to other persons or circumstances. The Community Development Law and all grants of power, authority, rights, or discretion made to a city and to an authority created under the Community Development Law shall be liberally construed, and all incidental powers necessary to carry into effect the Community Development Law are hereby expressly granted to and conferred upon a city or an authority created pursuant thereto.

Source: Laws 1951, c. 224, § 23, p. 820; R.R.S.1943, § 14-1643; Laws 1961, c. 61, § 17, p. 242; R.R.S.1943, § 19-2643; Laws 2018, LB874, § 31.

18-2144 Community Development Law; controlling over other laws and city charters.

The Community Development Law shall be full authority for the creation of a community redevelopment authority by a city or village, and for the exercise of the powers therein granted to a city or village and to such authority, and shall also be full authority for the creation of a community development agency by a city or village, and for the exercise of the powers therein granted to a city or village for such purpose, and no action, proceeding, or election shall be required prior to the creation of a community redevelopment authority or community development agency or to authorize the exercise of any of the powers granted in the Community Development Law, except as specifically provided in the Community Development Law, any provision of law or of any city charter or village law to the contrary notwithstanding.

No proceedings for the issuance of bonds of an authority or of a city or village for its community development agency shall be required other than those required by the Community Development Law; and the provisions of all other laws and city charters, if any, relative to the terms and conditions for the issuance, payment, redemption, registration, sale or delivery of bonds of public bodies, corporations, or political subdivisions of this state shall not be applicable to bonds issued by an authority pursuant to the Community Development Law.

Insofar as the provisions of the Community Development Law are inconsistent with the provisions of any other law or of any city charter, if any, the provisions of the Community Development Law shall be controlling.

Source: Laws 1957, c. 52, § 15, p. 261; Laws 1961, c. 61, § 18, p. 243; R.R.S.1943, § 19-2644; Laws 1973, LB 299, § 4; Laws 1979, LB 158, § 9; Laws 2018, LB874, § 32.

18-2145 Limited community redevelopment authority; laws applicable.

The provisions of the Community Development Law that are not in conflict with the provisions relating to limited community redevelopment authorities and that are necessary or convenient to carry out the powers expressly conferred upon limited community redevelopment authorities shall apply to limited community redevelopment authorities.

Source: Laws 1969, c. 106, § 5, p. 498; Laws 2018, LB874, § 33.

18-2146 Minimum standards housing ordinance; adopt, when.

Each city and village shall adopt a minimum standards housing ordinance if such city or village has completed an approved workable program or is in the process of the preparation of such a program.

Source: Laws 1969, c. 106, § 6, p. 498; Laws 1971, LB 747, § 1.

18-2147 Ad valorem tax; division authorized; limitations.

(1) Any redevelopment plan as originally approved or as later modified pursuant to section 18-2117 may contain a provision that any ad valorem tax levied upon real property, or any portion thereof, in a redevelopment project for the benefit of any public body shall be divided, for the applicable period described in subsection (3) of this section, as follows:

(a) That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each such public body upon the redevelopment project valuation shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body. When there is not a redevelopment project valuation on a parcel or parcels, the county assessor shall determine the redevelopment project valuation based upon the fair market valuation of the parcel or parcels as of January 1 of the year prior to the year that the ad valorem taxes are to be divided. The county assessor shall provide written notice of the redevelopment project valuation to the authority as defined in section 18-2103 and the owner. The authority or owner may protest the valuation to the county board of equalization within thirty days after the date of the valuation notice. All provisions of section 77-1502 except dates for filing of a protest, the period for hearing protests, and the date for mailing notice of the county board of equalization's decision are applicable to any protest filed pursuant to this section. The county board of equalization shall decide any protest filed pursuant to this section within thirty days after the filing of the protest. The county clerk shall mail a copy of the decision made by the county board of equalization on protests pursuant to this section to the authority or owner within seven days after the board's decision. Any decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission, in accordance with section 77-5013, within thirty days after the date of the decision;

(b) That portion of the ad valorem tax on real property, as provided in the redevelopment contract, bond resolution, or redevelopment plan, as applicable, in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the county assessor and county treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies. An authority may use a single fund for purposes of this subdivision for all redevelopment projects or may use a separate fund for each redevelopment project; and

(c) Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or for the public body.

(2) To the extent that a redevelopment plan authorizes the division of ad valorem taxes levied upon only a portion of the real property included in such redevelopment plan, any improvements funded by such division of taxes shall be related to the redevelopment plan that authorized such division of taxes.

(3)(a) For any redevelopment plan for which more than fifty percent of the property in the redevelopment project area has been declared an extremely blighted area in accordance with section 18-2101.02, ad valorem taxes shall be divided for a period not to exceed twenty years after the effective date as identified in the project redevelopment contract or in the resolution of the authority authorizing the issuance of bonds pursuant to section 18-2124.

(b) For all other redevelopment plans, ad valorem taxes shall be divided for a period not to exceed fifteen years after the effective date as identified in the project redevelopment contract, in the resolution of the authority authorizing the issuance of bonds pursuant to section 18-2124, or in the redevelopment plan, whichever is applicable.

(4) The effective date of a provision dividing ad valorem taxes as provided in subsection (3) of this section shall not occur until such time as the real property in the redevelopment project is within the corporate boundaries of the city. This subsection shall not apply to a redevelopment project involving a formerly used defense site as authorized in section 18-2123.01.

(5) Beginning August 1, 2006, all notices of the provision for dividing ad valorem taxes shall be sent by the authority to the county assessor on forms prescribed by the Property Tax Administrator. The notice shall be sent to the county assessor on or before August 1 of the year of the effective date of the provision. Failure to satisfy the notice requirement of this section shall result in the taxes, for all taxable years affected by the failure to give notice of the effective date of the provision, remaining undivided and being paid into the funds for each public body receiving property taxes generated by the property in the redevelopment project. However, the redevelopment project valuation for the remaining division of ad valorem taxes in accordance with subdivisions (1)(a) and (b) of this section shall be the last certified valuation for the taxable year prior to the effective date of the provision to divide the taxes for the remaining portion of the twenty-year or fifteen-year period pursuant to subsection (3) of this section.

Source: Laws 1979, LB 158, § 10; Laws 1997, LB 875, § 14; Laws 1999, LB 194, § 2; Laws 2002, LB 994, § 2; Laws 2006, LB 808, § 2; Laws 2006, LB 1175, § 2; Laws 2011, LB54, § 1; Laws 2013, LB66, § 4; Laws 2018, LB874, § 34; Laws 2020, LB1021, § 15; Laws 2021, LB25, § 2; Laws 2022, LB1065, § 3.
Effective date July 21, 2022.

18-2147.01 Cost-benefit analysis; reimbursement.

The Department of Economic Development shall, to the extent that funds are appropriated for such purpose, reimburse applying cities or villages for the fees paid by such cities or villages for the use of the cost-benefit analysis model,

developed and approved by the Legislature, for projects using funds authorized by section 18-2147.

Source: Laws 1999, LB 774, § 3; Laws 2000, LB 1135, § 3.

18-2148 Project valuation; county assessor; duties.

Commencing on the effective date of the provision outlined in section 18-2147, the county assessor, or county clerk where he or she is ex officio county assessor, of the county in which the redevelopment project is located, shall transmit to an authority and the county treasurer, upon request of the authority, the redevelopment project valuation and shall annually certify, on or before August 20, to the authority and the county treasurer the current valuation for assessment of taxable real property in the redevelopment project. The county assessor shall undertake, upon request of an authority, an investigation, examination, and inspection of the taxable real property in the redevelopment project and shall reaffirm or revalue the current value for assessment of such property in accordance with the findings of such investigation, examination, and inspection.

Source: Laws 1979, LB 158, § 11; Laws 2006, LB 808, § 3.

A mandamus action is an appropriate remedy for a redevelopment authority that believes that a county assessor has not complied with his or her duty under this section to transmit a redevelopment project valuation. Community Redev. Auth. v. Gizinski, 16 Neb. App. 504, 745 N.W.2d 616 (2008).

18-2149 Project valuation; how treated.

In each year after the determination of a redevelopment project valuation as outlined in section 18-2148, the county assessor and the county board of equalization shall include no more than the redevelopment project valuation of the taxable real property in the redevelopment project in the assessed valuation upon which is computed the tax rates levied by any public body on such project. In each year for which the current assessed valuation on taxable real property in the redevelopment project exceeds the redevelopment project valuation, the county treasurer shall remit to the authority, instead of to any public body, that proportion of all ad valorem taxes on real property paid that year on the redevelopment project which such excess valuation bears to the current assessed valuation.

If the current assessed valuation on taxable real property in the redevelopment project is less than the redevelopment project valuation, the current assessed valuation shall be the value assessable to the public bodies for the current year and there will be no excess valuation or tax proceeds available to the redevelopment project. The redevelopment project valuation shall be reinstated when the current assessed valuation on taxable real property in the redevelopment project is equal to or greater than the redevelopment project valuation.

Source: Laws 1979, LB 158, § 12; Laws 2006, LB 808, § 4.

18-2150 Financing; pledge of taxes.

In the proceedings for the issuance of bonds, the making of loans or advances of money, or the incurring of any indebtedness, whether funded, refunded, assumed, or otherwise, by an authority to finance or refinance, in whole or in part, a redevelopment project, the portion of taxes mentioned in subdivision (1)(b) of section 18-2147 shall be pledged for the payment of the principal of,

premium, if any, and interest on such bonds, loans, notes, advances, or indebtedness.

Source: Laws 1979, LB 158, § 13; Laws 1997, LB 875, § 15.

18-2151 Redeveloper; penal bond; when required; purpose.

Any redeveloper entering into a contract with an authority for the undertaking of a redevelopment project pursuant to a redevelopment plan which contains the provision outlined in section 18-2147 shall be required before commencing work to execute, in addition to all bonds that may be required, a penal bond with good and sufficient surety to be approved by an authority, conditioned that such contractor shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing the contractor or his or her subcontractors with labor or materials performed or used in the prosecution of the work provided for in such contract, and will indemnify and save harmless the authority to the extent any payments in connection with the carrying out of such contracts which an authority may be required to make under the law.

Source: Laws 1979, LB 158, § 14.

18-2152 Repealed. Laws 1988, LB 809, § 1.

18-2153 Sections, how construed.

The powers conferred by sections 18-2147 to 18-2153 shall be in addition and supplemental to the powers conferred by any other law and shall be independent of and in addition to any other provision of the laws of the State of Nebraska with reference to the matters covered in such sections. The provisions of such sections and all grants of power, authority, rights, or discretion to a city or village and to an authority created under the Community Development Law shall be liberally construed, and all incidental powers necessary to carry into effect such sections are hereby expressly granted to and conferred upon a city or village or an authority created pursuant to the Community Development Law.

Source: Laws 1979, LB 158, § 16; Laws 1991, LB 15, § 9; Laws 1999, LB 774, § 4; Laws 2018, LB874, § 35.

18-2154 Authority; relocate individuals and businesses; replace housing units.

A redevelopment authority shall relocate or provide assistance in the relocation of individuals, families, and businesses occupying premises acquired for a redevelopment project pursuant to the procedures described in the Relocation Assistance Act. In the event any housing units are eliminated by a redevelopment project, the redevelopment plan for any such project shall include plans for equivalent replacement housing units elsewhere in the community.

Source: Laws 1980, LB 986, § 4; Laws 1989, LB 254, § 31.

Cross References

Relocation Assistance Act, see section 76-1214.

18-2155 Plan; expedited review; eligibility; procedure; projects; use of property taxes; requirements.

(1) The governing body of a city may elect by resolution to allow expedited reviews of redevelopment plans that meet the requirements of subsection (2) of this section. A redevelopment plan that receives an expedited review pursuant to this section shall be exempt from the requirements of sections 18-2111 to 18-2115 and 18-2116.

(2) A redevelopment plan is eligible for expedited review under this section if:

(a) The redevelopment plan includes only one redevelopment project;

(b) The redevelopment project involves:

(i) The repair, rehabilitation, or replacement of an existing structure that has been within the corporate limits of the city for at least sixty years and is located within a substandard and blighted area; or

(ii) The redevelopment of a vacant lot that is located within a substandard and blighted area that has been within the corporate limits of the city for at least sixty years and has been platted for at least sixty years;

(c) The redevelopment project is located in a county with a population of less than one hundred thousand inhabitants; and

(d) The assessed value of the property within the redevelopment project area when the project is complete is estimated to be no more than:

(i) Three hundred fifty thousand dollars for a redevelopment project involving a single-family residential structure;

(ii) One million five hundred thousand dollars for a redevelopment project involving a multi-family residential structure or commercial structure; or

(iii) Ten million dollars for a redevelopment project involving the revitalization of a structure included in the National Register of Historic Places.

(3) The expedited review shall consist of the following steps:

(a) A redeveloper shall prepare the redevelopment plan using a standard form developed by the Department of Economic Development. The form shall include (i) the existing uses and condition of the property within the redevelopment project area, (ii) the proposed uses of the property within the redevelopment project area, (iii) the number of years the existing structure has been within the corporate limits of the city or the number of years that the vacant lot has been platted within the corporate limits of the city, whichever is applicable, (iv) the current assessed value of the property within the redevelopment project area, (v) the increase in the assessed value of the property within the redevelopment project area that is estimated to occur as a result of the redevelopment project, and (vi) an indication of whether the redevelopment project will be financed in whole or in part through the division of taxes as provided in section 18-2147;

(b) The redeveloper shall submit the redevelopment plan directly to the governing body along with any building permit or other permits necessary to complete the redevelopment project and an application fee in an amount set by the governing body, not to exceed fifty dollars. Such application fee shall be separate from any fees for building permits or other permits needed for the project; and

(c) If the governing body has elected to allow expedited reviews of redevelopment plans under subsection (1) of this section and the submitted redevelopment plan meets the requirements of subsection (2) of this section, the gov-

erning body shall approve the redevelopment plan within thirty days after submission of the plan.

(4) Each city may select the appropriate employee or department to conduct expedited reviews pursuant to this section.

(5) For any approved redevelopment project that is financed in whole or in part through the division of taxes as provided in section 18-2147:

(a) The authority shall incur indebtedness in the form of a promissory note issued to the owner of record of the property within the redevelopment project area. The total amount of indebtedness shall not exceed the amount estimated to be generated over a fifteen-year period from the portion of taxes mentioned in subdivision (1)(b) of section 18-2147. The terms of such promissory note shall clearly state that such indebtedness does not create a general obligation on behalf of the authority or the city in the event that the amount generated over a fifteen-year period from the portion of taxes mentioned in subdivision (1)(b) of section 18-2147 does not equal the costs of the agreed-upon work to repair, rehabilitate, or replace the structure or to redevelop the vacant lot as provided in the redevelopment plan;

(b) Upon completion of the agreed-upon work to repair, rehabilitate, or replace the structure or to redevelop the vacant lot as provided in the redevelopment plan, the redeveloper shall notify the county assessor of such completion; and

(c) The county assessor shall then determine:

(i) Whether the redevelopment project is complete. Redevelopment projects must be completed within two years after the redevelopment plan is approved under this section; and

(ii) The assessed value of the property within the redevelopment project area.

(6) After the county assessor makes the determinations required under subdivision (5)(c) of this section, the county assessor shall use a standard certification form developed by the Department of Revenue to certify to the authority:

(a) That improvements have been made and completed;

(b) That a valuation increase has occurred;

(c) The amount of the valuation increase; and

(d) That the valuation increase was due to the improvements made.

(7) Once the county assessor has made the certification required under subsection (6) of this section, the authority may begin to use the portion of taxes mentioned in subdivision (1)(b) of section 18-2147 to pay the indebtedness incurred by the authority under subdivision (5)(a) of this section. The payments shall be remitted to the owner of record of the property within the redevelopment project area.

(8) A single fund may be used for all redevelopment projects that receive an expedited review pursuant to this section. It shall not be necessary to create a separate fund for any such project, including a project financed in whole or in part through the division of taxes as provided in section 18-2147.

Source: Laws 2020, LB1021, § 11; Laws 2022, LB1065, § 4.
Effective date July 21, 2022.

ARTICLE 22
COMMUNITY ANTENNA TELEVISION SERVICE

Section
18-2201. Legislative declaration; regulatory powers.
18-2202. Franchise; required; validity.
18-2203. Underground cables and equipment; map required.
18-2204. Annual occupation tax; levy; when due.
18-2205. Violation; notice; penalty.
18-2206. Rate increase; approval; procedure.

18-2201 Legislative declaration; regulatory powers.

The Legislature hereby finds and declares that the furnishing of community antenna television service is a business affected with such a public interest that it must be regulated locally. All municipalities in Nebraska are hereby authorized and empowered, by ordinance, to regulate, prohibit, and consent to the construction, installation, operation, and maintenance within their corporate limits of all persons or entities furnishing community antenna television service. All municipalities, acting through the mayor and city council or village board of trustees, shall have power to require every individual or entity offering such service, subject to reasonable rules and regulations, to furnish any person applying therefor along the lines of its wires, cables, or other conduits, with television and radio service. The mayor and city council or village board of trustees shall have power to prescribe reasonable quality standards for such service and shall regulate rate increases so as to provide reasonable and compensatory rents or rates for such service including installation charges. In the regulation of rate increases the procedure provided in section 18-2206 shall be used in any franchise granted or renewed after May 23, 1979. Such person or entity furnishing community antenna television service shall be required to carry all broadcast signals as prescribed by franchise and permitted to be carried by Federal Communications Commission regulations during the full period of the broadcast day of its stations.

Source: Laws 1959, c. 68, § 1, p. 294; R.R.S.1943, § 19-2801; Laws 1969, c. 119, § 1, p. 536; Laws 1979, LB 495, § 1; Laws 2021, LB163, § 140.

Any statutory authority the district court might have to review rates under this section is limited only to the matter of rate increases. Plaintiff whose suit is addressed to rates as initially set rather than to an increase thereof has not stated a cause of action under this section. Bard v. Cox Cable of Omaha, Inc., 226 Neb. 880, 416 N.W.2d 4 (1987).

A merely prospective cable television customer has no standing as a ratepayer to seek to void a franchise because of excessive rates, and any complaint about the rates themselves must first be directed to the ratesetting body. Hall v. Cox Cable of Omaha, Inc., 212 Neb. 887, 327 N.W.2d 595 (1982).

18-2202 Franchise; required; validity.

It shall be unlawful for any person, firm, or corporation to construct, install, operate, or maintain in or along the streets, alleys, and public ways, or elsewhere within the corporate limits of any municipality, a community antenna television service without first obtaining, from such municipality involved, a franchise authorizing the community antenna television service. The governing bodies of such municipalities are hereby authorized to grant such a franchise and such franchise shall be effective and binding without submission to the electors and approval by a majority vote thereof, notwithstanding any other law

or home rule charter, for a term of not to exceed twenty-five years upon such reasonable conditions as the circumstances may require.

Source: Laws 1959, c. 68, § 2, p. 294; R.R.S.1943, § 19-2802; Laws 1969, c. 119, § 2, p. 537; Laws 1979, LB 495, § 3; Laws 2021, LB163, § 141.

Regulation of community antenna television service is a matter of statewide concern, so that this section, allowing approval of a franchise without a vote of the electorate, takes precedence over a home rule charter provision to the contrary. Hall v. Cox Cable of Omaha, Inc., 212 Neb. 887, 327 N.W.2d 595 (1982).

18-2203 Underground cables and equipment; map required.

Municipalities may by ordinance require the filing with the city clerk or village clerk by the person, firm, or corporation constructing, installing, operating, or maintaining community antenna television service of a proper map showing the exact location of all underground cables and equipment, together with a statement showing the exact nature of such cables and equipment.

Source: Laws 1959, c. 68, § 3, p. 294; R.R.S.1943, § 19-2803; Laws 1969, c. 119, § 3, p. 537; Laws 2021, LB163, § 142.

18-2204 Annual occupation tax; levy; when due.

Municipalities may, by appropriate ordinance, levy an annual occupation tax against any person, firm, or corporation maintaining and operating any community antenna television service within its boundaries and may levy an annual occupation tax against any persons, firms, or corporations constructing, installing, operating, or maintaining community antenna television service. Any such occupation tax so levied shall be due and payable on May 1 of each year to the city treasurer or village treasurer.

Source: Laws 1959, c. 68, § 4, p. 295; R.R.S.1943, § 19-2804; Laws 1969, c. 119, § 4, p. 538; Laws 2021, LB163, § 143.

The power granted by this section to the city to levy by ordinance an occupation tax upon community antenna television service is a special statute which takes precedence over the general provisions of section 14-811 requiring submission of franchise annuity or royalty to the electorate. Hall v. Cox Cable of Omaha, Inc., 212 Neb. 887, 327 N.W.2d 595 (1982).

18-2205 Violation; notice; penalty.

In the event of violation of any franchise provision or the provisions of sections 18-2201 to 18-2205 by any duly franchised person or entity furnishing community antenna television service, the municipality having granted such franchise shall immediately serve notice of such violation upon the franchise holder with directions to correct such violation within ninety days or show cause why such violation should not be corrected at a public hearing held in conjunction with the next regularly scheduled meeting of the franchising body. Continued violation of sections 18-2201 to 18-2205 may be enjoined by the district court. Any person who willfully violates any provision of sections 18-2201 to 18-2205 or of any local franchise ordinance shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than five hundred dollars.

Source: Laws 1969, c. 119, § 5, p. 538.

18-2206 Rate increase; approval; procedure.

(1) Approval of a rate increase for a person or entity furnishing community antenna television service shall be required and shall be made by the city

council or village board of trustees which granted the franchise to such person or entity. Such approval shall be made by ordinance or resolution.

(2) Prior to voting on a rate increase the city council or village board of trustees shall hold at least two public meetings at which the ratepayers and the franchisee may comment on the programming content and rates of such franchisee.

(3) At least thirty days prior to the first public meeting held to examine programming content and rates, each ratepayer or subscriber shall be notified by a billing statement or other written notice when and where such public meeting shall be held. Such notice shall also provide information as to what rates are proposed by the franchisee for consideration by the city council or village board of trustees.

Source: Laws 1979, LB 495, § 2; Laws 2021, LB163, § 144.

ARTICLE 23

AIR CONDITIONING AIR DISTRIBUTION BOARD

Section
18-2301. Terms, defined.
18-2302. Board for examination of contractors; membership; duties.
18-2303. Officers; secretary; duties.
18-2304. Members; terms; compensation.
18-2305. Meetings; certificates of competency; examination; rules.
18-2306. Rules and regulations; approval; plans and specifications; approval.
18-2307. Contractor; certificate of competency; application; examination; issuance.
18-2308. Sections; exemptions.
18-2309. Certificate of competency; applicant; bond; conditions.
18-2310. Certificate of competency; renewal; examination; when.
18-2311. Certificate of competency; term; revocation.
18-2312. Certificate of competency; requirement.
18-2313. Certificate of competency; permit; fees.
18-2314. Inspectors; employment authorized; noncomplying system; correction or removal.
18-2315. Violations; penalties.

18-2301 Terms, defined.

For purposes of sections 18-2301 to 18-2315, unless the context otherwise requires:

(1) Air conditioning air distribution means the control of any one or more of the following factors affecting both physical and chemical conditions of the atmosphere within a structure: Temperature, humidity, movement and purity;

(2) Furnace means a self-contained, flue-connected or vented, appliance intended primarily to supply heated air through ducts to spaces remote from or adjacent to the appliance location as well as to the space in which it is located;

(3) Contractor means a holder of a valid certificate of competency for air conditioning air distribution;

(4) Ventilating system means each process of removing air by natural gravity exhauster or mechanical exhaust fan from any space; and

(5) Kitchen exhaust system means a duct system or air passageway for removal of kitchen air contaminates by mechanical means.

Source: Laws 1969, c. 98, § 1, p. 468; Laws 2021, LB163, § 145.

18-2302 Board for examination of contractors; membership; duties.

In any city or village, there may be a board for the examination of air conditioning air distribution contractors for the issuance of certificates of competency and for such other duties and responsibilities as may be prescribed by sections 18-2301 to 18-2315. Such board shall consist of not more than five members all of whom shall be appointed by the mayor, the chairperson of the village board of trustees, or the city manager with the approval of the city council or village board of trustees. All vacancies occurring on the air conditioning air distribution board by reason of death, disability, or inability of a member to serve shall be filled in the same manner as the original appointment. The qualifications for members of the air conditioning air distribution board may be prescribed by the city council or village board of trustees.

Source: Laws 1969, c. 98, § 2, p. 469; Laws 2021, LB163, § 146.

18-2303 Officers; secretary; duties.

Members of the air conditioning air distribution board shall, within ten days after their appointments, meet in their respective city or village building or place designated by the city council, city manager, or village board of trustees and organize by the selection of one of their members as chairperson, one as vice-chairperson, and one as secretary. It shall be the duty of the secretary to keep full, true, and correct minutes and records of all meetings, applications for examinations, examinations given and results thereof, and certificates issued, which records shall be open for free inspection by all persons during business hours.

Source: Laws 1969, c. 98, § 3, p. 469; Laws 2021, LB163, § 147.

18-2304 Members; terms; compensation.

The appointment of the air conditioning air distribution board shall be for staggered terms of three years as provided by the city council or village board of trustees with the appointments to be made in December of each year. Compensation shall be determined by the city council or village board of trustees.

Source: Laws 1969, c. 98, § 4, p. 469; Laws 2021, LB163, § 148.

18-2305 Meetings; certificates of competency; examination; rules.

The air conditioning air distribution board shall meet at least once a month at a fixed time as determined by the city council or village board of trustees. The board shall adopt rules for the examination at such times and places of all persons who desire a certificate of competency to engage in the business of designing, installing, altering, repairing, cleaning, or adding to any air conditioning air distribution system, furnace, restaurant appliance hood and duct system, or other exhaust or intake ventilating system within the city or village and also within the area of extraterritorial zoning jurisdiction of cities of the metropolitan class.

Source: Laws 1969, c. 98, § 5, p. 469; Laws 2021, LB163, § 149.

18-2306 Rules and regulations; approval; plans and specifications; approval.

The air conditioning air distribution board, subject to the approval of the city council or village board of trustees, may adopt rules and regulations, not

inconsistent with the laws of the state or the ordinances of the city or village, for the designing, installing, altering, inspecting, or repairing of an air conditioning air distribution and ventilating system placed in or in connection with any building in such city or village or within the area of extraterritorial zoning jurisdiction of cities of the metropolitan class describing the kind and size of materials to be used in such systems and the manner in which such work shall be done. All plans and specifications for any such system to be placed in a building shall be first submitted to the board or other body designated by the city council or village board of trustees for its approval before such system shall be installed.

Source: Laws 1969, c. 98, § 6, p. 470; Laws 2021, LB163, § 150.

18-2307 Contractor; certificate of competency; application; examination; issuance.

(1) Any person desiring to engage in business as an air conditioning air distribution contractor in a city or village which has established an air conditioning air distribution board or within the extraterritorial zoning jurisdiction of cities of the metropolitan class if such city has such a board, shall secure a certificate of competency. Any person desiring to engage in the business, or to proceed to install, alter, repair, clean, or add to or change in any manner any air conditioning air distribution system or any furnace, restaurant appliance hood and duct system, or other exhaust or intake ventilating system within such city or village or within the extraterritorial zoning jurisdiction of cities of the metropolitan class shall be the holder of a certificate of competency or in the direct employ of a person, firm, or corporation holding such certificate.

(2) The air conditioning air distribution board shall, upon written application, examine the applicant at its next meeting or at an adjourned meeting as to his or her practical and theoretical knowledge of the designing and installing of residential, commercial, and industrial air conditioning air distribution and ventilating systems and, if found competent, deliver to the applicant a certificate of competency.

Source: Laws 1969, c. 98, § 7, p. 470; Laws 1997, LB 752, § 77; Laws 2021, LB163, § 151.

18-2308 Sections; exemptions.

Nothing contained in sections 18-2301 to 18-2315 shall be construed to prohibit a homeowner from personally performing air conditioning air distribution work on the property in which the homeowner resides, and the homeowner will not be required to have a certificate of competency to do such work, but the work must conform to the rules and regulations set forth by the city council or village board of trustees for such work as provided by sections 18-2301 to 18-2315.

Source: Laws 1969, c. 98, § 8, p. 471; Laws 2021, LB163, § 152.

18-2309 Certificate of competency; applicant; bond; conditions.

All applicants who have successfully passed an examination may, prior to receiving a certificate of competency, be required by the air conditioning air distribution board to furnish a corporate surety bond in the penal sum of not more than ten thousand dollars conditioned that the applicant shall, in all material furnished by the applicant and in all work performed by the applicant

and performed within the city or village or within the extraterritorial zoning jurisdiction of cities of the metropolitan class, in installing, altering, and repairing any air conditioning air distribution system or ventilating system, strictly comply with all regulations of the air conditioning air distribution board and ordinances of the city or village related thereto.

Source: Laws 1969, c. 98, § 9, p. 471; Laws 2021, LB163, § 153.

18-2310 Certificate of competency; renewal; examination; when.

All original certificates of competency may be renewed and all renewed certificates of competency may be renewed by the air conditioning air distribution board before the dates of their expiration. Such renewal certificates shall be granted without a reexamination upon the written application of the certificate holder filed with the board and showing that the certificate holder's purposes and condition remain unchanged unless it is made to appear by affidavit before the board that the certificate holder is no longer competent or entitled to such renewal certificate, in which event the renewal certificate shall not be granted until the applicant has undergone the examination required by section 18-2307.

Source: Laws 1969, c. 98, § 10, p. 471; Laws 2021, LB163, § 154.

18-2311 Certificate of competency; term; revocation.

All original and renewal certificates shall be good for one year from their dates, but any certificate may be revoked by the air conditioning air distribution board at any time after a hearing upon sufficient notice after sworn charges are filed with the board showing the holder of the certificate to be then incompetent, guilty of willful breach of the rules, regulations, or requirements of the board or of the laws or ordinances relating thereto, or of other causes sufficient for the revocation of the certificate as determined by the city council or village board of trustees of which charges and hearing the holder of such certificate shall have written notice.

Source: Laws 1969, c. 98, § 11, p. 472; Laws 2021, LB163, § 155.

18-2312 Certificate of competency; requirement.

It shall be unlawful for any person to engage in business as an air conditioning air distribution contractor or to engage in the business of installing, altering, repairing, cleaning, adding to, or changing in any manner any air conditioning air distribution system or any furnace, any restaurant appliance hood or its duct system, or any other exhaust or intake ventilating system within a city or village having an air conditioning air distribution board or within the extraterritorial zoning jurisdiction of cities of the metropolitan class having such a board unless such person holds a certificate or is employed by a person, firm, or corporation holding such a certificate.

Source: Laws 1969, c. 98, § 12, p. 472; Laws 2021, LB163, § 156.

18-2313 Certificate of competency; permit; fees.

Fees for the original certificates, renewal certificates, and permits shall be fixed by the city council or village board of trustees of each city or village

having an air conditioning air distribution board. The fee for the original or renewal certificate shall in no event be more than fifty dollars.

Source: Laws 1969, c. 98, § 13, p. 472; Laws 2021, LB163, § 157.

18-2314 Inspectors; employment authorized; noncomplying system; correction or removal.

Any city or village having an air conditioning air distribution board shall be authorized to employ inspectors who shall inspect all parts of any air conditioning air distribution system or ventilating or exhaust system in process of construction, alteration, or repair within the respective jurisdiction of such city or village. Any such system found not to comply with the regulations of the air conditioning air distribution board or ordinances of the city or village shall be reported to the board and if not corrected in accordance with requirements of the rules and regulations of the board and ordinances of the city or village shall be removed, if, after notice to the owner or contractor or certificate holder doing the work, the board shall find the work or any part of such work to be defective or not in compliance with such rules and regulations or ordinances.

Source: Laws 1969, c. 98, § 14, p. 472; Laws 2021, LB163, § 158.

18-2315 Violations; penalties.

Any person violating sections 18-2301 to 18-2315 or any rules or regulations adopted or ordinances passed pursuant to such sections shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than five hundred dollars, or be imprisoned not more than six months, or be both so fined and imprisoned, and as a part of such punishment such person's license may be revoked.

Source: Laws 1969, c. 98, § 15, p. 473; Laws 2021, LB163, § 159.

ARTICLE 24

MUNICIPAL COOPERATIVE FINANCING

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18-2401 Act, how cited.

Sections 18-2401 to 18-2485 shall be known and may be cited as the Municipal Cooperative Financing Act.

Source: Laws 1981, LB 132, § 1.

18-2402 Legislative declarations.

The Legislature hereby finds and declares (1) that cooperative action by municipalities of this state in the fields of the supplying, treatment, and distribution of water, the generation, transmission, and distribution of electric power and energy, and the collection, treatment, and disposal of sewerage and solid waste is in the public interest; (2) that there is a need in order to insure the stability and continued viability of such systems to provide for a means by which municipalities may cooperate with one another in the financing, acquisition, and operation of such facilities and interests therein and rights thereto in all ways possible; (3) that the creation of agencies through which the municipalities of this state may act cooperatively is in the best interest of this state and the inhabitants thereof and is for a public use and public purpose; and (4) that the necessity in the public interest for the provisions included in the Municipal Cooperative Financing Act is declared as a matter of legislative determination. It is further declared that the intent of the act is to replace competition between participating municipalities in connection with the projects described in the act by allowing such municipalities to combine and cooperate in connection with the acquisition, construction, operation, financing, and all other functions authorized by the act with respect to such projects.

Source: Laws 1981, LB 132, § 2; Laws 1984, LB 686, § 1; Laws 2021, LB163, § 160.

18-2403 Definitions, sections found.

For purposes of sections 18-2401 to 18-2485, unless the context otherwise requires, the definitions found in sections 18-2404 to 18-2418 shall be used.

Source: Laws 1981, LB 132, § 3.

18-2404 Act, defined.

Act shall mean the Municipal Cooperative Financing Act.

Source: Laws 1981, LB 132, § 4.

18-2405 Agency, defined.

Agency shall mean any of the public corporations created pursuant to sections 18-2401 to 18-2485.

Source: Laws 1981, LB 132, § 5.

18-2406 Board, defined.

Board shall mean the board of directors of an agency.

Source: Laws 1981, LB 132, § 6.

18-2407 Bonds, defined.

Bonds shall mean any bonds, interim certificates, notes, debentures, or other evidences of indebtedness of an agency.

Source: Laws 1981, LB 132, § 7.

18-2408 Director, defined.

Director shall mean a member of a board and shall include an alternate. The alternate shall be appointed in the same manner as the director and shall serve and exercise all powers of a director in the absence of the director for whom he or she is the alternate.

Source: Laws 1981, LB 132, § 8; Laws 1987, LB 324, § 1.

18-2409 Governing body, defined.

Governing body shall mean the city council in the case of a city, the village board of trustees in the case of a village, the equivalent body in the case of a municipality incorporated under the laws of another state, and the board in the case of an agency primarily comprised of municipalities.

Source: Laws 1981, LB 132, § 9; Laws 1987, LB 324, § 2; Laws 2020, LB858, § 1; Laws 2021, LB163, § 161.

18-2410 Municipality, defined.

Municipality shall mean (1) any city or village incorporated under the laws of this state, any equivalent entity incorporated under the laws of another state, or any separate municipal utility which has autonomous control and was established by such a city, village, or equivalent entity or by the citizens thereof for the purpose of providing electric energy for such municipality, (2) any public entity organized under Chapter 70, article 6, and incorporated under the laws of this state for the sole purpose of providing wholesale electric energy to a

single municipality which is incorporated under the laws of this state, or (3) any agency primarily comprised of municipalities.

Source: Laws 1981, LB 132, § 10; Laws 1987, LB 324, § 3; Laws 2003, LB 165, § 7; Laws 2007, LB199, § 1; Laws 2020, LB858, § 2.

18-2411 Participating municipality, defined.

Participating municipality shall mean with respect to an agency, any one of the municipalities which is entitled to appoint a director or directors of such agency pursuant to sections 18-2401 to 18-2485.

Source: Laws 1981, LB 132, § 11.

18-2412 Person, defined.

Person shall mean a natural person, public authority, private corporation, association, firm, partnership, limited liability company, or business trust of any nature whatsoever organized and existing under the laws of this state or of the United States or any other state thereof.

Source: Laws 1981, LB 132, § 12; Laws 1993, LB 121, § 144.

18-2413 Power project, defined.

Power project shall mean any plant, works, system, facilities, and real and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission, conservation, transformation, distribution, purchase, sale, exchange, or interchange of electric power and energy, or any interest therein or right to capacity thereof, any energy conservation system or device for reducing the energy demands or any interest therein, and the acquisition of energy sources or fuel of any kind, for any such purposes, including, without limitation, facilities for the acquisition, transformation, collection, utilization, and disposition of nuclear fuel or solar, geothermal, hydroelectric, or wind energy and the acquisition or construction and operation of facilities for extracting fuel including agricultural ethyl alcohol from natural deposits or agricultural products, for converting it for use in another form, for burning it in place, or for transportation and storage.

Source: Laws 1981, LB 132, § 13; Laws 2020, LB858, § 3.

18-2414 Project, defined.

Project shall mean any power project, sewerage project, solid waste disposal project, waterworks project, or any combination of two or more thereof or any interest therein or right to capacity thereof. Project does not include the construction, maintenance, or remodeling of an agency's headquarters office building or any other improvements thereto.

Source: Laws 1981, LB 132, § 14; Laws 2020, LB858, § 4.

18-2415 Public authority, defined.

Public authority shall mean the state, any county, any municipality or other municipal corporation, political subdivision, governmental unit, or public corporation created by or pursuant to the laws of this state, of another state, or of the United States, and any state or the United States, and any person, board,

commission, district, authority, instrumentality, subdivision, or other body of any of the foregoing.

Source: Laws 1981, LB 132, § 15.

18-2416 Sewerage project, defined.

Sewerage project shall mean any plant, works, system, facilities, and real and personal property of any nature whatsoever, together with all parts and appurtenances thereto, or any interest therein or right to capacity thereof, used or useful in the removal, discharge, conduction, collection, carrying, treatment, recycling, purification, or disposal of gaseous, liquid, or solid sewage and wastes.

Source: Laws 1981, LB 132, § 16.

18-2417 Solid waste disposal project, defined.

Solid waste disposal project shall mean any plant, works, systems, facilities, and real and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, or any interest therein or right to capacity thereof, used or useful in the collection, transporting, conveying, treatment, transformation, or disposal of solid wastes.

Source: Laws 1981, LB 132, § 17.

18-2418 Waterworks project, defined.

Waterworks project shall mean any plant, works, system, facilities, and real and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, or any interest therein or right to capacity thereof, used or useful in the supplying, transporting, conveying, collection, distribution, storing, purification, or treatment of water.

Source: Laws 1981, LB 132, § 18.

18-2419 Creation of agencies; authorized.

Any combination of two or more municipalities of this state is hereby granted power and authority to create one or more agencies to exercise the powers and authority prescribed by sections 18-2401 to 18-2485.

Source: Laws 1981, LB 132, § 19.

18-2420 Creation of agency; procedure; board of directors; appointment; qualifications; powers.

The governing body of each of the municipalities participating in the creation of such agency shall by appropriate action by ordinance or resolution determine that there is a need for such agency and set forth the names of the proposed participating municipalities of the agency. Such an action may be taken by a municipality's governing body on its own motion upon determining, in its discretion, that a need exists for an agency. In determining whether such a need exists, a governing body may take into consideration the present and future needs of the municipality with respect to the commodities and services which an agency may provide, the adequacy and suitability of the supplies of such commodities and services to meet such needs, and economic or other advantages or efficiencies which may be realized by cooperative action through an agency. Upon the adoption of an ordinance or passage of a resolution as

provided in this section, the mayor, in the case of a city, the chairperson of the board of trustees, in the case of a village, or the chairperson of the governing body, of each of the proposed participating municipalities, with the approval of the respective governing body, shall appoint a director. The qualifications for appointment as a director shall be as determined by the board in its bylaws. The directors shall constitute the board in which shall be vested all powers of the agency.

Source: Laws 1981, LB 132, § 20; Laws 2007, LB199, § 2; Laws 2020, LB858, § 5.

18-2421 Projects other than power projects; sections applicable.

If the agency does not intend to engage in the operation of power projects or the generation or supply of electric energy, sections 18-2422 to 18-2425 shall apply.

Source: Laws 1981, LB 132, § 21.

18-2422 Projects other than power projects; directors; file certificate; contents.

The directors shall file with the Secretary of State a certificate signed by them setting forth (1) the names of all the proposed participating municipalities, (2) the name and residence of each of the directors so far as known to them, (3) a certified copy of each of the ordinances or resolutions of the participating municipalities determining the need for such an agency, (4) a certified copy of the proceedings of each municipality evidencing the director's right to office, and (5) the name of the agency. The certificate shall be subscribed and sworn to by such directors before an officer or officers authorized by the laws of the state to administer and certify oaths.

Source: Laws 1981, LB 132, § 22; Laws 2007, LB199, § 3.

18-2423 Projects other than power projects; certificate of incorporation; issuance; Secretary of State; duties.

The Secretary of State shall examine the certificate and, if he or she finds that the name proposed for the agency is not identical with that of any other corporation or public authority of this state, or so nearly similar as to lead to confusion and uncertainty, and that such certificate conforms to the requirements of sections 18-2419 to 18-2424, the Secretary of State shall record it and issue and record a certificate of incorporation. The certificate shall state the name of the agency, the fact and date of incorporation, and the names of the participating municipalities. Upon the issuance of the certificate of incorporation, the existence of the agency as a public body corporate and politic of this state shall commence. Notice of the issuance of such certificate shall be given to all of the proposed participating municipalities by the Secretary of State. If a director of any such municipality has not signed the certificate to the Secretary of State and such municipality does not notify the Secretary of State of the appointment of a director within thirty days after receipt of notice of the issuance of a certificate of incorporation, such municipality shall be deemed to have elected not to be a participating municipality. As soon as practicable after the expiration of such thirty-day period, the Secretary of State shall issue an amended certificate of incorporation, if necessary, setting forth the names of those municipalities which have elected to become participating municipalities.

The failure of any proposed municipality to become a participating municipality shall not affect the validity of the corporate existence of the agency.

Source: Laws 1981, LB 132, § 23.

18-2424 Projects other than power projects; certificate of incorporation; proof of agency's establishment.

In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract of the agency, the agency shall be conclusively deemed to have been established, except as against the state, in accordance with sections 18-2401 to 18-2485 upon proof of the issuance of the certificate of incorporation by the Secretary of State. A copy of such certificate, duly certified by the Secretary of State, shall be admissible in evidence in any such suit, action, or proceeding and shall be conclusive proof of the filing and contents thereof.

Source: Laws 1981, LB 132, § 24.

18-2425 Projects other than power projects; participation of additional municipalities; procedure.

After the creation of an agency, any other municipality may become a participating municipality therein upon (1) application to such agency, (2) the adoption of an ordinance or passage of a resolution by the governing body of the municipality setting forth the determination prescribed in section 18-2420 and authorizing such municipality to become a participating municipality, and (3) at least a majority vote of the directors, except that an agency's bylaws may require a greater percentage of approval for such authorization. Thereupon such municipality shall become a participating municipality entitled to appoint a director or directors of such agency in the manner prescribed by section 18-2420 and to otherwise participate in such agency to the same extent as if such municipality had participated in the creation of the agency. Upon the filing with the Secretary of State of certified copies of the ordinances and resolutions described in this section, the Secretary of State shall issue an amended certificate of incorporation setting forth the names of the participating municipalities.

Source: Laws 1981, LB 132, § 25; Laws 2007, LB199, § 4.

18-2426 Power projects; sections applicable.

If the agency intends to engage in the operation of power projects, or the generation or supply of electric energy, the provisions of sections 18-2426 to 18-2434 shall apply.

Source: Laws 1981, LB 132, § 26.

18-2427 Power projects; creation of agency; petition; contents.

Upon adoption of ordinances or resolutions in accordance with section 18-2420, a petition shall be addressed to the Nebraska Power Review Board stating that it is the intent and purpose to create an agency pursuant to sections 18-2426 to 18-2434, subject to approval by the Nebraska Power Review Board. The petition shall state the name of the proposed agency, the names of the proposed participating municipalities, the name of each of the directors so far as known, a certified copy of each of the ordinances or resolutions of the

participating municipalities determining the need for such an agency, a certified copy of the proceedings of each municipality evidencing the director's right to office, a general description of the operation in which the agency intends to engage, and the location and method of operation of the proposed plants and systems of the agency.

Source: Laws 1981, LB 132, § 27; Laws 1981, LB 181, § 57; Laws 2003, LB 165, § 8; Laws 2007, LB199, § 5; Laws 2020, LB858, § 6.

18-2428 Power projects; agency organization; conflict with certain entities; limitations.

Nothing in sections 18-2401 to 18-2485 shall be construed to prevent the organization of an agency whose participating municipalities operate within, or partly within, the territorial boundaries of a district or corporation organized under the provisions of Chapter 70, article 6, 7, or 8, so long as the plants, systems, and works, the operation of the same, the exercise of powers, and the assumption of duties and responsibilities of, or on the part of, such agency do not nullify, conflict with, or materially affect those of a district or corporation organized under the provisions of Chapter 70, article 6, 7, or 8.

Source: Laws 1981, LB 132, § 28.

18-2429 Repealed. Laws 2003, LB 165, § 15.

18-2430 Power projects; petition; approval procedure.

If the Nebraska Power Review Board determines that the statements in the petition filed pursuant to section 18-2427 are true and conform to public convenience and welfare and, so long as the plants, systems, and works, the operation of the same, the exercise of powers, and the assumption of duties and responsibilities of, or on the part of, such agency, do not nullify, conflict with, or materially affect those of a district or corporation organized under the provisions of Chapter 70, article 6 or 8 or the Electric Cooperative Corporation Act, the Nebraska Power Review Board or its successor shall, within thirty days after the receipt of such petition, execute a certificate in duplicate setting forth a true copy of the petition and declaring that the petition has been approved.

Source: Laws 1981, LB 132, § 30; Laws 1981, LB 181, § 59; Laws 2003, LB 165, § 9.

Cross References

Electric Cooperative Corporation Act, see section 70-701.

18-2431 Power projects; certificate of approval; where filed; effect.

Upon final approval the Nebraska Power Review Board shall immediately cause one copy of the certificate to be forwarded to and filed in the office of the Secretary of State and the other one to be forwarded to and filed in the office of the county clerk of the county in which the principal place of business of the agency is located. Thereupon such agency under its designated name shall be and constitute a body politic and corporate, and the agency and its directors shall possess the powers provided by law.

Source: Laws 1981, LB 132, § 31; Laws 1981, LB 181, § 60.

18-2432 Power projects; appeal; procedure.

An appeal of any final action of the Nebraska Power Review Board pursuant to the Municipal Cooperative Financing Act may be taken to the Court of Appeals. Such appeal shall be in accordance with rules provided by law for appeals in civil cases.

Source: Laws 1981, LB 132, § 32; Laws 1981, LB 181, § 61; Laws 1991, LB 732, § 21; Laws 2003, LB 187, § 6.

18-2433 Power projects; petition for agency creation; amendment; approval procedure.

(1) A petition for the creation of an agency which intends to engage in the operation of power projects or the generation or supply of electrical energy may be amended as provided in this section. Upon a majority vote of the directors, an agency may amend its petition for creation or may amend its charter to provide for a change in the general description of the nature of the business in which the agency is engaged, upon petition to the Nebraska Power Review Board and approval by the Nebraska Power Review Board in accordance with the procedure established in sections 18-2426 to 18-2434.

(2) After notice to interested parties and a public hearing which may be held at the option of the Nebraska Power Review Board, such amendments shall be approved if the Nebraska Power Review Board determines that the statements in the petition are true and conform to public convenience and welfare, and so long as the plants, systems, and works, the operation of the same, the exercise of powers, and the assumptions of duties and responsibilities of, or on the part of, such agency, do not nullify, conflict with, or materially affect those of any other district or a corporation organized under the provisions of Chapter 70, article 6 or 8 or the Electric Cooperative Corporation Act, or those of any part of such district or corporation.

Source: Laws 1981, LB 132, § 33; Laws 1981, LB 181, § 62; Laws 2003, LB 165, § 10.

Cross References

Electric Cooperative Corporation Act, see section 70-701.

18-2434 Power projects; certificate of approval; proof of agency's establishment.

In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract of the agency, the agency shall be conclusively deemed to have been established, except as against the state, in accordance with sections 18-2401 to 18-2485 upon proof of the issuance of the certificate issued by the Nebraska Power Review Board. A copy of such certificate duly certified by the Nebraska Power Review Board shall be admissible in evidence in any such suit, action, or proceeding and shall be conclusive proof of the filing and contents thereof.

Source: Laws 1981, LB 132, § 34; Laws 1981, LB 181, § 63.

18-2435 Director; removal; certificate of appointment; term; vacancy; expenses.

A director may be removed for any cause at any time by the governing body of the municipality for which such director acts or by the board pursuant to its bylaws. A certificate of the appointment or reappointment of any director shall

be filed with the clerk of the municipality for which such director acts and such certificate shall be conclusive evidence of the due and proper appointment of such director. Each director appointed prior to August 7, 2020, shall serve for a term of three years or until his or her successor has been appointed and has qualified in the same manner as the original appointment. Beginning on August 7, 2020, each director shall serve for a term as established by the bylaws of the board. A director shall be eligible for reappointment upon the expiration of his or her term. A vacancy shall be filled for the balance of the unexpired term of the person who has ceased to hold office in the same manner as the original appointment. A director shall receive no compensation for his or her services but shall be entitled to the necessary expenses, including travel expenses, incurred in the discharge of his or her official duties, including mileage at the rate provided in section 81-1176 for state employees.

Source: Laws 1981, LB 132, § 35; Laws 1984, LB 686, § 2; Laws 2020, LB858, § 7.

18-2436 Directors; number; voting; quorum; meetings.

Each participating municipality shall be entitled to appoint one director, but with the approval of each of the participating municipalities as evidenced by an ordinance or resolution of the governing body thereof, an agency's bylaws may contain a provision entitling any of the participating municipalities to appoint more than one director and specifying the number of directors to be appointed by each of the participating municipalities of the agency. The number of directors may be increased or decreased from time to time by an amendment to the bylaws approved by each of the participating municipalities as evidenced by an ordinance or resolution of the governing body thereof. The board may establish in its bylaws classes of membership which provide for allocated voting rights. Unless the bylaws of the agency shall require a larger number, a quorum of the board shall be constituted for the purpose of conducting the business and exercising the powers of the agency and for all other purposes when directors are present who are entitled to cast a majority of the total votes which may be cast by all of the board's directors. Action may be taken upon a vote of a majority of the votes which the directors present are entitled to cast unless the bylaws of the agency shall require a larger number. The manner of scheduling regular board meetings and the method of calling special board meetings, including the giving or waiving notice thereof, shall be as provided in the bylaws. Such meetings may be held by any means permitted by the Open Meetings Act.

Source: Laws 1981, LB 132, § 36; Laws 2007, LB199, § 6; Laws 2020, LB858, § 8.

Cross References

Open Meetings Act, see section 84-1407.

18-2437 Board; elect officers; executive director; employees.

The directors shall elect a chairperson and vice-chairperson of the board from among the directors. The agency shall have power to employ an executive director. The directors shall elect a secretary who shall either be from among the directors or the executive director. The agency may employ legal counsel for such legal services as it may require. The agency may also employ technical experts and such other officers, agents, and employees as it may require and

shall determine their qualifications, duties, compensation, and term of office. The board may delegate to one or more of the agency's employees or agents such powers and duties as the board may deem proper.

Source: Laws 1981, LB 132, § 37.

18-2438 Board; create committees; powers; meetings.

The board of an agency may create an executive committee the composition of which shall be set forth in the bylaws of the agency. The executive committee shall have and exercise the power and authority of the board during intervals between the board's meetings in accordance with the board's bylaws, rules, motions, or resolutions. The terms of office of the members of the executive committee and the method of filling vacancies shall be fixed by the bylaws of the agency. The board may also create one or more committees to which the board may delegate such powers and duties as the board shall specify. In no event shall any committee be empowered to authorize the issuance of bonds. The membership and voting requirements for action by a committee shall be specified by the board. An agency which contracts with municipalities outside the State of Nebraska may hold meetings outside the State of Nebraska if such meetings are held only in such contracting municipalities. Meetings of any committee which is a public body for purposes of the Open Meetings Act may be held by any means permitted by the act.

Source: Laws 1981, LB 132, § 38; Laws 1984, LB 686, § 3; Laws 1987, LB 324, § 4; Laws 2001, LB 250, § 1; Laws 2007, LB199, § 7.

Cross References

Open Meetings Act, see section 84-1407.

18-2439 Agency; dissolution; withdrawal of municipality; outstanding bonds, how treated; assets, how distributed; municipality; expelled or suspended; participation terminated or suspended; fair and reasonable procedure; notice; liability.

(1) An agency shall be dissolved upon the adoption, by the governing bodies of at least half of the participating municipalities, of an ordinance or resolution setting forth the determination that the need for such municipality to act cooperatively through an agency no longer exists. An agency shall not be dissolved so long as the agency has bonds outstanding, unless provision for full payment of such bonds and interest thereon, by escrow or otherwise, has been made pursuant to the terms of such bonds or the ordinance, resolution, trust indenture, or security instrument securing such bonds. If the governing bodies of one or more, but less than a majority, of the participating municipalities adopt such an ordinance or resolution, such municipalities shall be permitted to withdraw from participation in the agency, but such withdrawal shall not affect the obligations of such municipality pursuant to any contracts or other agreements with such agency. Such withdrawal shall not impair the payment of any outstanding bonds or interest thereon. In the event of the dissolution of an agency, its board shall provide for the disposition, division, or distribution of the agency's assets among the participating municipalities by such means as such board shall determine, in its sole discretion, to be fair and equitable. The board may provide in its bylaws a method by which to terminate a municipality's participation in an agency.

(2)(a) No participating municipality of an agency may be expelled or suspended, and no participation in such agency may be terminated or suspended except pursuant to a procedure that is fair and reasonable and is carried out in good faith.

(b) A procedure is fair and reasonable when either:

(i) The charter or bylaws set forth a procedure that provides:

(A) Not less than fifteen days' prior written notice of the expulsion, suspension, or termination and the reasons therefor; and

(B) An opportunity for the participating municipality to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension, or termination by a person or persons authorized to decide that the proposed expulsion, suspension, or termination not take place; or

(ii) A procedure takes into consideration all of the relevant facts and circumstances.

(c) Any written notice given by mail must be given by first-class or certified mail sent to the last-known address of the participating municipality shown on the agency's records.

(d) Any proceeding challenging an expulsion, suspension, or termination, including a proceeding in which defective notice is alleged, must be commenced within one year after the effective date of the expulsion, suspension, or termination.

(e) A participating municipality that has been expelled, suspended, or terminated may be liable to the agency for dues, assessments, fees, or contractual obligations as a result of obligations incurred or commitments made prior to expulsion, suspension, or termination.

Source: Laws 1981, LB 132, § 39; Laws 2007, LB199, § 8; Laws 2020, LB858, § 9.

18-2440 Agency; power to tax denied; general powers and duties.

An agency established pursuant to sections 18-2401 to 18-2485 shall constitute a political subdivision and a public body corporate and politic of this state exercising public powers separate from the participating municipalities. An agency shall have the duties, privileges, immunities, rights, liabilities, and disabilities of a political subdivision and a public body corporate and politic, but shall not have taxing power. An agency shall have power (1) to sue and be sued, (2) to have a seal and alter the same at pleasure, or to dispense with the necessity thereof, (3) to make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and (4) from time to time, to make, amend, and repeal bylaws, rules, and regulations not inconsistent with sections 18-2401 to 18-2485 to carry out and effectuate its powers and purposes.

Source: Laws 1981, LB 132, § 40.

18-2441 Agency; powers; enumerated.

The powers of an agency shall include the power:

(1) To plan, develop, construct, reconstruct, operate, manage, dispose of, participate in, maintain, repair, extend, improve, or acquire by purchase, gift, lease, or otherwise, one or more projects within or outside this state and act as

agent, or designate one or more other persons to act as its agent, in connection with the planning, acquisition, construction, operation, maintenance, repair, extension, or improvement of such project, except that before any power project is constructed by an agency, approval of the power project shall have been obtained from the Nebraska Power Review Board under sections 70-1012 to 70-1016;

(2) To produce, acquire, sell, and distribute commodities, including, without limitation, fuels necessary to the ownership, use, operation, or maintenance of one or more projects;

(3) To enter into franchises, exchange, interchange, pooling, wheeling, transmission, and other similar agreements;

(4) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the agency;

(5) To employ agents and employees;

(6) To contract with any person within or outside this state for the sale or transmission of any service, product, or commodity supplied, transmitted, conveyed, transformed, produced, or generated by any project, or for any interest therein or any right to capacity thereof, on such terms and for such period of time as the agency's board shall determine;

(7) To purchase, sell, exchange, produce, generate, transmit, or distribute any service, product, or commodity within and outside the state in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person with respect to such purchase, sale, exchange, production, generation, transmission, or distribution on such terms and for such period of time as the agency's board shall determine;

(8) To acquire, own, hold, use, lease, as lessor or lessee, sell, or otherwise dispose of, mortgage, pledge, or grant a security interest in any real or personal property, commodity, product, or service or any interest therein or right thereto;

(9) To exercise the power of eminent domain in the manner set forth in Chapter 76, article 7. No real property of the state, any municipality, or any political subdivision of the state, may be so acquired without the consent of the state, such municipality, or such subdivision;

(10) To incur debts, liabilities, or obligations including the borrowing of money and the issuance of bonds, secured or unsecured, pursuant to sections 18-2401 to 18-2485;

(11) To borrow money or accept contributions, grants, or other financial assistance from a public authority and to comply with such conditions and enter into such contracts, covenants, mortgages, trust indentures, leases, or agreements as may be necessary, convenient, or desirable;

(12) To fix, maintain, revise, and collect fees, rates, rents, and charges for functions, services, facilities, or commodities provided by the agency, and it shall be the mandatory duty of each agency to fix, maintain, revise, and collect such fees, rates, rents, and charges as will always be sufficient to pay all operating and maintenance expenses of the agency, to pay for costs of renewals and replacements to a project, to pay interest on and principal of, whether at maturity or upon sinking-fund redemption, any outstanding bonds or other indebtedness of the agency, and to provide, as may be required by a resolution,

trust indenture, security instrument, or other agreement of the agency, for any reasonable reserves for any such expenses, costs, or debt service or for any margins or coverages over and above debt service;

(13) Subject to any agreements with holders of outstanding bonds, to invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities, and other investments as the board shall deem proper;

(14) To join and pay dues to organizations, membership in which is deemed by the board to be beneficial to the accomplishment of the agency's purposes; and

(15) To exercise any other powers which are deemed necessary and convenient to carry out sections 18-2401 to 18-2485.

Source: Laws 1981, LB 132, § 41.

18-2442 Construction and other contracts; cost estimate; sealed bids; when; exceptions.

(1) An agency shall cause estimates of the costs to be made by some competent engineer or engineers before the agency enters into any contract for:

(a) The construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement, for the use of the agency, of any:

(i) Power project, power plant, or system;

(ii) Irrigation works; or

(iii) Part or section of a project, plant, system, or works described in subdivision (i) or (ii) of this subdivision; or

(b) The purchase of any materials, machinery, or apparatus to be used in a project, plant, system, or works described in subdivision (1)(a) of this section.

(2) If the estimated cost exceeds the sum of one hundred thousand dollars, no such contract shall be entered into without advertising for sealed bids.

(3)(a) The provisions of subsection (2) of this section and sections 18-2443 and 18-2444 relating to sealed bids shall not apply to contracts entered into by an agency in the exercise of its rights and powers relating to (i) radioactive material or the energy therefrom, (ii) any technologically complex or unique equipment, (iii) equipment or supplemental labor procurement from an electric utility or from or through an electric utility alliance, or (iv) any maintenance or repair, if the requirements of subdivisions (b) and (c) of this subsection are met.

(b) A contract described in subdivision (a) of this subsection need not comply with subsection (2) of this section or sections 18-2443 and 18-2444 if:

(i) The engineer or engineers certify that, by reason of the nature of the subject matter of the contract, compliance with subsection (2) of this section would be impractical or not in the public interest;

(ii) The engineer's certification is approved by a two-thirds vote of the board; and

(iii) The agency advertises notice of its intention to enter into such contract, the general nature of the proposed work, and the name of the person to be contacted for additional information by anyone interested in contracting for such work.

(c) Any contract for which the board has approved an engineer's certificate described in subdivision (b) of this subsection shall be advertised in three issues, not less than seven days between issues, in one or more newspapers of general circulation in the municipality or county where the principal office or place of business of the agency is located, or if no newspaper is so published then in a newspaper qualified to carry legal notices having general circulation therein, and in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of its intention to enter into such contract, and any such contract shall not be entered into prior to twenty days after the last advertisement.

(4) The provisions of subsection (2) of this section and sections 18-2443 and 18-2444 shall not apply to contracts in excess of one hundred thousand dollars entered into for the purchase of any materials, machinery, or apparatus to be used in projects, plants, systems, or works described in subdivision (1)(a) of this section if, after advertising for sealed bids:

(a) No responsive bids are received; or

(b) The board of directors of such agency determines that all bids received are in excess of the fair market value of the subject matter of such bids.

(5) Notwithstanding any other provision of subsection (2) of this section or sections 18-2443 and 18-2444, an agency may, without advertising or sealed bidding, purchase replacement parts or services relating to such replacement parts for any generating unit, transformer, or other transmission and distribution equipment from the original manufacturer of such equipment upon certification by an engineer or engineers that such manufacturer is the only available source of supply for such replacement parts or services and that such purchase is in compliance with standards established by the board. A written statement containing such certification and a description of the resulting purchase of replacement parts or services from the original manufacturer shall be submitted to the board by the engineer or engineers certifying the purchase for the board's approval. After such certification, but not necessarily before the board's review, notice of any such purchase shall be published once a week for at least three consecutive weeks in one or more newspapers of general circulation in the municipality or county where the principal office or place of business of the agency is located and published in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of such purchase.

(6) Notwithstanding any other provision of subsection (2) of this section or sections 18-2443 and 18-2444, an agency may, without advertising or sealed bidding, purchase used equipment and materials on a negotiated basis upon certification by an engineer that such equipment is or such materials are in compliance with standards established by the board. A written statement containing such certification shall be submitted to the board by the engineer for the board's approval.

Source: Laws 1981, LB 132, § 42; Laws 1999, LB 566, § 1; Laws 2007, LB636, § 5; Laws 2008, LB939, § 2.

18-2443 Construction and other contracts; bids; advertisement.

Prior to advertisement for sealed bids, plans and specifications for the proposed work or materials shall be prepared and filed at the principal office or place of business of the agency. Such advertisement shall be made in three

issues, not less than seven days between issues, in one or more legal newspapers in or of general circulation in the municipality or county where the principal office or place of business of the agency is located, and in such additional newspapers or trade or technical periodicals as may be selected by the board in order to give proper notice of the receiving of bids. Such advertisement shall designate the nature of the work proposed to be done or materials proposed to be purchased and that the plans and specifications therefor may be inspected at the office of the agency, giving the location thereof, and shall designate the time within which bids shall be filed and the date, hour, and place such bids shall be opened.

Source: Laws 1981, LB 132, § 43; Laws 2021, LB163, § 162.

18-2444 Construction and other contracts; responsible bidder; considerations; letting of contract.

The board of directors of the agency may let the contract for such work or materials to the responsible bidder who submits the lowest and best bid or, in the sole discretion of the board, all bids tendered may be rejected, and readvertisement for bids made, in the manner, form, and time as provided in section 18-2443. In determining whether a bidder is responsible, the board may consider the bidder's financial responsibility, skill, experience, record of integrity, ability to furnish repairs and maintenance services, ability to meet delivery or performance deadlines, and whether the bid is in conformance with specifications. Consideration may also be given by the board of directors to the relative quality of supplies and services to be provided, the adaptability of machinery, apparatus, supplies, or services to be purchased to the particular uses required, to the preservation of uniformity, and the coordination of machinery and equipment with other machinery and equipment already installed. No such contract shall be valid nor shall any money of the agency be expended thereunder unless advertisement and letting shall have been had as provided in sections 18-2442 to 18-2444.

Source: Laws 1981, LB 132, § 44.

18-2445 Emergencies; conditions created by war; contracting requirements inapplicable; Nebraska workers preferred; bonds; laws applicable.

(1) In the event of sudden or unexpected damage, injury, or impairment of such project, plant, works, system, or other property belonging to the agency, or an order of a regulatory body which would prevent compliance with section 18-2442, the board of directors may, in its discretion, declare an emergency, and proceed with the necessary construction, reconstruction, remodeling, building, alteration, maintenance, repair, extension, or improvement without first complying with the provisions of sections 18-2442 to 18-2444.

(2) When, by reason of disturbed or disrupted economic conditions due to war or due to the operation of laws, rules, or regulations of governmental authorities, whether enacted, passed, promulgated, or issued under or due to the emergency or necessities of war or national defense, the contracting or purchasing by the agency is so restricted, prohibited, limited, allocated, regulated, rationed, or otherwise controlled, that the letting of contracts therefor, pursuant to the requirements of such sections, is legally or physically impossible or impractical, sections 18-2442 to 18-2444 shall not apply to such contracts or purchases.

(3) Such contract shall provide that, to the extent practicable, workers who are citizens of Nebraska shall be given preference for employment by the contractor.

(4) Section 52-118, with reference to contractors' bonds, shall be applicable and effective as to any contract let pursuant to the Municipal Cooperative Financing Act, except that for any electric generation facility the penal sum of any contractor's bond shall be the lesser of the contract amount or two hundred million dollars. The bond required by section 52-118 may be satisfied by a corporate surety bond or letter of credit, or a combination thereof, as approved by the agency.

Source: Laws 1981, LB 132, § 45; Laws 2020, LB858, § 10.

18-2446 Funds; how expended; report; bonds or insurance policies; required, when.

(1) Money of the agency shall be paid out or expended only upon the authorization or approval of the board of directors by specific agreement, by a written contract, by a resolution, or by adoption of the budget. All money of the agency shall be paid out or expended only by check, draft, warrant, or other instrument authorized by the agency.

(2) A report of the money of the agency paid out or expended shall be provided to the board of directors at the next regular meeting following such expenditure.

(3) In the event that there is no treasurer's bond that expressly insures the agency against loss resulting from the fraudulent, illegal, negligent, or otherwise wrongful or unauthorized acts or conduct by or on the part of any and every person authorized to sign checks, drafts, warrants, or other instruments authorized by the agency, there shall be bonds or insurance policies which adequately cover such risk.

Source: Laws 1981, LB 132, § 46; Laws 2003, LB 165, § 11; Laws 2020, LB858, § 11.

18-2447 Purchase of services by municipality; terms and conditions.

Notwithstanding any other provision of Nebraska law, any municipality may enter into agreements with an agency for the purchase of water, electric power and energy, energy conservation services or devices, energy sources or fuels, sewerage services, or solid waste disposal services whereby the purchasing municipality is obligated to make payments in amounts which shall be sufficient to pay all operating and maintenance expenses of the agency, to pay for costs of renewals and replacements to a project, to pay interest on and principal of, whether at maturity or upon sinking-fund redemption, any outstanding bonds or other indebtedness of the agency, and to provide, as may be required by any resolution, trust indenture, security instrument, or other agreement of the agency, for any reasonable reserves for any such expenses, costs, or debt service or for any margins or coverages over and above debt service. A purchase agreement may contain such other terms and conditions as the agency and the purchasing municipality may determine, including provisions whereby the purchasing municipality is obligated to make payments for water, electric power and energy, energy conservation services or devices, the acquisition of energy sources or fuel, sewerage service, or solid waste disposal irrespective of whether water, electric power and energy, energy conservation

services or devices, energy sources or fuel, sewerage service, or solid waste disposal is provided or produced or delivered to the purchaser or whether any project contemplated by any purchase agreement is completed, operable, or operating, and notwithstanding suspension, interruption, interference, reduction, or curtailment of the output or services of such project. A purchase agreement may be for a term covering the life of a project or for any other term, or for an indefinite period. A purchase agreement may provide that if one or more of the purchasing municipalities shall default in the payment of its obligations under any purchase agreement, then some or all of the remaining municipalities which also have purchase agreements with the same agency shall be required to accept and pay for, and shall be entitled proportionately to use or otherwise dispose of, the output, devices, fuel, or services undertaken to be purchased by such defaulting municipality.

Source: Laws 1981, LB 132, § 47.

18-2448 Purchase agreement; obligations of nondefaulting municipality; contracting municipality; duties; contributions authorized.

(1) The obligations of a nondefaulting municipality under a purchase agreement with an agency or arising out of the default by any other municipality with respect to a purchase agreement shall constitute special and limited obligations of the nondefaulting municipality payable solely from the revenue and other money derived by the nondefaulting municipality from its municipal utility with respect to which the purchase agreement relates and shall not be construed as constituting a debt of the nondefaulting municipality. If and to the extent provided in the purchase agreement, such obligations shall be treated as expenses of operating a municipal utility owned and operated by the nondefaulting municipality. It shall be the mandatory duty of any municipality entering into any contract or purchase agreement with an agency to fix, maintain, revise, and collect fees, rates, rents, and charges for functions, services, facilities, or commodities, furnished to its customers and users by and through its municipal utility as will be sufficient to pay the cost of operating and maintaining its municipal utility, renewals, or replacements thereto, including all amounts due and payable under any contract or purchase agreement with an agency, the interest on and principal of any outstanding bonds or other indebtedness of the municipality, whether at maturity or upon sinking-fund redemption, which are payable from the revenue of its municipal utility, and to provide, as may be required by any resolution, ordinance, trust indenture, security instrument, or other agreement of the agency, for any reasonable reserves for operating and maintenance expenses and for any margins or coverages over and above debt service.

(2) The purchase agreement also may provide for payments in the form of contributions to defray the cost of any purchase permitted by the purchase agreement and as advances for any such purchase subject to repayment by the agency.

Source: Laws 1981, LB 132, § 48.

18-2449 Sale of excess capacity; joint projects; authorized.

(1) An agency may sell or exchange excess capacity of any project or any excess water, electrical energy or power, energy source, or fuel, produced or owned by the agency not required by any of the participating municipalities. An

agency may make such sale to any person for such consideration and for such period and upon such terms and conditions as the agency may determine, except that no such agency shall sell or exchange excess capacity of power or energy at retail, within the State of Nebraska.

(2) Notwithstanding any other provision of sections 18-2401 to 18-2485 or any other statute, nothing shall prohibit an agency from undertaking any project in conjunction with or owning any project jointly with any person.

Source: Laws 1981, LB 132, § 49.

18-2450 Power project agencies; sections applicable.

The provisions of sections 18-2451 to 18-2462 shall apply only to agencies created pursuant to sections 18-2426 to 18-2434 and shall not be construed to create any exceptions to the provisions of section 18-2449.

Source: Laws 1981, LB 132, § 50.

18-2451 Power project agencies; books and records; open to public; annual audit.

The books and records of an agency created pursuant to sections 18-2426 to 18-2434 shall be public records and shall be kept at the principal place of business of such agency. The agency books and records shall be open to public inspection at reasonable times and upon reasonable notice. The agency shall annually cause to be filed with the Auditor of Public Accounts an audit of the books, records, and financial affairs of the agency. Such audit shall be made by a certified public accountant or firm of such accountants selected by the agency and shall be conducted in the manner prescribed in section 84-304.01. When the audit has been completed, written copies of the audit shall be placed and kept on file at the principal place of business of the agency and shall be filed with the Auditor of Public Accounts and the Nebraska Power Review Board within one hundred eighty days after the close of the fiscal year of the agency. If any agency created pursuant to sections 18-2426 to 18-2434 fails to file a copy of an audit within the time prescribed in this section, the books, records, and financial affairs of such agency shall, within one hundred eighty days after the close of the fiscal year of the agency, be audited by a certified public accountant or firm of accountants selected by the Auditor of Public Accounts. The cost of the audit shall be paid by the agency.

Source: Laws 1981, LB 132, § 51; Laws 1981, LB 181, § 64; Laws 1993, LB 310, § 7; Laws 2004, LB 969, § 11; Laws 2020, LB858, § 12.

18-2452 Power project agency; provisions applicable.

Any agency created pursuant to sections 18-2426 to 18-2434 shall be considered to be a governmental subdivision within the meaning of section 70-625.02 and shall be considered to be a generating power agency within the meaning of sections 70-626.01 to 70-626.05.

Source: Laws 1981, LB 132, § 52.

18-2453 Power project agency; electrical systems; powers and duties.

Subject to the limitations of the petition for its creation and all amendments thereto, an agency may own, construct, reconstruct, purchase, lease, or otherwise acquire, improve, extend, manage, use, or operate any electric light and

power plants, lines, and systems, either within or beyond, or partly within and partly beyond, the boundaries of the participating municipalities, and may engage in, transact business, or enter into any kind of contract or arrangement with any person, firm, corporation, state, county, city, village, governmental subdivision or agency, the United States, or any officer, department, bureau, or agency thereof, any corporation organized by federal law, or any body politic or corporate, for any of the purposes enumerated in this section, or for or incident to the exercise of any one or more of the powers enumerated in this section, or for the generation, distribution, transmission, sale, or purchase of electrical energy for lighting, power, heating, and any and every other useful purpose whatsoever, and for any and every service involving, employing, or in any manner pertaining to the use of, electrical energy, by whatever means generated or distributed, or for the financing or payment of the cost and expense incident to the acquisition or operation of any such power plant or system, or incident to any obligation or indebtedness entered into or incurred by the agency. In the case of the acquisition, by purchase, lease, or any other contractual obligation, of an existing electric light and power plant, lines, or system, from any person, firm, association, or private corporation by any such agency, a copy of the proposed contract shall be filed with the Nebraska Power Review Board and open to public inspection and examination for a period of thirty days before such proposed contract may be signed, executed, or delivered, and such proposed contract shall not be valid for any purpose and no rights may arise thereunder until after such period of thirty days has expired.

Source: Laws 1981, LB 132, § 53; Laws 1981, LB 181, § 65.

18-2454 Power project agency; irrigation works; powers.

Subject to the limitations of the petition for its creation and all amendments thereto, an agency may own, construct, reconstruct, improve, purchase, lease, or otherwise acquire, extend, manage, use, or operate any irrigation works, as defined in section 70-601, either within or beyond, or partly within and partly beyond, the boundaries of the participating municipalities, and any and every kind of property, personal or real, necessary, useful, or incident to such acquisition, extension, management, use, and operation, whether the same be independent of or in connection or conjunction with an electric light and power business, in whole or in part. In connection with the powers enumerated in this section, such agency shall have the right and power to enter into any contract, lease, agreement, or arrangement with any state, county, city, village, governmental or public corporation or association, person, public or private firm or corporation, the United States, or any officer, department, bureau or agency thereof, or any corporation organized under federal law for the purpose of exercising or utilizing any one or more of the powers enumerated in this section, or for the sale, leasing, or otherwise furnishing or establishing, water rights, water supply, water service, or water storage, for irrigation or flood control, or for the financing or payment of the cost and expenses incident to the construction, acquisition, or operation of such irrigation works, or incident to any obligation or liability entered into or incurred by such agency.

Source: Laws 1981, LB 132, § 54.

18-2455 Power project agency; radioactive material; powers.

In addition to all other rights and powers which may be possessed by an agency under the petition for its creation and all amendments thereto or by statute, any such agency which has radioactive material available to it in association with facilities constructed in connection with the production of electrical energy shall have the power to use, sell, lease, transport, dispose of, furnish, or make available under contract or otherwise to any person, firm, corporation, state, county, city, village, governmental subdivision or agency, the United States or any officer, department, bureau or agency thereof, any corporation organized by federal law, or any body politic or corporate any such radioactive material or the energy therefrom; to own, operate, construct, reconstruct, purchase, remove, lease, or otherwise acquire, improve, extend, manage, use, or operate any facilities or any property, real or personal, to engage in or transact business, or enter into any kind of contract or arrangement with anyone, for any of the purposes enumerated in this section, or for or incident to the exercise of any one or more of the powers enumerated in this section, and for any and every service involving, employing, or in any manner pertaining to the use of radioactive material or the energy therefrom; or for the financing or payment of the cost and expense incident to the acquisition, construction, reconstruction, improvement, or operation of any such facilities or property, real or personal, or incident to any obligation or indebtedness entered or incurred by any such agency, for any of the purposes enumerated in this section.

Source: Laws 1981, LB 132, § 55.

18-2456 Power project agency; additional powers.

In addition to the rights and powers enumerated in sections 18-2450 to 18-2462, and in no manner limiting or restricting the same, such agency shall be deemed to be and shall have and exercise each and all of the rights and powers of a public electric light and power district or public power district within the meaning of sections 70-501 to 70-503.

Source: Laws 1981, LB 132, § 56.

18-2457 Power project agency; joint exercise of powers; agreement; agent; liabilities; sale, lease, merger, or consolidation; procedure.

(1) Such agency shall have and may exercise any one or more of the powers, rights, privileges, and franchises mentioned in sections 70-625 to 70-628, either alone or jointly with one or more public power districts. In any joint exercise of powers, rights, privileges, and franchises with respect to the construction, operation, and maintenance of electric generation or transmission facilities, each entity shall own an undivided interest in such facility and be entitled to the share of the output or capacity therefrom attributable to its undivided interest. Each entity may enter into an agreement or agreements with respect to any electric generation or transmission facility with other entities participating therein, and any such agreement shall contain such terms, conditions, and provisions consistent with the provisions of this section as the board of directors of the entity shall deem to be in the interests of the entity.

(2) The agreement may include, but not be limited to, (a) provisions for the construction, operation, and maintenance of an electric generation or transmission facility by any one of the participating entities, which shall be designated in or pursuant to such agreement as agent, on behalf of itself and the other

participating entities or by such other means as may be determined by the participating entities, and (b) provisions for a uniform method of determining and allocating among participating entities the costs of construction, operation, maintenance, renewals, replacements, and improvements with respect to such facility. In carrying out its functions and activities as the agent with respect to construction, operation, and maintenance of a facility, such agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other participating entities.

(3) Notwithstanding the provisions of any other law to the contrary, pursuant to the terms of the agreement any participating agency or district may delegate its powers and duties with respect to the construction, operation, and maintenance of a facility to the participating entity acting as agent, and all actions taken by such agent in accordance with the provisions of the agreement shall be binding upon each of such participating entities without further action or approval by their respective boards of directors. The entity acting as the agent shall be required to exercise all such powers and perform its duties and functions under the agreement in a manner consistent with prudent utility practice. As used in this section, prudent utility practice shall mean any of the practices, methods, and acts at a particular time which, in the exercise of reasonable judgment in the light of the facts, including but not limited to the practices, methods, and acts engaged in or approved by a significant portion of the electrical utility industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. In no event shall anything in this section be deemed to authorize any agency or district to become liable for and to pay for any costs, expenses, or liabilities attributable to the undivided interest of any other entity participating in such electric generation or transmission facility. Any agency or district that is interested by ownership, lease, or otherwise in the operation of electric power plants, distribution systems, or transmission lines, either alone or in association with another entity, in thirteen or more counties in the state may sell, lease, combine, merge, or consolidate all or a part of its property with the property of any other agency or district.

Source: Laws 1981, LB 132, § 57.

18-2458 Power project agency; joint exercise of powers with municipalities and public agencies; authority.

It is hereby declared to be in the public interest of the State of Nebraska that agencies be empowered to participate jointly or in cooperation with municipalities and other public agencies in the establishment and operation of facilities for the generation or transmission of electric power and energy located within or outside this state in order to achieve economies and efficiencies in meeting the future electric energy needs of the people of the State of Nebraska. In furtherance of such need and in addition to but not in substitution for any other powers granted such agencies, each such agency shall have and may exercise its power and authority to plan, finance, acquire, construct, own, operate, maintain, and improve electric generation or transmission facilities located within or outside this state jointly and in cooperation with one or more other such agencies, cities, or villages of this state which own or operate electrical facilities, or municipal corporations or other governmental entities of this or

other states which own or operate electrical facilities. The powers granted under this section may be exercised with respect to any electric generation or transmission facility jointly with the powers granted under any other provision of sections 18-412.07 to 18-412.09 and 70-628.02 to 70-628.04.

Source: Laws 1981, LB 132, § 58; Laws 1988, LB 794, § 1; Laws 1997, LB 658, § 3.

18-2459 Power project agency; joint exercise of power with electric cooperatives or corporations; authority.

It is hereby declared to be in the public interest of the State of Nebraska that agencies be empowered to participate jointly or in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state in the establishment and operation of facilities for the generation or transmission of electric power and energy located within or outside this state in order to achieve economies and efficiencies in meeting the future electric energy needs of the people of the State of Nebraska. In furtherance of such end and in addition to but not in substitution for any other powers granted such agencies, each such agency shall have and may exercise its power and authority to plan, finance, acquire, construct, own, operate, maintain, and improve electric generation or transmission facilities located in this state jointly and in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state, and each agency shall have and may exercise such power and authority with respect to electric generation or transmission facilities located outside of this state jointly or in cooperation with one or more electric cooperatives or electric membership corporations organized under the laws of this state or any other state. The power granted under this section may be exercised with respect to any electric generation or transmission facilities jointly with the powers granted under any other provision of sections 18-412.07 to 18-412.09 and 70-628.02 to 70-628.04.

Source: Laws 1981, LB 132, § 59; Laws 1988, LB 794, § 2; Laws 1997, LB 658, § 4.

18-2460 Power project agency; joint exercise of powers; agreement; terms and conditions; agent; powers and duties; liability.

Any agency participating jointly and in cooperation with others in an electric generation or transmission facility shall own an undivided interest in such facility and be entitled to the share of the output or capacity therefrom attributable to such undivided interest. Such agency may enter into an agreement or agreements with respect to each such electric generation or transmission facility with the other participants therein, and any such agreement shall contain such terms, conditions, and provisions consistent with the provisions of sections 18-2401 to 18-2485 as the board of directors of such agency shall deem to be in the interests of such agency. The agreement may include, but not be limited to, provision for the construction, operation, and maintenance of such electric generation or transmission facility by any one of the participants, which shall be designated in or pursuant to such agreement as agent, on behalf of itself and the other participants or by such other means as may be determined by the participants and provision for a uniform method of determining and allocating among participants costs of construction, operation, maintenance,

renewals, replacements, and improvements with respect to such facility. In carrying out its functions and activities as such agent with respect to construction, operation, and maintenance of such a facility, including without limitation the letting of contracts therefor, such agent shall be governed by the laws and regulations applicable to such agent as a separate legal entity and not by any laws or regulations which may be applicable to any of the other participants. Notwithstanding the provisions of any other law to the contrary, pursuant to the terms of any such agreement in which or pursuant to which an agency, public power district, public power and irrigation district, city, or village of this state shall be designated as the agent thereunder for the construction, operation, and maintenance of such a facility, each of the participants may delegate its powers and duties with respect to the construction, operation, and maintenance of such facility to such agent, and all actions taken by such agent in accordance with the provisions of such agreement shall be binding upon each of such participants without further action or approval by their respective boards of directors or governing bodies. Such agent shall be required to exercise all such powers and perform its duties and functions under the agreement in a manner consistent with prudent utility practice. As used in this section, prudent utility practice shall mean any of the practices, methods, and acts at a particular time which, in the exercise of reasonable judgment in the light of the facts, including but not limited to the practices, methods, and acts engaged in or approved by a significant portion of the electrical utility industry prior thereto, known at the time the decision was made, would have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. In no event shall anything in sections 18-2450 to 18-2462 be deemed to authorize any agency to become liable for and to pay for any costs, expenses, or liabilities attributable to the undivided interest of any other participant in such electric generation or transmission facility, and no funds of such agency may be used for any such purpose.

Source: Laws 1981, LB 132, § 60.

18-2461 Power project agency; restrictions on sale or mortgage of certain property; revenue; pledge; alienation to private power producers, prohibited; exceptions; indebtedness; default; possession by creditors; agreements authorized.

(1) Any agency may sell to any public power district, public power and irrigation district, irrigation district, city or village, any power project, power plant, electric generation plant, electric distribution system, or any parts thereof, for such sums and upon such terms as the board of such agency may deem fair and reasonable. Except as provided in this section, no power plant, system, or works owned by an agency shall be sold, alienated, or mortgaged by such agency. Nothing in the Municipal Cooperative Financing Act shall prevent an agency from assigning, pledging, or otherwise hypothecating its revenue, incomes, receipts, or profits to secure the payment of indebtedness, but the credit or funds of the State of Nebraska or any political subdivision thereof shall never be pledged for the payment or settlement of any indebtedness or obligation whatever of any agency created pursuant to sections 18-2426 to 18-2434.

(2) Except as provided in sections 18-412.07 to 18-412.09, 18-2457 to 18-2460, or 18-2462, neither by sale under foreclosure, receivership, or bank-

ruptcy proceedings, nor by alienation in any other manner, may the property of such an agency become the property of or come under the control of any private person, firm, or corporation engaged in the business of generating, transmitting, or distributing electricity for profit. This restriction does not apply to (a) joint participation in any electric generation or transmission facility pursuant to sections 18-412.07 to 18-412.09 or 18-2457 to 18-2460, or (b) a nonprofit cooperative corporation that has provided financing for property, projects, or undertakings when such property is covered by a mortgage, pledge of revenue, or other hypothecation to secure the payment of a loan or loans made to an agency. This restriction does not apply to a sale, transfer, or lease of property to a nonprofit electric cooperative corporation engaged in the retail distribution of electric energy in established service areas, which cooperative corporation is organized under the laws of the State of Nebraska or domesticated in the State of Nebraska, except that such property so acquired by a cooperative nonprofit corporation organized to provide financing or by a nonprofit electric cooperative corporation shall never become the property or come under the control of any person, firm, or corporation engaged in the business of generating, transmitting, or distributing electricity for profit.

(3) In order to protect and safeguard the security and the rights of the purchasers or holders of revenue debentures, notes, bonds, warrants, or other evidences of indebtedness, issued by any agency created pursuant to sections 18-2426 to 18-2434, such agency may agree with the purchasers or holders that in the event of default in the payment on, or principal of, any such evidences of indebtedness or in the event of default in performance of any duty or obligation of such agency in connection therewith, such purchasers or holders, or trustees selected by them, may take possession and control of the business and property of the agency and proceed to operate the same, and to collect and receive the income thereof, and after paying all necessary and proper operating expenses and all other proper disbursements or liabilities made or incurred, use the surplus, if any, of the revenue of the agency as follows: (a) In the payment of all outstanding past-due interest on each issue of revenue debentures, notes, warrants, bonds, or other evidences of indebtedness, so far as such net revenue will go, and paying pro rata the interest due on each issue thereof when there is not enough to pay in full all of the interest; and (b) if any sums shall remain after the payment of interest, then in the payment of the revenue debentures, notes, warrants, bonds, or other evidences of indebtedness, which, by the terms thereof, shall be due and payable on each outstanding issue in accordance with the terms thereof, and paying pro rata when the money available is not sufficient to pay in full. When all legal taxes and charges, all arrears of interest, and all matured revenue debentures, notes, warrants, bonds, or other evidences of indebtedness, have been paid in full, the control of the business and the possession of the property of the agency shall then be restored to such agency. The privilege granted in this section shall be a continuing one as often as the occasion therefor may arise.

Source: Laws 1981, LB 132, § 61; Laws 2020, LB858, § 13.

18-2462 Power project agency; receivership; when authorized; lease or alienation to private person; prohibited.

The board of directors of any agency issuing revenue debentures, notes, warrants, bonds, or other evidences of indebtedness under sections 18-2461 to 18-2480 is hereby authorized and empowered to agree and contract with the

purchasers or holders thereof that in the event of default in the payment of interest on, or principal of, any such revenue debentures, notes, warrants, bonds, or other evidences of indebtedness, issued, or in the event of default in the performance of any duty or obligation under any agreement by such agency, the holder or holders of such revenue debentures, notes, warrants, bonds, or other evidences of indebtedness then outstanding, shall be entitled as a matter of right, upon application to a court of competent jurisdiction, to have appointed a receiver of the business and property of the agency including all tolls, rents, revenue, issues, income, receipts, profits, benefits, and additions derived, received, or had thereof or therefrom, with power to operate and maintain such business and property, collect, receive, and apply all revenue, income, profits, and receipts arising therefrom, and prescribe rates, tolls, and charges, in the same way and manner as the agency might do. Whenever all defaults in the payment of principal of, and interest on, such revenue debentures, notes, warrants, bonds, or other evidences of indebtedness, and any other defaults under any agreement made by the agency, shall have been made good, such receiver shall be discharged by the court and shall therefor surrender control of the business and possession of the property in his or her hands to the agency. An agency created under sections 18-2401 to 18-2485 shall never lease or alienate the franchises, plant, or physical equipment of the agency to any private person, firm, association, or corporation for operating, or for any other purpose, except as specifically provided in sections 18-2452 to 18-2462.

Source: Laws 1981, LB 132, § 62.

18-2463 Judicial proceedings; bond not required.

No bond for costs, appeal, supersedeas, injunction, or attachment shall be required of any agency organized or created pursuant to sections 18-2401 to 18-2485, or of any officer, board, head of any department, agent, or employee of such agency in any proceeding or court action in which the agency or any officer, board, head of department, agent, or employee is a party litigant in its, his, or her official capacity.

Source: Laws 1981, LB 132, § 63.

18-2464 Bonds; issuance authorized.

An agency may issue such types of bonds as its board may determine, subject only to any agreement with the holders of outstanding bonds, including bonds as to which the principal and interest are payable exclusively from all or a portion of the revenue from one or more projects, or from one or more revenue-producing contracts made by the agency with any person, or from its revenue generally, or which may be additionally secured by a pledge of any grant, subsidy, or contribution from any person, or a pledge of any income or revenue, funds, or money of the agency from any source whatsoever or a mortgage or security interest in any real or personal property, commodity, product, or service or interest therein.

Source: Laws 1981, LB 132, § 64.

18-2465 Bonds; amounts.

An agency may from time to time issue its bonds in such principal amounts as its board shall deem necessary to provide sufficient funds to carry out any of the agency's purposes and powers, including the establishment or increase of

reserves, interest accrued during construction of a project and for such period thereafter as the board may determine, and the payment of all other costs or expenses of the agency incident to and necessary or convenient to carry out its purposes and powers.

Source: Laws 1981, LB 132, § 65.

18-2466 Bonds; liability; limitations.

(1) Neither the members of an agency's board nor any person executing the bonds shall be liable personally on such bonds by reason of the issuance thereof.

(2) The bonds shall not be a debt of any municipality or of this state and neither this state nor any municipality shall be liable thereon. Bonds shall be payable only out of any funds or properties of the issuing agency. Such limitations shall be plainly stated upon the face of the bonds.

Source: Laws 1981, LB 132, § 66.

18-2467 Bonds; issuance; terms; signatures.

Bonds shall be authorized by resolution of the issuing agency's board and may be issued under a resolution or under a trust indenture or other security instrument in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, trust indenture, or other security instrument may provide, and without limitation by the provisions of any other law limiting amounts, maturities, or interest rates. Any officer authorized or designated to sign, countersign, execute, or attest any bond or any coupon may utilize a facsimile signature in lieu of his or her manual signature.

Source: Laws 1981, LB 132, § 67.

18-2468 Bonds; negotiable; sale.

(1) Except as the issuing agency's board may otherwise provide, any bond and any interest coupons thereto attached shall be fully negotiable within the meaning of and for all purposes of article 8, Uniform Commercial Code.

(2) The bonds may be sold at public or private sale as the issuing agency's board may provide and at such price or prices as such board shall determine.

Source: Laws 1981, LB 132, § 68.

18-2469 Bonds; signatures of prior officers; validity.

In case any of the officers whose signatures appear on any bonds or coupons shall cease to be such officers before the delivery of such obligations, such signatures shall nevertheless be valid and sufficient for all purposes to the same extent as if such officers had remained in office until such delivery.

Source: Laws 1981, LB 132, § 69.

18-2470 Bonds; issuance; powers; enumerated.

An agency shall have power in connection with the issuance of its bonds:

(1) To covenant as to the use of any or all of its property, real or personal;

(2) To redeem the bonds, to covenant for their redemption, and to provide the terms and conditions thereof;

(3) To covenant to charge or seek necessary approvals to charge rates, fees, and charges sufficient to meet operating and maintenance expenses of the agency, costs of renewals and replacements to a project, interest and principal payments, whether at maturity or upon sinking-fund redemption, on any outstanding bonds or other indebtedness of the agency, creation and maintenance of any reasonable reserves therefor, and to provide for any margins or coverages over and above debt service on the bonds deemed desirable for the marketability or security of the bonds;

(4) To covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity, as to the terms and conditions upon which such declaration and its consequences may be waived and as to the consequences of default and the remedies of bondholders;

(5) To covenant as to the mortgage or pledge of or the grant of any other security interest in any real or personal property and all or any part of the revenue from any project or projects or any revenue-producing contract or contracts made by the agency with any person to secure the payment of bonds, subject to such agreements with the holders of outstanding bonds as may then exist;

(6) To covenant as to the custody, collection, securing, investment, and payment of any revenue, assets, money, funds, or property with respect to which the agency may have any rights or interest;

(7) To covenant as to the purposes to which the proceeds from the sale of any bonds then or thereafter to be issued may be applied, and the pledge of such proceeds to secure the payment of the bonds;

(8) To covenant as to limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

(9) To covenant as to the rank or priority of any bonds with respect to any lien or security;

(10) To covenant as to the procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(11) To covenant as to the custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance proceeds;

(12) To covenant as to the vesting in a trustee or trustees, within or outside the state, of such properties, rights, powers, and duties in trust as the agency may determine;

(13) To covenant as to the appointing and providing for the duties and obligations of a paying agent or paying agents or other fiduciaries within or outside the state;

(14) To make all other covenants and to do any and all such acts and things as may be necessary, convenient, or desirable in order to secure its bonds, or in the absolute discretion of the agency tend to make the bonds more marketable, notwithstanding that such covenants, acts, or things may not be enumerated in this section; and

(15) To execute all instruments necessary or convenient in the exercise of the powers in sections 18-2401 to 18-2485 granted or in the performance of covenants or duties, which instruments may contain such covenants and provisions as any purchaser of bonds may reasonably require.

Source: Laws 1981, LB 132, § 70.

18-2471 Refunding bonds; authorized; amount.

An agency may issue and sell refunding bonds for the purpose of paying or providing for the payment of any of its bonds at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at any time prior to or at the maturity or redemption of the refunded bonds as the agency's board deems appropriate. The refunding bonds may be issued in principal amount not exceeding an amount sufficient to pay or to provide for the payment of (1) the principal of the bonds being refunded, (2) any redemption premium thereon, (3) interest accrued or to accrue to the first or any subsequent redemption date or dates selected by the agency's board in its discretion, or to the date or dates of maturity, whichever shall be determined to be most advantageous or convenient for the agency, (4) the expenses of issuing the refunding bonds, including bond discount, and redeeming the bonds being refunded, and (5) such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be deemed necessary or convenient by the board of the issuing agency. A determination by the board that any refinancing is advantageous or necessary to the agency, or that any of the amounts provided in this section should be included in such refinancing, or that any of the bonds to be refinanced should be called for redemption on the first or any subsequent redemption date or permitted to remain outstanding until their respective dates of maturity, shall be conclusive.

Source: Laws 1981, LB 132, § 71.

18-2472 Refunding bonds; exchange for outstanding obligations.

Refunding bonds may be exchanged for and in payment and discharge of any of the outstanding obligations being refunded. The refunding bonds may be exchanged for a like, greater, or smaller principal amount of the bonds being refunded as the issuing agency's board may determine in its discretion. The holder or holders of the bonds being refunded need not pay accrued interest on the refunding bonds if and to the extent that interest is due or accrued and unpaid on the bonds being refunded and to be surrendered.

Source: Laws 1981, LB 132, § 72.

18-2473 Refunding bonds; surplus funds; how used.

To the extent not required for the immediate payment and retirement of the obligations being refunded or for the payment of expenses incurred in connection with such refunding and subject to any agreement with the holders of any outstanding bonds, principal proceeds from the sale of any refunding bonds shall be deposited in trust to provide for the payment and retirement of the

bonds being refunded, payment of interest and any redemption premiums, and payment of any expenses incurred in connection with such refunding, but provision may be made for the pledging and disposition of any surplus, including, but not limited to, provision for the pledging of any such surplus to the payment of the principal of and interest on any issue or series of refunding bonds. Money in any such trust fund may be invested in direct obligations of or obligations the principal of and interest on which are guaranteed by the United States Government, or obligations of any agency or instrumentality of the United States Government, or in certificates of deposit issued by a bank, capital stock financial institution, qualifying mutual financial institution, or trust company if such certificates shall be secured by a pledge of any of such obligations having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing in this section shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded but which shall not have matured and which shall not be presently redeemable or, if presently redeemable, shall not have been called for redemption. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1981, LB 132, § 73; Laws 1989, LB 33, § 24; Laws 2001, LB 362, § 27.

18-2474 Refunding bonds; provisions governing.

The issue of refunding bonds, the manner of sale, the maturities, interest rates, form, and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties, and obligations of the agency in respect of the same shall be governed by the provisions of sections 18-2401 to 18-2485 relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

Source: Laws 1981, LB 132, § 74.

18-2475 Bonds; provisions of sections; exclusive.

Bonds may be issued under sections 18-2401 to 18-2485 without obtaining the consent of any department, division, commission, board, bureau, or instrumentality of this state, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required therefor by sections 18-2401 to 18-2485, and the validity of and security for any bonds shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions, or things.

Source: Laws 1981, LB 132, § 75.

18-2476 Resolution or other proceeding; publication.

The board may provide for the publication of any resolution or other proceeding adopted by it pursuant to the Municipal Cooperative Financing Act in a legal newspaper published in or of general circulation in the municipality or county where the principal office or place of business of the agency is located.

Source: Laws 1981, LB 132, § 76; Laws 2021, LB163, § 163.

18-2477 Bonds; notice of intention to issue bonds; publication; contents.

In the case of a resolution or other proceeding providing for the issuance of bonds pursuant to sections 18-2401 to 18-2485, the board may, either before or after the adoption of such resolution or other proceeding, in lieu of publishing the entire resolution or other proceeding, publish a notice of intention to issue bonds under sections 18-2401 to 18-2485, titled as such, containing:

(1) The name of the agency;

(2) The purpose of the issue, including a brief description of the project and the name of the municipalities to be serviced by the project;

(3) The principal amount of bonds to be issued;

(4) The maturity date or dates and amount or amounts maturing on such dates;

(5) The maximum rate of interest payable on the bonds; and

(6) The times and place where a copy of the form of the resolution or other proceeding providing for the issuance of the bonds may be examined, which shall be at an office of the agency, identified in the notice, during regular business hours of the agency as described in the notice and for a period of at least thirty days after the publication of the notice.

Source: Laws 1981, LB 132, § 77.

18-2478 Publication; contest board action; limitation.

For a period of thirty days after such publication any person in interest shall have the right to contest the legality of such resolution or proceeding or any bonds which may be authorized thereby, any provisions made for the security and payment of such bonds, any contract of purchase, sale, or lease, or any contract for the supply of water, power or electricity, energy conservation services or devices, or acquisition of energy sources or fuel, or sewerage or solid waste disposal services, and after such time no one shall have any cause of action to contest the regularity, formality, or legality thereof for any cause whatsoever.

Source: Laws 1981, LB 132, § 78.

18-2479 Bonds; authorized as investments; made securities.

Bonds issued pursuant to sections 18-2401 to 18-2485 are hereby made securities in which all public officers and instrumentalities of the state and all political subdivisions, all insurance companies, trust companies, banks, savings and loan associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any officer or instrumentality of this state or any political subdivision for any purpose for which the deposit of bonds or obligations of this state or any political subdivision thereof is now or may hereafter be authorized by law.

Source: Laws 1981, LB 132, § 79.

18-2480 Bonds and property; tax exempt; when.

(1) All bonds of an agency are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all taxes.

(2) The property of an agency, including any pro rata share of any property owned by an agency in conjunction with any other person, is declared to be public property of a governmental subdivision of the state. Such property and the income of an agency shall be exempt from all taxes of the state or any municipality or other political subdivision of the state and shall be exempt from all special assessments of any participating municipality if used for a public purpose.

Source: Laws 1981, LB 132, § 80; Laws 2001, LB 173, § 15.

18-2481 Legislative consent to foreign laws.

Legislative consent is hereby given to the application of the laws of other states with respect to taxation payments in lieu of taxes and the assessment thereof to any agency which has acquired an interest in a project or property situated outside the state or which owns or operates a project outside the state and to the application of regulatory and other laws of other states and of the United States to any agency in relation to the acquisition, ownership, and operation by such agency of projects situated outside this state.

Source: Laws 1981, LB 132, § 81.

18-2482 Sections, how construed.

The provisions of sections 18-2401 to 18-2485 shall be deemed to provide an additional, alternative, and complete method for the doing of the things authorized hereby and shall be deemed and construed to be supplemental and additional to, and not in derogation of, powers conferred upon municipalities, agencies, and others by law. Insofar as the provisions of sections 18-2401 to 18-2485 are inconsistent with the provisions of any general or special law, administrative order, or regulation, the provisions of sections 18-2401 to 18-2485 shall be controlling.

Source: Laws 1981, LB 132, § 82.

18-2483 Bondholders; pledge; agreement of the state.

The State of Nebraska does hereby pledge to and agree with the holders of any bonds and with those parties who may enter into contracts with any agency or municipality under sections 18-2401 to 18-2485 that the state will not alter, impair, or limit the rights thereby vested until the bonds, together with applicable interest, are fully met and discharged and such contracts are fully performed. Nothing contained in sections 18-2401 to 18-2485 shall preclude such alteration, impairment, or limitation if and when adequate provisions shall be made by law for the protection of the holders of the bonds or persons entering into contracts with any agency or municipality. Each agency and municipality is authorized to include this pledge and undertaking for the state in such bonds or contracts.

Source: Laws 1981, LB 132, § 83.

18-2484 Sections, liberal construction.

Sections 18-2401 to 18-2485, being necessary for the welfare of the state and its inhabitants, shall be construed liberally to effect its purposes.

Source: Laws 1981, LB 132, § 84.

18-2485 Agencies; other laws applicable.

Insofar as any provisions of sections 18-2401 to 18-2485 are applicable to the formation, organization, or operation of power projects, generators, or suppliers of electric energy, all agencies created pursuant to sections 18-2401 to 18-2485 shall comply with the provisions of Chapter 70, articles 10 and 13.

Source: Laws 1981, LB 132, § 85.

ARTICLE 25

MUNICIPAL INITIATIVE AND REFERENDUM ACT

Section

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18-2537. Municipal Initiative and Referendum Act; inapplicability.
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18-2501 Act, how cited; initiative and referendum; powers; use; provisions governing.

(1) Sections 18-2501 to 18-2538 shall be known and may be cited as the Municipal Initiative and Referendum Act.

(2) The powers of initiative and referendum are hereby reserved to the qualified electors of each municipality in the state. The Municipal Initiative and Referendum Act shall govern the use of initiative to enact and the use of referendum to amend or repeal measures affecting the governance of all municipalities in the state, except those operating under home rule charter and as specified in section 18-2537.

(3) Cities operating under home rule charter shall provide, by charter provision or ordinance, for the exercise of the powers of initiative and referendum within such cities. Nothing in the Municipal Initiative and Referendum Act shall be construed to prevent such cities from adopting any or all of the provisions of the act.

Source: Laws 1982, LB 807, § 1; Laws 2021, LB163, § 164.

18-2502 Definitions, where found.

For purposes of the Municipal Initiative and Referendum Act, the definitions in sections 18-2502.01 to 18-2511, unless the context otherwise requires, shall apply.

Source: Laws 1982, LB 807, § 2; Laws 1984, LB 1010, § 1; Laws 2021, LB163, § 165.

18-2502.01 Chief executive officer, defined.

Chief executive officer means the mayor, the city manager, or the chairperson of the board of trustees of a municipality.

Source: Laws 2021, LB163, § 166.

18-2503 Circulator, defined.

Circulator shall mean any person who solicits signatures for an initiative or referendum petition.

Source: Laws 1982, LB 807, § 3.

18-2504 City clerk, defined.

City clerk means the city clerk, village clerk, or other municipal official in charge of elections.

Source: Laws 1982, LB 807, § 4; Laws 2021, LB163, § 167.

18-2505 Governing body, defined.

Governing body means the city council or village board of trustees of any municipality subject to the Municipal Initiative and Referendum Act.

Source: Laws 1982, LB 807, § 5; Laws 2021, LB163, § 168.

18-2506 Measure, defined.

Measure means an ordinance, charter provision, or resolution which is within the legislative authority of the governing body of a municipality to pass and which is not excluded from the operation of referendum by the exceptions in section 18-2528. Measure does not include any action permitted by the Nebraska Advantage Transformational Tourism and Redevelopment Act.

Source: Laws 1982, LB 807, § 6; Laws 1984, LB 1010, § 2; Laws 2010, LB1018, § 36; Laws 2021, LB163, § 169.

Cross References

Nebraska Advantage Transformational Tourism and Redevelopment Act, see section 77-1001.

18-2507 Municipality, defined.

Municipality means all cities and villages, not operating under home rule charters, including those functioning under the commission and city manager plans of government.

Source: Laws 1982, LB 807, § 7; Laws 2019, LB193, § 9; Laws 2021, LB163, § 170.

18-2508 Petition, defined.

Petition shall mean a document authorized for circulation pursuant to section 18-2512, or any copy of such document.

Source: Laws 1982, LB 807, § 8.

18-2508.01 Place of residence, defined.

Place of residence shall mean the street and number of the residence. If there is no street and number for the residence, place of residence shall mean the mailing address.

Source: Laws 1984, LB 1010, § 3.

18-2509 Prospective petition, defined.

Prospective petition shall mean a sample document containing the information necessary for a completed petition, including a sample signature sheet, which has not yet been authorized for circulation.

Source: Laws 1982, LB 807, § 9.

18-2510 Qualified electors, defined.

Qualified electors shall mean all persons registered to vote, at the time the prospective petition is filed, in the jurisdiction governed or to be governed by any measure sought to be enacted by initiative, or altered or repealed by referendum.

Source: Laws 1982, LB 807, § 10.

18-2510.01 Residence, defined.

Residence shall mean that place at which a person has established his or her home, where he or she is habitually present, and to which, when he or she departs, he or she intends to return.

Source: Laws 1984, LB 1010, § 4.

18-2511 Signature sheet, defined.

Signature sheet shall mean a sheet of paper which is part of a petition and which is signed by persons wishing to support the petition effort.

Source: Laws 1982, LB 807, § 11.

18-2512 Prospective petition; filing; city clerk; duties; revision; procedure; verification; effect.

Before circulating an initiative or referendum petition, the petitioner shall file with the city clerk a prospective petition. The city clerk shall date the prospective petition immediately upon its receipt. The city clerk shall verify that the prospective petition is in proper form and shall provide a ballot title for the initiative or referendum proposal, pursuant to section 18-2513. If the prospective petition is in proper form, the city clerk shall authorize the circulation of the petition and such authorization shall be given within three working days from the date the prospective petition was filed. If the form of the prospective petition is incorrect, the city clerk shall, within three working days from the date the prospective petition was filed, inform the petitioner of necessary changes and request that those changes be made. When the requested changes have been made and the revised prospective petition has been submitted to the city clerk in proper form, the city clerk shall authorize the circulation of the petition and such authorization shall be given within two working days from the receipt of the properly revised petition. Verification by the city clerk that the prospective petition is in proper form does not constitute an admission by the city clerk, governing body, or municipality that the measure is subject to referendum or limited referendum or that the measure may be enacted by initiative.

Source: Laws 1982, LB 807, § 12; Laws 1984, LB 1010, § 5.

18-2513 Ballot title; contents; ballots; form.

(1) The ballot title of any measure to be initiated or referred shall consist of:

(a) A briefly worded caption by which the measure is commonly known or which accurately summarizes the measure;

(b) A briefly worded question which plainly states the purpose of the measure and is phrased so that an affirmative response to the question corresponds to an affirmative vote on the measure; and

(c) A concise and impartial statement, of not more than seventy-five words, of the chief purpose of the measure.

(2) The ballots used when voting on an initiative or referendum proposal shall contain the entire ballot title. Proposals for initiative and referendum shall be submitted on separate ballots and the ballots shall be printed in lowercase ten-point type, except that the caption shall be in boldface type. All initiative and referendum measures shall be submitted in a nonpartisan manner without indicating or suggesting on the ballot that they have or have not been approved or endorsed by any political party or organization.

Source: Laws 1982, LB 807, § 13; Laws 1984, LB 1010, § 6.

18-2514 Petitions; form; Secretary of State; duties; copies.

The Secretary of State shall design the form to be used for initiative and referendum petitions. The petitions shall conform to section 32-628. These forms shall be made available to the public by the city clerk, and they shall serve as a guide for individuals preparing prospective petitions. Substantial compliance with initiative and referendum forms is required before authorization to circulate such petition shall be granted by the city clerk pursuant to section 18-2512. Chief petitioners or circulators preparing prospective petitions shall be responsible for making copies of the petition for circulation after authorization for circulation has been granted.

Source: Laws 1982, LB 807, § 14; Laws 1984, LB 1010, § 7; Laws 1994, LB 76, § 499.

18-2515 Petition; contents.

(1) Each petition presented for signature must be identical to the petition authorized for circulation by the city clerk pursuant to section 18-2512.

(2) Every petition shall contain the name and place of residence of not more than three persons as chief petitioners or sponsors of the measure.

(3) Every petition shall contain the caption and the statement specified in subdivisions (1)(a) and (1)(c) of section 18-2513.

(4) When a special election is being requested, such fact shall be stated on every petition.

Source: Laws 1982, LB 807, § 15; Laws 1984, LB 1010, § 9; Laws 2003, LB 444, § 1; Laws 2019, LB411, § 21.

18-2516 Signature sheet; requirements.

Every signature sheet shall:

(1) Contain the caption required in subdivision (1)(a) of section 18-2513;

(2) Be part of a complete and authorized petition when presented to potential signatories; and

(3) Comply with the requirements of section 32-628.

Source: Laws 1982, LB 807, § 16; Laws 1984, LB 1010, § 10; Laws 1994, LB 76, § 500.

18-2517 Petition; signers and circulators; requirements.

Signers and circulators shall comply with sections 32-629 and 32-630.

Source: Laws 1982, LB 807, § 17; Laws 1984, LB 1010, § 11; Laws 1994, LB 76, § 501.

18-2518 Petition; filed; signature verification; costs; time limitation.

(1) Signed petitions shall be filed with the city clerk for signature verification. Upon the filing of a petition, a municipality, upon passage of a resolution by the governing body of such municipality, and the county clerk or election commissioner of the county in which such municipality is located may by mutual agreement provide that the county clerk or election commissioner shall ascertain whether the petition is signed by the requisite number of voters. The municipality shall reimburse the county for any costs incurred by the county clerk or election commissioner. When the verifying official has determined that one hundred percent of the necessary signatures required by the Municipal

Initiative and Referendum Act have been obtained, he or she shall notify the governing body of the municipality of that fact and shall immediately forward to the governing body a copy of the petition.

(2) In order for an initiative or referendum proposal to be submitted to the governing body and the voters, the necessary signatures shall be on file with the city clerk within six months from the date the prospective petition was authorized for circulation. If the necessary signatures are not obtained by such date, the petition shall be void.

Source: Laws 1982, LB 807, § 18; Laws 2021, LB163, § 171.

Under section 18-2538, if a municipality does not bring an action for declaratory judgment to determine whether a measure is subject to limited referendum or referendum or whether a measure may be enacted by initiative until after it receives notification pursuant to this section, it shall be required to proceed with the initiative or referendum election. Sydow v. City of Grand Island, 263 Neb. 389, 639 N.W.2d 913 (2002).

18-2519 Measure; resubmission; limitation.

The same measure, either in form or in essential substance, may not be submitted to the people by initiative petition, either affirmatively or negatively, more often than once every two years. No attempt to repeal or alter an existing measure or portion of such measure by referendum petition may be made within two years from the last attempt to do the same. Such prohibition shall apply only when the subsequent attempt to repeal or alter is designed to accomplish the same, or essentially the same purpose as the previous attempt.

Source: Laws 1982, LB 807, § 19.

18-2520 Measure submitted to voters by municipality; procedure; approval.

(1) Except as provided in subsection (2) of this section, the chief executive officer and governing body of a municipality may at any time, by resolution, provide for the submission to a direct vote of the electors of any measure pending before it, passed by it, including an override of any veto, if necessary, or enacted by the electors under the Municipal Initiative and Referendum Act and may provide in such resolution that such measure shall be submitted at a special election or the next regularly scheduled primary or general election. Immediately upon the passage of any such resolution for submission, the city clerk shall cause such measure to be submitted to a direct vote of the electors, at the time specified in such resolution and in the manner provided in the Municipal Initiative and Referendum Act for submission of measures upon proposals and petitions filed by voters. Such matter shall become law if approved by a majority of the votes cast.

(2) The chief executive officer and governing body of a municipality shall not submit to a direct vote of the electors the question of whether the municipality should initiate proceedings for the condemnation of a natural gas system.

Source: Laws 1982, LB 807, § 20; Laws 1984, LB 1010, § 12; Laws 2002, LB 384, § 26; Laws 2021, LB163, § 172.

18-2521 Elections; when held; city clerk; duties.

Elections under the Municipal Initiative and Referendum Act, either at a special election or regularly scheduled primary or general election, shall be called by the city clerk. Any special election to be conducted by the election commissioner or county clerk shall be subject to section 32-405.

The city clerk shall cause notice of every such election to be printed in one or more legal newspapers in or of general circulation in such municipality at least once not less than thirty days prior to such election and also posted in the office of the city clerk and in at least three conspicuous places in such municipality at least thirty days prior to such election.

The city clerk shall make available for photocopying a copy in pamphlet form of measures initiated or referred. Such notice provided in this section shall designate where such a copy in pamphlet form may be obtained.

Source: Laws 1982, LB 807, § 21; Laws 1984, LB 1010, § 13; Laws 1994, LB 76, § 502; Laws 2003, LB 521, § 2; Laws 2021, LB163, § 173.

18-2522 Ballots; preparation; form.

All ballots for use in special elections under the Municipal Initiative and Referendum Act shall be prepared by the city clerk and furnished by the governing body, unless the governing body contracts with the county for such service, and shall be in form the same as provided by law for election of the chief executive officer and governing body of such municipality. When ordinances under the Municipal Initiative and Referendum Act are submitted to the electors at a regularly scheduled primary or general election, they shall be placed upon the official ballots as provided in the Municipal Initiative and Referendum Act.

Source: Laws 1982, LB 807, § 22; Laws 1984, LB 1010, § 14; Laws 2021, LB163, § 174.

18-2523 Initiative powers; scope.

(1) The power of initiative allows citizens the right to enact measures affecting the governance of each municipality in the state. An initiative proposal shall not have as its primary or sole purpose the repeal or modification of existing law except if such repeal or modification is ancillary to and necessary for the adoption and effective operation of the initiative measure.

(2) An initiative shall not be effective if the direct or indirect effect of the passage of such initiative measure shall be to repeal or alter an existing law, or portion thereof, which is not subject to referendum or subject only to limited referendum pursuant to section 18-2528.

(3) The power of initiative shall extend to a measure to provide for the condemnation of an investor-owned natural gas system by a municipality when the condemnation would, if initiated by the governing body of the municipality, be governed by the provisions of the Municipal Natural Gas System Condemnation Act.

(4) An initiative measure to provide for the condemnation of an investor-owned natural gas system by a municipality shall be a measure to require the municipality to initiate and pursue condemnation proceedings subject to the provisions of the Municipal Natural Gas System Condemnation Act.

Source: Laws 1982, LB 807, § 23; Laws 2002, LB 384, § 27; Laws 2021, LB163, § 175.

Cross References

Municipal Natural Gas System Condemnation Act, see section 19-4624.

A municipal ballot measure with separate provisions does not violate the common-law single subject rule if each of its provisions has a natural and necessary connection with each other and together are part of one general subject. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

A proposed municipal ballot measure is invalid if it would (1) compel voters to vote for or against distinct propositions in a single vote—when they might not do so if presented separately, (2) confuse voters on the issues they are asked to decide, or (3) create doubt as to what action they have authorized after the election. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

Although the Nebraska Constitution does not prohibit a municipal ballot measure from asking voters to approve distinct and independent propositions in a single vote, a common-law single subject rule does prohibit this type of municipal ballot measure to preserve the integrity of the municipal electoral process. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

Courts liberally construe grants of municipal initiative and referendum powers to permit, rather than restrict, the power and to attain, rather than prevent, its object. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

To determine whether petitioners for a municipal ballot measure are acting under their initiative power or their referendum power, a court should look to the function of their proposed ballot measure—not its label. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

When petitioners for a municipal ballot measure are not seeking to repeal an ordinance, the correct distinction for determining whether their proposed measure falls under the petitioners' initiative power or their referendum power is whether the proposed measure would enact a new ordinance (initiative power) or would amend an existing ordinance (referendum power). City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

18-2524 Initiative petition; failure of governing body to pass; effect; regular or special election.

Whenever an initiative petition bearing signatures equal in number to at least fifteen percent of the qualified electors of a municipality has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the governing body of such municipality to consider passage of the measure contained in the petition, including an override of any veto, if necessary. If the governing body fails to pass the measure without amendment, including an override of any veto, if necessary, within thirty days from the date it received notification pursuant to section 18-2518, the city clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the municipality. If the governing body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the municipality, the governing body shall, by resolution, direct the city clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

Source: Laws 1982, LB 807, § 24; Laws 1984, LB 1010, § 15; Laws 2021, LB163, § 176.

18-2525 Initiative petition; request for special election; failure of governing body to pass; effect.

Whenever an initiative petition bearing signatures equal in number to at least twenty percent of the qualified electors of a municipality, which petition requests that a special election be called to submit the initiative measure to a vote of the people, has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the governing body of such municipality to consider passage of the measure contained in the petition, including an override of any veto, if necessary. If the governing body fails to pass the measure, without amendment, including an override of any veto, if necessary, within thirty days from the date it received notification pursuant to section 18-2518, the city clerk shall cause the measure to be submitted to a vote of the people at a special election called for such purpose. Subject to the provisions of section 18-2521, the date of such election shall be set during the first available month that complies with sections 32-405 and 32-559.

Source: Laws 1982, LB 807, § 25; Laws 1984, LB 1010, § 16; Laws 1994, LB 76, § 503; Laws 2021, LB163, § 177.

18-2526 Adopted initiative measure; when effective; amendment or repeal; restrictions.

If a majority of the voters voting on an initiative measure pursuant to the Municipal Initiative and Referendum Act shall vote in favor of such measure, it shall become a valid and binding measure of the municipality thirty days after certification of the election results, unless the governing body by resolution orders an earlier effective date or the measure itself provides for a later effective date, which resolution shall not be subject to referendum or limited referendum. A measure passed by such method shall not be amended or repealed except by two-thirds majority of the members of the governing body. No such attempt to amend or repeal shall be made within one year from the passage of the measure by the electors.

Source: Laws 1982, LB 807, § 26; Laws 1984, LB 1010, § 17; Laws 2021, LB163, § 178.

18-2527 Referendum powers; scope.

The power of referendum allows citizens the right to repeal or amend existing measures, or portions thereof, affecting the governance of each municipality in the state.

Source: Laws 1982, LB 807, § 27; Laws 2021, LB163, § 179.

A municipal ballot measure with separate provisions does not violate the common-law single subject rule if each of its provisions has a natural and necessary connection with each other and together are part of one general subject. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

A proposed municipal ballot measure is invalid if it would (1) compel voters to vote for or against distinct propositions in a single vote—when they might not do so if presented separately, (2) confuse voters on the issues they are asked to decide, or (3) create doubt as to what action they have authorized after the election. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

Although the Nebraska Constitution does not prohibit a municipal ballot measure from asking voters to approve distinct and independent propositions in a single vote, a common-law single subject rule does prohibit this type of municipal ballot measure to preserve the integrity of the municipal electoral process. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

Courts liberally construe grants of municipal initiative and referendum powers to permit, rather than restrict, the power and to attain, rather than prevent, its object. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

To determine whether petitioners for a municipal ballot measure are acting under their initiative power or their referendum power, a court should look to the function of their proposed ballot measure—not its label. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

When petitioners for a municipal ballot measure are not seeking to repeal an ordinance, the correct distinction for determining whether their proposed measure falls under the petitioners' initiative power or their referendum power is whether the proposed measure would enact a new ordinance (initiative power) or would amend an existing ordinance (referendum power). City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

18-2528 Referendum; measures excluded; measures subject to limited referendum; procedure.

(1) The following measures shall not be subject to referendum or limited referendum:

(a) Measures necessary to carry out contractual obligations, including, but not limited to, those relating to the issuance of or provided for in bonds, notes, warrants, or other evidences of indebtedness, for projects previously approved by a measure which was, or is, subject to referendum or limited referendum or previously approved by a measure adopted prior to July 17, 1982;

(b) Measures relating to any industrial development projects, subsequent to measures giving initial approval to such projects;

(c) Measures adopting proposed budget statements following compliance with procedures set forth in the Nebraska Budget Act;

(d) Measures relating to the immediate preservation of the public peace, health, or safety which have been designated as urgent measures by unanimous

vote of those present and voting of the governing body of the municipality and approved by its chief executive officer;

(e) Measures relating to projects for which notice has been given as provided for in subsection (4) of this section and for which a sufficient referendum petition was not filed within the time limit stated in such notice or which received voter approval after the filing of such petition;

(f) Resolutions directing the city clerk to cause measures to be submitted to a vote of the people at a special election as provided in sections 18-2524 and 18-2529;

(g) Resolutions ordering an earlier effective date for measures enacted by initiative as provided in section 18-2526;

(h) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by municipalities and which are necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness;

(i) Measures that amend, supplement, change, modify, or repeal a zoning regulation, restriction, or boundary and are subject to protest as provided in section 14-405 or 19-905;

(j) Measures relating to personnel issues, including, but not limited to, establishment, modification, or elimination of any personnel position, policy, salary, or benefit and any hiring, promotion, demotion, or termination of personnel; and

(k) Measures relating to matters subject to the provisions of the Municipal Natural Gas System Condemnation Act.

(2) The following measures shall be subject to limited referendum:

(a) Measures in furtherance of a policy of the municipality or relating to projects previously approved by a measure which was subject to referendum or which was enacted by initiative or has been approved by the voters at an election, except that such measures shall not be subject to referendum or limited referendum for a period of one year after any such policy or project was approved at a referendum election, enacted by initiative, or approved by the voters at an election;

(b) Measures relating to the acquisition, construction, installation, improvement, or enlargement, including the financing or refinancing of the costs, of public ways, public property, utility systems, and other capital projects and measures giving initial approval for industrial development projects;

(c) Measures setting utility system rates and charges, except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidences of indebtedness, and pay rates and salaries for municipal employees other than the members of the governing body and the chief executive officer; and

(d) Measures relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act by municipalities except for measures necessary to carry out contractual obligations provided for in previously issued bonds, notes, warrants, or other evidence of indebtedness.

(3) Measures subject to limited referendum shall ordinarily take effect thirty days after their passage by the governing body, including an override of any veto, if necessary. Referendum petitions directed at measures subject to limited

referendum shall be filed for signature verification pursuant to section 18-2518 within thirty days after such measure's passage by the governing body, including an override of any veto, if necessary, or after notice is first published pursuant to subdivision (4)(c) of this section. If the necessary number of signatures as provided in section 18-2529 or 18-2530 has been obtained within the time limitation, the effectiveness of the measure shall be suspended unless approved by the voters.

(4) For any measure relating to the acquisition, construction, installation, improvement, or enlargement of public ways, public property, utility systems, or other capital projects or any measure relating to any facility or system adopted or enacted pursuant to the Integrated Solid Waste Management Act, a municipality may exempt all subsequent measures relating to the same project from the referendum and limited referendum procedures provided for in the Municipal Initiative and Referendum Act by the following procedure:

(a) By holding a public hearing on the project, the time and place of such hearing being published at least once not less than five days prior to the date set for hearing in a legal newspaper in or of general circulation within the municipality;

(b) By passage of a measure approving the project, including an override of a veto if necessary, at a meeting held on any date subsequent to the date of hearing; and

(c) After passage of such measure, including an override of a veto if necessary, by giving notice as follows: (i) For those projects for which applicable statutes require an ordinance or resolution of necessity, creating a district or otherwise establishing the project, notice shall be given for such project by including either as part of such ordinance or resolution or as part of any publicized notice concerning such ordinance or resolution a statement that the project as described in the ordinance or resolution is subject to limited referendum for a period of thirty days after the first publication of such notice and that, after such thirty-day period, the project and measures related to it will not be subject to any further right of referendum; and (ii) for projects for which applicable statutes do not require an ordinance or resolution of necessity, notice shall be given by publication of a notice concerning such projects stating in general terms the nature of the project and the engineer's estimate of costs of such project and stating that the project described in the notice is subject to limited referendum for a period of thirty days after the first publication of such notice and that, after such thirty-day period, the project and measures related to it will not be subject to any further right of referendum. The notice required by subdivision (c)(ii) of this subsection shall be published in at least one legal newspaper in or of general circulation within the municipality and shall be published not later than fifteen days after passage by the governing body, including an override of a veto, if necessary, of a measure approving the project.

The right of a municipality to hold such a hearing prior to passage of the measure by the governing body and give such notice after passage of such measure by the governing body to obtain exemption for any particular project in a manner described in this subsection is optional, and no municipality shall be required to hold such a hearing or give such notice for any particular project.

(5) Nothing in subsections (2) and (4) of this section shall be construed as subjecting to limited referendum any measure related to matters subject to the provisions of the Municipal Natural Gas System Condemnation Act.

(6) All measures, except as provided in subsections (1), (2), and (4) of this section, shall be subject to the referendum procedure at any time after such measure has been passed by the governing body, including an override of a veto, if necessary, or enacted by the voters by initiative.

Source: Laws 1982, LB 807, § 28; Laws 1984, LB 1010, § 18; Laws 1992, LB 1257, § 65; Laws 1994, LB 76, § 504; Laws 2000, LB 582, § 1; Laws 2002, LB 384, § 28; Laws 2021, LB163, § 180.

Cross References

Integrated Solid Waste Management Act, see section 13-2001.
Municipal Natural Gas System Condemnation Act, see section 19-4624.
Nebraska Budget Act, see section 13-501.

Under subsection (1)(a) of this section, a general tax ordinance cannot be a measure necessary to carry out a contractual obligation if the obligation did not exist when the municipality passed it. Subsection (1)(a) does not shield from the referendum process a revenue measure that funds a city's subsequent contractual obligations for a project that was not previously approved by a measure that was subject to referendum. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

18-2529 Referendum petition; failure of governing body to act; effect; special election.

Whenever a referendum petition bearing signatures equal in number to at least fifteen percent of the qualified electors of a municipality has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the governing body of the municipality to reconsider the measure or portion of such measure which is the object of the referendum. If the governing body fails to repeal or amend the measure or portion thereof in the manner proposed by the referendum, including an override of any veto, if necessary, within thirty days from the date the governing body receives notification pursuant to section 18-2518, the city clerk shall cause the measure to be submitted to a vote of the people at the next regularly scheduled primary or general election held within the municipality. If the governing body desires to submit the measure to a vote of the people at a special election prior to the next regularly scheduled primary or general election held within the municipality, the governing body shall, by resolution, direct the city clerk to cause the measure to be submitted at a special election. Such resolution shall not be subject to referendum or limited referendum.

Source: Laws 1982, LB 807, § 29; Laws 1984, LB 1010, § 19; Laws 2021, LB163, § 181.

18-2530 Referendum petition; request for special election; failure of governing body to act; effect.

Whenever a referendum petition bearing signatures equal in number to at least twenty percent of the qualified voters of a municipality, which petition requests that a special election be called to submit the referendum measure to a vote of the people, has been filed with the city clerk and verified pursuant to section 18-2518, it shall be the duty of the governing body of the municipality to reconsider the measure or portion of such measure which is the object of the referendum. If the governing body fails to repeal or amend the measure or portion thereof, in the manner proposed by the referendum, including an override of any veto, if necessary, the city clerk shall cause the measure to be

submitted to a vote of the people at a special election called for such purpose within thirty days from the date the governing body received notification pursuant to section 18-2518. Subject to the provisions of section 18-2521, the date of such special election shall be set during the first available month that complies with sections 32-405 and 32-559.

Source: Laws 1982, LB 807, § 30; Laws 1984, LB 1010, § 20; Laws 1994, LB 76, § 505; Laws 2021, LB163, § 182.

18-2531 Adopted referendum measure; reenactment or return to original form; restrictions; failure of referendum; effect.

If a majority of the electors voting on the referendum measure shall vote in favor of such measure, the law subject to the referendum shall be repealed or amended. A measure repealed or amended by referendum shall not be reenacted or returned to its original form except by a two-thirds majority of the members of the governing body. No such attempt to reenact or return the measure to its original form shall be made within one year of the repeal or amendment of the measure by the electors. If the referendum measure does not receive a majority vote, the ordinance shall immediately become effective or remain in effect.

Source: Laws 1982, LB 807, § 31.

18-2532 False affidavit; false oath; penalty.

Whoever knowingly or willfully makes a false affidavit or takes a false oath regarding the qualifications of any person to sign petitions under the Municipal Initiative and Referendum Act shall be guilty of a Class I misdemeanor with a fine not to exceed three hundred dollars.

Source: Laws 1982, LB 807, § 32; Laws 2021, LB163, § 183.

18-2533 Petitions; illegal acts; penalty.

Whoever falsely makes or willfully destroys a petition or any part thereof, or signs a false name thereto, or signs or files any petition knowing the same or any part thereof to be falsely made, or suppresses any petition, or any part thereof, which has been duly filed, pursuant to the Municipal Initiative and Referendum Act shall be guilty of a Class I misdemeanor with a fine not to exceed five hundred dollars.

Source: Laws 1982, LB 807, § 33; Laws 2021, LB163, § 184.

18-2534 Signing of petition; illegal acts; penalty.

Whoever signs any petition under the Municipal Initiative and Referendum Act, knowing that he or she is not a registered voter in the place where such petition is made, aids or abets any other person in doing any of the acts mentioned in this section, bribes or gives or pays any money or thing of value to any person directly or indirectly to induce him or her to sign such petition, or engages in any deceptive practice intended to induce any person to sign a petition, shall be guilty of a Class I misdemeanor with a fine not to exceed three hundred dollars.

Source: Laws 1982, LB 807, § 34; Laws 2021, LB163, § 185.

18-2535 City clerk; illegal acts; penalty.

Any city clerk who willfully refuses to comply with the Municipal Initiative and Referendum Act or who willfully causes unreasonable delay in the execution of his or her duties under the Municipal Initiative and Referendum Act shall be guilty of a Class I misdemeanor, but imprisonment shall not be included as part of the punishment.

Source: Laws 1982, LB 807, § 35; Laws 1984, LB 1010, § 21; Laws 2021, LB163, § 186.

18-2536 Election Act; applicability.

The Election Act, so far as applicable and when not in conflict with the Municipal Initiative and Referendum Act, shall apply to voting on ordinances by the registered voters pursuant to the Municipal Initiative and Referendum Act.

Source: Laws 1982, LB 807, § 36; Laws 1994, LB 76, § 506; Laws 2021, LB163, § 187.

Cross References

Election Act, see section 32-101.

18-2537 Municipal Initiative and Referendum Act; inapplicability.

Nothing in the Municipal Initiative and Referendum Act shall apply to procedures for initiatives or referendums provided in sections 14-210 to 14-212 relating to cities of the metropolitan class, sections 18-412 and 18-412.02 relating to municipal light and power plants, sections 70-504 and 70-650.01 relating to public power districts, and sections 80-203 to 80-205 relating to soldiers and sailors monuments.

Source: Laws 1982, LB 807, § 37; Laws 2021, LB163, § 188.

18-2538 Declaratory judgment; procedure; effect.

The municipality or any chief petitioner may seek a declaratory judgment regarding any questions arising under the Municipal Initiative and Referendum Act, as it may be from time to time amended, including, but not limited to, determining whether a measure is subject to referendum or limited referendum or whether a measure may be enacted by initiative. If a chief petitioner seeks a declaratory judgment, the municipality shall be served as provided in section 25-510.02. If the municipality seeks a declaratory judgment, only the chief petitioner or chief petitioners shall be required to be served. Any action brought for declaratory judgment for purposes of determining whether a measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, may be filed in the district court at any time after the filing of a referendum or initiative petition with the city clerk for signature verification until forty days from the date the governing body received notification pursuant to section 18-2518. If the municipality does not bring an action for declaratory judgment to determine whether the measure is subject to limited referendum or referendum, or whether the measure may be enacted by initiative until after it has received notification pursuant to section 18-2518, it shall be required to proceed with the initiative or referendum election in accordance with the Municipal Initiative and Referendum Act. If the municipality does file such an action prior to receiving notification pursuant to section 18-2518, it shall not be required to proceed to hold such election until a final

decision has been rendered in the action. Any action for a declaratory judgment shall be governed generally by sections 25-21,149 to 25-21,164, as amended from time to time, except that only the municipality and each chief petitioner shall be required to be made parties. The municipality, city clerk, governing body, or any other officers of the municipality shall be entitled to rely on any order rendered by the court in any such proceeding. Any action brought for declaratory judgment pursuant to this section shall be given priority in scheduling hearings and in disposition as determined by the court. When an action is brought to determine whether the measure is subject to limited referendum or referendum, or whether a measure may be enacted by initiative, a decision shall be rendered by the court no later than five days prior to the election. The provisions of this section relating to declaratory judgments shall not be construed as limiting, but construed as supplemental and additional to other rights and remedies conferred by law.

Source: Laws 1984, LB 1010, § 8; Laws 2021, LB163, § 189.

If a municipality claims that a proposed ballot measure violates a statute under Chapter 18, article 25, of the Nebraska Revised Statutes, the claim is a challenge to the procedure or form of the proposal that may be raised in a preelection declaratory judgment action. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

Under this section, if a city files a declaratory judgment action to challenge a ballot measure within 40 days of receiving notice of the requisite signatures, a court may invalidate the measure because of a deficiency in form or procedure even if the voters approved it. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

Under this section, when a city fails to file a declaratory judgment action to challenge the validity of a proposed ballot measure before it receives notification of the requisite signatures, a court does not have authority to keep the measure off the ballot, which precludes a court from blocking a count of the votes. City of North Platte v. Tilgner, 282 Neb. 328, 803 N.W.2d 469 (2011).

The language ''whether a measure may be enacted by initiative'' does not permit a court to issue an advisory opinion regarding the substance of an initiative measure prior to its adoption. City of Fremont v. Kotas, 279 Neb. 720, 781 N.W.2d 456 (2010).

The language ''whether a measure may be enacted by initiative'' encompasses only procedural challenges. City of Fremont v. Kotas, 279 Neb. 720, 781 N.W.2d 456 (2010).

Under this section, if a municipality does not bring an action for declaratory judgment to determine whether a measure is subject to limited referendum or referendum or whether a measure may be enacted by initiative until after it receives notification pursuant to section 18-2518, it shall be required to proceed with the initiative or referendum election. Sydow v. City of Grand Island, 263 Neb. 389, 639 N.W.2d 913 (2002).

ARTICLE 26
INFRASTRUCTURE REDEVELOPMENT

Section
18-2601. Repealed. Laws 2021, LB509, § 25.
18-2602. Repealed. Laws 2021, LB509, § 25.
18-2603. Repealed. Laws 2021, LB509, § 25.
18-2604. Repealed. Laws 2021, LB509, § 25.
18-2605. Repealed. Laws 2021, LB509, § 25.
18-2606. Repealed. Laws 2021, LB509, § 25.
18-2607. Repealed. Laws 2021, LB509, § 25.
18-2608. Repealed. Laws 2021, LB509, § 25.
18-2609. Repealed. Laws 2021, LB509, § 25.

18-2601 Repealed. Laws 2021, LB509, § 25.

18-2602 Repealed. Laws 2021, LB509, § 25.

18-2603 Repealed. Laws 2021, LB509, § 25.

18-2604 Repealed. Laws 2021, LB509, § 25.

18-2605 Repealed. Laws 2021, LB509, § 25.

18-2606 Repealed. Laws 2021, LB509, § 25.

18-2607 Repealed. Laws 2021, LB509, § 25.

18-2608 Repealed. Laws 2021, LB509, § 25.

18-2609 Repealed. Laws 2021, LB509, § 25.

ARTICLE 27

MUNICIPAL ECONOMIC DEVELOPMENT

Section

18-2701. Act, how cited.
18-2702. Legislative findings.
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18-2716. Expenditures; budget.
18-2717. Appropriations; restrictions.
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18-2719. Loan fund program; qualifying business; documentation required.
18-2720. Loan fund program; loan servicing requirements.
18-2721. Audit.
18-2722. Continuation of program; election; procedure.
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18-2724. Issuance of bonds; purpose; not general obligation of city.
18-2725. Issuance of bonds; immunity.
18-2726. Issuance of bonds; authorization; form.
18-2727. Bonds; negotiability; sale.
18-2728. Bonds; officers' signatures; validity.
18-2729. Issuance of bonds; city covenants and powers.
18-2730. Refunding bonds; issuance authorized.
18-2731. Refunding bonds; use; holder of bonds; payment of interest.
18-2732. Refunding bonds; deposit of proceeds in trust; investments authorized; section, how construed.
18-2733. Refunding bonds; general provisions applicable.
18-2734. Issuance of bonds; consent or other conditions not required.
18-2735. Bonds; securities; investment authorized.
18-2736. Bonds; tax exempt.
18-2737. Economic development program approved prior to June 1, 1993; bond issuance; authorized; procedure.
18-2738. Act; supplemental powers; how construed.

Section
18-2739. Production of films, commercials, and television programs; qualifying business; duties.

18-2701 Act, how cited.

Sections 18-2701 to 18-2739 shall be known and may be cited as the Local Option Municipal Economic Development Act.

Source: Laws 1991, LB 840, § 1; Laws 1993, LB 732, § 16; Laws 1995, LB 207, § 1; Laws 2001, LB 827, § 9; Laws 2012, LB863, § 1; Laws 2016, LB1059, § 2.

18-2702 Legislative findings.

The Legislature finds that:

(1) There is a high degree of competition among states and municipalities in our nation in their efforts to provide incentives for businesses to expand or to locate in their respective jurisdictions;

(2) Municipalities in Nebraska are hampered in their efforts to effectively compete because of their inability under Nebraska law to respond quickly to opportunities or to raise sufficient capital from local sources to provide incentives for the provision of new services or business location or expansion decisions which are tailored to meet the needs of the local community;

(3) The ability of a municipality to encourage the provision of new services or business location and expansion has a direct impact not only upon the economic well-being of the community and its residents but upon the whole state as well; and

(4) There is a need to provide Nebraska municipalities with the opportunity of providing assistance to business enterprises in their communities, whether for expansion of existing operations, the creation of new businesses, or the provision of new services, by the use of funds raised by local taxation when the voters in the municipality determine that it is in the best interest of their community to do so.

Source: Laws 1991, LB 840, § 2; Laws 2001, LB 827, § 10.

18-2703 Definitions, where found.

For purposes of the Local Option Municipal Economic Development Act, the definitions found in sections 18-2703.01 to 18-2709.01 shall be used.

Source: Laws 1991, LB 840, § 4; Laws 2001, LB 827, § 11; Laws 2016, LB1059, § 3.

18-2703.01 Advanced telecommunications capability, defined.

Advanced telecommunications capability shall mean high-speed, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.

Source: Laws 2001, LB 827, § 12.

18-2704 City, defined.

City shall mean any city of the metropolitan class, city of the primary class, city of the first class, city of the second class, or village, including any city operated under a home rule charter. City shall also include any group of two or more cities acting in concert under the terms of the Interlocal Cooperation Act or Joint Public Agency Act by means of a properly executed agreement.

Source: Laws 1991, LB 840, § 5; Laws 1999, LB 87, § 64.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

18-2705 Economic development program, defined.

(1) Economic development program means any project or program utilizing funds derived from local sources of revenue for the purpose of providing direct or indirect financial assistance to a qualifying business or the payment of related costs and expenses or both, without regard to whether that business is identified at the time the project or program is initiated or is to be determined by specified means at some time in the future.

(2) An economic development program may include, but shall not be limited to: (a) Direct loans or grants to qualifying businesses for fixed assets or working capital or both, (b) loan guarantees for qualifying businesses, (c) grants for public works improvements which are essential to the location or expansion of, or the provision of new services by, a qualifying business, (d) grants or loans to qualifying businesses for job training, (e) the purchase of real estate, options for such purchases, and the renewal or extension of such options, (f) grants or loans to qualifying businesses to provide relocation incentives for new residents, (g) the issuance of bonds as provided for in the Local Option Municipal Economic Development Act, and (h) payments for salaries and support of city staff to implement the economic development program or develop an affordable housing action plan, including any such plan required under section 19-5505, or payments for the contracting of such program implementation or plan development to an outside entity.

(3) For cities of the first class, cities of the second class, and villages, an economic development program may also include grants, loans, or funds for:

(a) Construction or rehabilitation for sale or lease of housing (i) for persons of low or moderate income, (ii) as part of a workforce housing plan, or (iii) as part of an affordable housing action plan, including any such plan required under section 19-5505;

(b) Rural infrastructure development as defined in section 66-2102; or

(c) Early childhood infrastructure development.

(4) An economic development program may be conducted jointly by two or more cities after the approval of the program by the voters of each participating city.

Source: Laws 1991, LB 840, § 6; Laws 1993, LB 732, § 17; Laws 1995, LB 207, § 3; Laws 2001, LB 827, § 13; Laws 2012, LB1115, § 8; Laws 2013, LB295, § 1; Laws 2015, LB150, § 1; Laws 2016, LB1059, § 4; Laws 2019, LB160, § 1; Laws 2021, LB163, § 190; Laws 2022, LB800, § 327.
Operative date July 21, 2022.

18-2706 Election, defined.

Election shall mean any general election, primary election, or special election called by the city as provided by law.

Source: Laws 1991, LB 840, § 7.

18-2707 Financial institution, defined.

Financial institution shall mean a state or federally chartered bank, a capital stock state building and loan association, a capital stock federal savings and loan association, a capital stock federal savings bank, and a capital stock state savings bank.

Source: Laws 1991, LB 840, § 8; Laws 2003, LB 131, § 21.

18-2708 Local sources of revenue, defined.

Local sources of revenue means the city's property tax, the city's local option sales tax, or any other general tax levied by the city or generated from municipally owned utilities or grants, donations, or state and federal funds received by the city subject to any restrictions of the grantor, donor, or state or federal law. Funds generated from municipally owned utilities shall be used for utility-related purposes or activities associated with the economic development program as determined by the governing body, including, but not limited to, load management, energy efficiency, energy conservation, incentives for load growth, line extensions, land purchase, site development, and demand side management measures.

Source: Laws 1991, LB 840, § 9; Laws 2011, LB471, § 1; Laws 2021, LB163, § 191.

18-2709 Qualifying business, defined.

(1) Qualifying business means any corporation, partnership, limited liability company, or sole proprietorship which derives its principal source of income from any of the following: The manufacture of articles of commerce; the conduct of research and development; the processing, storage, transport, or sale of goods or commodities which are sold or traded in interstate commerce; the sale of services in interstate commerce; headquarters facilities relating to eligible activities as listed in this section; telecommunications activities, including services providing advanced telecommunications capability; tourism-related activities; or the production of films, including feature, independent, and documentary films, commercials, and television programs.

(2) Qualifying business also means:

(a) In cities of the first class, cities of the second class, and villages, a business that derives its principal source of income from the construction or rehabilitation of housing;

(b) In cities of the first class, cities of the second class, and villages, a business that derives its principal source of income from early childhood care and education programs;

(c) A business that derives its principal source of income from retail trade, except that no more than forty percent of the total revenue generated pursuant to the Local Option Municipal Economic Development Act for an economic development program in any twelve-month period and no more than twenty

percent of the total revenue generated pursuant to the act for an economic development program in any five-year period, commencing from the date of municipal approval of an economic development program, shall be used by the city for or devoted to the use of retail trade businesses. For purposes of this subdivision, retail trade means a business which is principally engaged in the sale of goods or commodities to ultimate consumers for their own use or consumption and not for resale; and

(d) In cities with a population of two thousand five hundred inhabitants or less as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census, a business shall be a qualifying business even though it derives its principal source of income from activities other than those set out in this section.

(3) If a business which would otherwise be a qualifying business employs people and carries on activities in more than one city in Nebraska or will do so at any time during the first year following its application for participation in an economic development program, it shall be a qualifying business only if, in each such city, it maintains employment for the first two years following the date on which such business begins operations in the city as a participant in its economic development program at a level not less than its average employment in such city over the twelve-month period preceding participation.

(4) A qualifying business need not be located within the territorial boundaries of the city from which it is or will be receiving financial assistance.

(5) Qualifying business does not include a political subdivision, a state agency, or any other governmental entity, except as allowed for cities of the first class, cities of the second class, and villages for rural infrastructure development as provided for in subdivision (3)(b) of section 18-2705.

Source: Laws 1991, LB 840, § 10; Laws 1993, LB 121, § 145; Laws 1993, LB 732, § 18; Laws 1994, LB 1188, § 1; Laws 1995, LB 207, § 4; Laws 2001, LB 827, § 14; Laws 2011, LB471, § 2; Laws 2012, LB863, § 2; Laws 2015, LB150, § 2; Laws 2017, LB113, § 22; Laws 2019, LB160, § 2; Laws 2021, LB163, § 192.

18-2709.01 Workforce housing plan, defined.

Workforce housing plan means a program to construct or rehabilitate single-family housing or market rate multi-family housing which is designed to address a housing shortage that impairs the ability of the city to attract new businesses or impairs the ability of existing businesses to recruit new employees.

Source: Laws 2016, LB1059, § 5.

18-2710 Economic development program; proposed plan, contents.

The governing body of any city proposing to adopt an economic development program shall prepare a proposed plan for such economic development program. The proposed plan shall include:

(1) A description of the city's general community and economic development strategy;

(2) A statement of purpose describing the city's general intent and proposed goals for the establishment of the economic development program;

(3) A description of the types of businesses and economic activities that will be eligible under the program for the city's assistance;

(4) A statement specifying the total amount of money that is proposed to be directly collected from local sources of revenue by the city to finance the program, whether the city desires the authority to issue bonds pursuant to the Local Option Municipal Economic Development Act to provide funds to carry out the economic development program, the time period within which the funds from local sources of revenue are to be collected, the time period during which the program will be in existence, and a basic preliminary proposed budget for the program;

(5) A description of the manner in which a qualifying business will be required to submit an application for financial assistance, including the type of information that will be required from the business, the process that will be used to verify the information, and the steps that will be taken to insure the privacy and confidentiality of business information provided to the city;

(6) A description of the administrative system that will be established to administer the economic development program, including a description of the personnel structure that will be involved and the duties and responsibilities of those persons involved; and

(7) A description of how the city will assure that all applicable laws, regulations, and requirements are met by the city and the qualifying businesses which receive assistance.

Source: Laws 1991, LB 840, § 11; Laws 1993, LB 732, § 19.

18-2710.01 Economic development program; housing for low-income or moderate-income persons; proposed plan; contents; eligibility criteria.

(1) If the proposed economic development program involves the making of grants or loans for the construction or rehabilitation for sale or lease of housing for persons of low or moderate income, the proposed plan shall specify (a) the income levels which will qualify persons for participation in the housing program and (b) the criteria for determining the adjustments to be made to the income of persons to determine their qualification for participation. For purposes of the Local Option Municipal Economic Development Act, the city shall determine low-income and moderate-income standards for the economic development program by basing such standards upon existing federal government guidelines or standards for qualifying for any federal housing assistance program as such levels may be modified by the consideration of existing local and regional economic conditions and income levels.

(2) In establishing the criteria to be applied in determining appropriate adjustments to the income of persons seeking consideration for participation in the program pursuant to subsection (1) of this section, the city shall consider the following factors:

(a) The amount of income of the person which is available for housing needs;

(b) The size of the family to reside in each housing unit;

(c) The cost and condition of housing available in the city;

(d) Whether the person or any member of the person's family who will be residing in the housing unit is elderly, infirm, or disabled;

(e) The ability of the person to compete successfully in the private housing market and to pay the amounts the private enterprise market requires for safe, sanitary, and uncrowded housing; and

(f) Such other factors as the city determines which are particularly relevant to the conditions facing persons seeking new or rehabilitated housing in the city.

Source: Laws 1995, LB 207, § 2.

18-2710.02 Economic development program; workforce housing plan; proposed plan; contents.

If the proposed economic development program involves the making of grants or loans for the construction or rehabilitation for sale or lease of housing as part of a workforce housing plan, the proposed plan shall include:

(1) An assessment of current housing stock in the city, including both single-family and market rate multi-family housing;

(2) Whether the plan will also include housing for persons of low or moderate income under section 18-2710.01;

(3) Such other factors, as determined by the city, which are particularly relevant in assessing the conditions faced by existing businesses in recruiting new employees; and

(4) Such other factors, as determined by the city, which are particularly relevant in assessing the conditions faced by persons seeking new or rehabilitated housing in the city.

Source: Laws 2016, LB1059, § 6.

18-2710.03 Economic development program; applicant; certification regarding tax incentives; city consider information.

(1) At the time that a qualifying business applies to a city to participate in an economic development program, the qualifying business shall certify the following to the city:

(a) Whether the qualifying business has filed or intends to file an application to receive tax incentives under the Nebraska Advantage Act or the ImagiNE Nebraska Act for the same project for which the qualifying business is seeking financial assistance under the Local Option Municipal Economic Development Act;

(b) Whether such application includes or will include, as one of the tax incentives, a refund of the city's local option sales tax revenue; and

(c) Whether such application has been approved under the Nebraska Advantage Act or the ImagiNE Nebraska Act.

(2) The city may consider the information provided under this section in determining whether to provide financial assistance to the qualifying business under the Local Option Municipal Economic Development Act.

Source: Laws 2016, LB1059, § 8; Laws 2020, LB1107, § 117.

Cross References

ImagiNE Nebraska Act, see section 77-6801.
Nebraska Advantage Act, see section 77-5701.

18-2711 Land purchase; creation of loan fund; additional requirements.

(1) If the proposed economic development program involves the purchase of or option to purchase land, the proposed plan shall also specify the manner in which tracts of land will be identified for purchase or option to purchase and whether or not the city proposes to use the proceeds from the future sale of such land for additional land purchases.

(2) If the proposed economic development program involves the creation of a loan fund, the proposed plan shall also specify:

(a) The types of financial assistance that will be available, stating the maximum proportion of financial assistance that will be provided to any single qualifying business and specifying the criteria that will be used to determine the appropriate level of assistance;

(b) The criteria and procedures that will be used to determine the necessity and appropriateness of permitting a qualifying business to participate in the loan fund program;

(c) The criteria for determining the time within which a qualifying business must meet the goals set for it under its participation agreement;

(d) What personnel or other assistance beyond regular city employees will be needed to assist in the administration of the loan fund program and the manner in which they will be paid or reimbursed;

(e) The investment strategies that the city will pursue to promote the growth of the loan fund while assuring its security and liquidity; and

(f) The methods of auditing and verification that will be used by the city to insure that the assistance given is used in an appropriate manner and that the city is protected against fraud or deceit in the conduct or administration of the economic development program.

Source: Laws 1991, LB 840, § 12; Laws 1993, LB 732, § 20.

18-2712 Public hearing; governing body; adopt resolution; filing.

Upon completion of the proposed plan, the governing body of the city shall schedule a public hearing at which such plan shall be presented for public comment and discussion. Following the public hearing, the governing body shall adopt the proposed plan and any amendments by resolution. At the discretion of the governing body, the resolution may include the full text of the proposed plan or it may be incorporated by reference. The resolution shall include a statement of the date at which the economic development program will be presented to the voters of the city for approval pursuant to section 18-2713 and the language of the ballot question as it will appear on the ballot. Following its adoption, a copy of the resolution and the proposed plan shall be filed with the city clerk who shall make it available for public review at city hall during regular business hours.

Source: Laws 1991, LB 840, § 13; Laws 1993, LB 732, § 21.

18-2713 Election; procedures.

(1) Before adopting an economic development program, a city shall submit the question of its adoption to the registered voters at an election. The governing body of the city shall order the submission of the question by filing a certified copy of the resolution proposing the economic development program with the election commissioner or county clerk not later than fifty days prior to a special election or a municipal primary or general election which is not held

at the statewide primary or general election or not later than March 1 prior to a statewide primary election or September 1 prior to a statewide general election. The governing body of the city may determine not to submit the question at a particular election and order the removal of the question from the ballot by filing a certified copy of the resolution approving removing the question with the election commissioner or county clerk not later than March 1 prior to a statewide primary election or September 1 prior to a statewide general election.

(2) The question on the ballot shall briefly set out the terms, conditions, and goals of the proposed economic development program, including the length of time during which the program will be in existence, the year or years within which the funds from local sources of revenue are to be collected, the source or sources from which the funds are to be collected, the total amount to be collected for the program from local sources of revenue, and whether the city proposes to issue bonds pursuant to the Local Option Municipal Economic Development Act to provide funds to carry out the economic development program. The ballot question shall also specify whether additional funds from other noncity sources will be sought beyond those derived from local sources of revenue. In addition to all other information, if the funds are to be derived from the city's property tax, the ballot question shall state the present annual cost of the economic development program per ten thousand dollars of assessed valuation based upon the most recent valuation of the city certified to the Property Tax Administrator pursuant to section 77-1613.01. The ballot question shall state: ''Shall the city of (name of the city) establish an economic development program as described here by appropriating annually from local sources of revenue $..... for ..... years?''. If the only city revenue source for the proposed economic development program is a local option sales tax that has not yet been approved at an election, the ballot question specifications in this section may be repeated in the sales tax ballot question.

(3) If a majority of those voting on the issue vote in favor of the question, the governing body may implement the proposed economic development program upon the terms set out in the resolution. If a majority of those voting on the economic development program vote in favor of the question when the only city revenue source is a proposed sales tax and a majority of those voting on the local option sales tax vote against the question, the governing body shall not implement the economic development program, and it shall become null and void. If a majority of those voting on the issue vote against the question, the governing body shall not implement the economic development program.

Source: Laws 1991, LB 840, § 14; Laws 1993, LB 732, § 22; Laws 1995, LB 490, § 23; Laws 2017, LB451, § 1; Laws 2019, LB411, § 22.

18-2714 Economic development program; established by ordinance; amendment; repeal; procedures.

(1) After approval by the voters of an economic development program, the governing body of the city shall, within forty-five days after such approval, establish the economic development program by ordinance in conformity with the terms of such program as set out in the original enabling resolution.

(2) After the adoption of the ordinance establishing the economic development program, such ordinance shall only be amended after the governing body of the city (a) gives notice of and holds at least one public hearing on the

proposed changes, (b) approves the proposed changes by a two-thirds vote of the members of such governing body, and (c) except as provided in subsection (3) of this section, submits the proposed changes to a new vote of the registered voters of the city in the manner provided in section 18-2713.

(3) A new vote of the registered voters of the city is not required for the following types of amendments to an economic development program:

(a) An amendment adding a type of qualifying business to those that are eligible to participate in the economic development program or removing a type of qualifying business from those that are eligible to participate in such program if such addition or removal is recommended by the citizen advisory review committee established under section 18-2715;

(b) An amendment making corrective changes to comply with the Local Option Municipal Economic Development Act; or

(c) An amendment making corrective changes to comply with any other existing or future state or federal law.

(4) The governing body of a city may, at any time after the adoption of the ordinance establishing the economic development program, by a two-thirds vote of the members of the governing body, repeal the ordinance in its entirety and end the economic development program, subject only to the provisions of any existing contracts relating to such program and the rights of any third parties arising from those contracts. Prior to such vote by the governing body, it shall publish notice of its intent to consider the repeal and hold a public hearing on the issue. Any funds in the custody of the city for such economic development program which are not spent or committed at the time of the repeal and any funds to be received in the future from the prior operation of the economic development program shall be placed into the general fund of the city.

Source: Laws 1991, LB 840, § 15; Laws 2011, LB471, § 3; Laws 2016, LB1059, § 7.

18-2715 Citizen advisory review committee; membership; meetings; powers; unauthorized disclosure of information; penalty.

(1) The ordinance establishing the economic development program shall provide for the creation of a citizen advisory review committee. The committee shall consist of not less than five or more than ten registered voters of the city who shall be appointed to the committee by the mayor or chairperson subject to approval by the governing body of the city. At least one member of the committee shall have expertise or experience in the field of business finance or accounting. The ordinance shall designate an appropriate city official or employee with responsibility for the administration of the economic development program to serve as an ex officio member of the committee with responsibility for assisting the committee and providing it with necessary information and advice on the economic development program.

(2) No member of the citizen advisory review committee shall be an elected or appointed city official, a member of any planning commission created under section 19-925, an employee of the city, a participant in a decisionmaking position regarding expenditures of program funds, or an official or employee of any qualifying business receiving financial assistance under the economic

development program or of any financial institution participating directly in the economic development program.

(3) The ordinance shall provide for regular meetings of the citizen advisory review committee to review the functioning and progress of the economic development program and to advise the governing body of the city with regard to the program. At least once in every six-month period after the effective date of the ordinance, the committee shall report to the governing body on its findings and suggestions at a public hearing called for that purpose.

(4) Members of the citizen advisory review committee, in their capacity as members and consistent with their responsibilities as members, may be permitted access to business information received by the city in the course of its administration of the economic development program, which information would otherwise be confidential (a) under section 84-712.05, (b) by agreement with a qualifying business participating in the economic development program, or (c) under any ordinance of the city providing access to such records to members of the committee and guaranteeing the confidentiality of business information received by reason of its administration of the economic development program. Such ordinance may provide that unauthorized disclosure of any business information which is confidential under section 84-712.05 shall be a Class III misdemeanor.

Source: Laws 1991, LB 840, § 16; Laws 1993, LB 732, § 23; Laws 2017, LB383, § 2.

18-2716 Expenditures; budget.

Following the adoption of an ordinance establishing an economic development program, the amount to be expended on the program for the ensuing year or biennial period shall be fixed at the time of making the annual or biennial budget required by law and shall be included in the budget.

Source: Laws 1991, LB 840, § 17; Laws 2000, LB 1116, § 16.

18-2717 Appropriations; restrictions.

(1) No city of the metropolitan class or primary class shall appropriate from funds derived directly from local sources of revenue more than five million dollars for all approved economic development programs in any one year, no city of the first class shall appropriate from funds derived directly from local sources of revenue more than four million dollars for all approved economic development programs in any one year, and no city of the second class or village shall appropriate from funds derived directly from local sources of revenue more than three million dollars for all approved economic development programs in any one year.

(2) Notwithstanding the provisions of subsection (1) of this section, no city shall appropriate from funds derived directly from local sources of revenue an amount for an economic development program in excess of the total amount approved by the voters at the election or elections in which the economic development program was submitted or amended.

(3) The restrictions on the appropriation of funds from local sources of revenue as set out in subsections (1) and (2) of this section shall apply only to the appropriation of funds derived directly from local sources of revenue. Sales tax collections in excess of the amount which may be appropriated as a result

of the restrictions set out in such subsections shall be deposited in the city's economic development fund and invested as provided for in section 18-2718. Any funds in the city's economic development fund not otherwise restricted from appropriation by reason of the city's ordinance governing the economic development program or this section may be appropriated and spent for the purposes of the economic development program in any amount and at any time at the discretion of the governing body of the city subject only to section 18-2716.

(4) The restrictions on the appropriation of funds from local sources of revenue shall not apply to the reappropriation of funds which were appropriated but not expended during previous fiscal years.

Source: Laws 1991, LB 840, § 18; Laws 1992, LB 719A, § 79; Laws 1993, LB 732, § 24; Laws 2000, LB 1258, § 1; Laws 2011, LB471, § 4; Laws 2018, LB614, § 1; Laws 2021, LB163, § 193.

18-2718 Economic development fund; required; use; investment; termination of program; effect; continuation of program; election.

(1) Any city conducting an economic development program shall establish a separate economic development fund. All funds derived from local sources of revenue for the economic development program, any earnings from the investment of such funds including, but not limited to, interest earnings, loan payments, and any proceeds from the sale or rental by the city of assets purchased by the city under its economic development program shall be deposited into the economic development fund. Any proceeds from the issuance and sale of bonds pursuant to the Local Option Municipal Economic Development Act to provide funds to carry out the economic development program, except as provided in section 18-2732, shall be deposited into the economic development fund. Except as provided in this section, subsection (4) of section 18-2714, and subsection (7) of section 18-2722, no money in the economic development fund shall be deposited in the general fund of the city. The city shall not transfer or remove funds from the economic development fund other than for the purposes prescribed in the Local Option Municipal Economic Development Act, and the money in the economic development fund shall not be commingled with any other city funds.

(2) Any money in the economic development fund not currently required or committed for purposes of the economic development program shall be invested as provided for in section 77-2341.

(3) In the event that the city's economic development program is terminated as provided in subsection (4) of section 18-2714 or subsection (7) of section 18-2722, the balance of money in the economic development fund not otherwise committed by contract under the program shall be deposited in the general fund of the city. Any funds received by the city by reason of the economic development program after the termination of such program shall be transferred from the economic development fund to the general fund of the city as such funds are received. The economic development fund shall not be terminated until such time as all projects and contracts related to the program have been finally completed and all funds related to them fully accounted for, with no further city action required, and after the completion of a final audit pursuant to section 18-2721.

(4) When the economic development program is terminated, the governing body of the city shall by resolution certify the amount of money to be transferred from the economic development fund to the general fund of the city and the amount that is anticipated will be received by the city between such time and the final audit of the economic development fund. The sum of those two amounts shall be divided by the number of years in which funds for the economic development program were collected from local sources of revenue. The resulting figure shall constitute the amount to be applied against the budgeted expenditures of the city during each succeeding year until all funds from the economic development program have been expended. The installments shall be used to reduce the property tax levy of the city by that amount in each year in which they are expended.

(5) If, after five full budget years following initiation of the approved economic development program, less than fifty percent of the money collected from local sources of revenue is spent or committed by contract for the economic development program, the governing body of the city shall place the question of the continuation of the city's economic development program on the ballot at the next regular election.

Source: Laws 1991, LB 840, § 19; Laws 1993, LB 732, § 25.

18-2719 Loan fund program; qualifying business; documentation required.

At the time when a qualifying business makes application to a city to participate in a loan fund program, the qualifying business shall provide to the city appropriate documentation evidencing its negotiations with one or more primary lenders and the terms upon which it has received or will receive the portion of the total financing for its activities which will not be provided by the city.

Source: Laws 1991, LB 840, § 20.

18-2720 Loan fund program; loan servicing requirements.

(1) If the economic development program involves the establishment of a loan fund, the governing body of the city shall designate an appropriate individual to assume primary responsibility for loan servicing and shall provide such other assistance or additional personnel as may be required. The individual may be an employee of the city, or the city may contract with an appropriate business or financial institution for loan servicing functions. The governing body of the city shall be provided with an account of the status of each loan outstanding, program income, and current investments of unexpended funds on a monthly basis. Program income shall mean payments of principal and interest on loans made from the loan fund and the interest earned on these funds.

(2) Records kept on such accounts and reports made to the governing body of the city shall include, but not be limited to, the following information: (a) The name of the borrower; (b) the purpose of the loan; (c) the date the loan was made; (d) the amount of the loan; (e) the basic terms of the loan, including the interest rate, the maturity date, and the frequency of payments; and (f) the payments made to date and the current balance due.

(3) The individual responsible for loan servicing shall monitor the status of each loan and, with the cooperation of the governing body of the city and the primary lender or lenders, take appropriate action when a loan becomes

delinquent. The governing body shall establish standards for the determination of loan delinquency, when a loan shall be declared to be in default, and what action shall be taken to deal with the default to protect the interests of the qualifying business, third parties, and the city. The governing body shall establish a process to provide for consultation, agreement, and joint action between the city and the primary lender or lenders in pursuing appropriate remedies following the default of a qualifying business in order to collect amounts owed under the loan.

Source: Laws 1991, LB 840, § 21; Laws 2008, LB895, § 1.

18-2721 Audit.

The city shall provide for an annual, outside, independent audit of its economic development program by a qualified private auditing business. The auditing business shall not, at the time of the audit or for any period during the term subject to the audit, have any contractual or business relationship with any qualifying business receiving funds or assistance under the economic development program or any financial institution directly involved with a qualifying business receiving funds or assistance under the economic development program. The results of such audit shall be filed with the city clerk and made available for public review during normal business hours.

Source: Laws 1991, LB 840, § 22.

18-2722 Continuation of program; election; procedure.

(1) The registered voters of any city that has established an economic development program shall, at any time after one year following the original vote on the program, have the right to vote on the continuation of the economic development program. The question shall be submitted to the voters whenever petitions calling for its submission, signed by registered voters of the city in number equal to at least twenty percent of the number of persons voting in the city at the last preceding general election, are presented to the governing body of the city.

(2) Upon the receipt of the petitions, the governing body of the city shall submit the question at a special election to be held not less than thirty days nor more than forty-five days after receipt of the petitions, except that if any other election is to be held in such city within ninety days of the receipt of the petitions, the governing body may provide for holding the election on the same date.

(3) Notwithstanding the provisions of subsection (2) of this section, if two-thirds of the members of the governing body of the city vote to repeal the ordinance establishing the economic development program within fifteen days of the receipt of the petitions for an election, the economic development program shall end and the election shall not be held.

(4) The governing body shall give notice of the submission of the question of whether to continue the economic development program not more than twenty days nor less than ten days prior to the election by publication one time in one or more legal newspapers published in or of general circulation in the city in which the question is to be submitted. Such notice shall be in addition to any other notice required by the election laws of the state.

(5) The question on the ballot shall generally set out the basic terms and provisions of the economic development program as required for the initial submission, except that the question shall be: ''Shall the city of (name of the city) continue its economic development program?''.

(6) A majority of the registered voters voting on the question at the election shall determine the question. The final vote shall be binding on the city, and the governing body of the city shall act within sixty days of the certification of the vote by the county clerk or the election commissioner to repeal the ordinance establishing the economic development program if a majority of the voters voting on the question vote to discontinue the program.

(7) The repeal of the ordinance and the discontinuation of the economic development program shall be subject only to the provisions of any contracts related to the economic development program and the rights of any third parties arising from those contracts existing on the date of the election. Any funds collected by the city under the economic development program and unexpended for that program on the date of its repeal and any funds received by the city on account of the operation of the economic development program thereafter shall be deposited in the general fund of the city.

Source: Laws 1991, LB 840, § 23; Laws 2021, LB163, § 194.

18-2723 Appropriations and expenditures; exempt.

Appropriations and expenditures made by a city which are authorized by section 13-315 and made according to its provisions shall not be subject to the Local Option Municipal Economic Development Act and shall be exempt from its requirements.

Source: Laws 1991, LB 840, § 3.

18-2724 Issuance of bonds; purpose; not general obligation of city.

Any city which has received voter approval to conduct an economic development program pursuant to the Local Option Municipal Economic Development Act, which program as presented to the voters included the authority to issue bonds pursuant to the act, may from time to time issue bonds as provided in sections 18-2724 to 18-2736. Such bonds shall be in such principal amounts as the city's governing body deems necessary to provide sufficient funds to carry out any of the purposes of and powers granted pursuant to the economic development program, including the establishment or increase of reserves and the payment of all other costs or expenses of the city incident to and necessary or convenient to carry out the economic development program. Principal and interest on the bonds shall be payable from one or more sources which are to be deposited in the economic development fund pursuant to section 18-2718. The bonds shall not be a general obligation of the city or a pledge of its credit or taxing power except to the extent of the obligation of the city to contribute funds to the economic development program pursuant to the act.

Source: Laws 1993, LB 732, § 1.

18-2725 Issuance of bonds; immunity.

The members of a city's governing body and any person executing bonds under section 18-2724 shall not be liable personally on such bonds by reason of the issuance thereof.

Source: Laws 1993, LB 732, § 2.

18-2726 Issuance of bonds; authorization; form.

Bonds issued under section 18-2724 shall be authorized by resolution of the issuing city's governing body, may be issued under a resolution or under a trust indenture or other security instrument in one or more series, and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such place or places, and be subject to such terms of redemption, with or without premium, as such resolution, trust indenture, or other security instrument may provide and without limitation by any other law limiting amounts, maturities, or interest rates. Any officer authorized or designated to sign, countersign, execute, or attest any bond or any coupon may utilize a facsimile signature in lieu of his or her manual signature.

Source: Laws 1993, LB 732, § 3.

18-2727 Bonds; negotiability; sale.

(1) Except as the issuing city's governing body may otherwise provide, any bond and any attached interest coupons shall be fully negotiable within the meaning of and for all purposes of article 8, Uniform Commercial Code.

(2) The bonds may be sold at public or private sale as provided by the city's governing body and at such price or prices as determined by such governing body.

Source: Laws 1993, LB 732, § 4.

18-2728 Bonds; officers' signatures; validity.

If any of the officers whose signatures appear on any bonds or coupons issued under section 18-2724 cease to be such officers before the delivery of such obligations, such signatures shall nevertheless be valid and sufficient for all purposes to the same extent as if such officers had remained in office until such delivery.

Source: Laws 1993, LB 732, § 5.

18-2729 Issuance of bonds; city covenants and powers.

Any city may in connection with the issuance of its bonds under section 18-2724:

(1) Covenant as to the use of any or all of the property, real or personal, acquired pursuant to its economic development program;

(2) Redeem the bonds, covenant for their redemption, and provide the terms and conditions of redemption;

(3) Covenant to charge or seek necessary approval to charge rates, fees, and charges sufficient to meet operating and maintenance expenses of the agency, costs of renewals and replacements to a project, interest and principal pay-

ments, whether at maturity or upon sinking-fund redemption, on any outstanding bonds or other indebtedness of the city, and creation and maintenance of any reasonable reserves therefor and to provide for any margins or coverages over and above debt service on the bonds deemed desirable for the marketability or security of the bonds;

(4) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity, as to the terms and conditions upon which such declaration and its consequences may be waived, and as to the consequences of default and the remedies of bondholders;

(5) Covenant as to the mortgage or pledge of or the grant of any other security interest in any real or personal property and all or any part of the revenue from any property, contract, or other source within the city's economic development program to secure the payment of bonds, subject to such agreements with the holders of outstanding bonds as may then exist;

(6) Covenant as to the custody, collection, securing, investment, and payment of any revenue, assets, money, funds, or property with respect to which the city may have any rights or interest pursuant to the economic development program;

(7) Covenant as to the purposes to which the proceeds from the sale of any bonds may be applied and the pledge of such proceeds to secure the payment of the bonds;

(8) Covenant as to limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

(9) Covenant as to the rank or priority of any bonds with respect to any lien or security;

(10) Covenant as to the procedure by which the terms of any contract with or for the benefit of the bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(11) Covenant as to the custody, safekeeping, and insurance of any of the properties or investments of the city and the use and disposition of insurance proceeds;

(12) Covenant as to the vesting in a trustee or trustees, within or outside the state, of such properties, rights, powers, and duties in trust as the city may determine;

(13) Covenant as to the appointing and providing for the duties and obligations of a paying agent or paying agents or other fiduciaries within or outside the state;

(14) Make all other covenants and do any and all such acts and things as may be necessary, convenient, or desirable in order to secure its bonds or, in the absolute discretion of the city, tend to make the bonds more marketable, notwithstanding that such covenants, acts, or things may not be enumerated in this section; and

(15) Execute all instruments necessary or convenient in the exercise of the economic development program granted or in the performance of covenants or

duties, which instruments may contain such covenants and provisions as any purchaser of bonds may reasonably require.

Source: Laws 1993, LB 732, § 6.

18-2730 Refunding bonds; issuance authorized.

Any city may issue and sell refunding bonds for the purpose of paying or providing for the payment of any of its bonds issued under section 18-2724 at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at any time prior to or at the maturity or redemption of the refunded bonds as the city's governing body deems appropriate. The refunding bonds may be issued in principal amount not exceeding an amount sufficient to pay or to provide for the payment of (1) the principal of the bonds being refunded, (2) any redemption premium thereon, (3) interest accrued or to accrue to the first or any subsequent redemption date or dates selected by the city's governing body in its discretion or to the date or dates of maturity, whichever is determined to be most advantageous or convenient for the city, (4) the expenses of issuing the refunding bonds, including bond discount, and redeeming the bonds being refunded, and (5) such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be deemed necessary or convenient by the governing body of the issuing city. A determination by the governing body that any refinancing is advantageous or necessary, that any of the amounts provided in this section should be included in such refinancing, or that any of the bonds to be refinanced should be called for redemption on the first or any subsequent redemption date or permitted to remain outstanding until their respective dates of maturity shall be conclusive.

Source: Laws 1993, LB 732, § 7.

18-2731 Refunding bonds; use; holder of bonds; payment of interest.

Refunding bonds issued under section 18-2730 may be exchanged for and in payment and discharge of any of the outstanding obligations being refunded. The refunding bonds may be exchanged for a like, greater, or smaller principal amount of the bonds being refunded as the issuing city's governing body may determine in its discretion. The holder or holders of the bonds being refunded need not pay accrued interest on the refunding bonds if and to the extent that interest is due or accrued and unpaid on the bonds being refunded and to be surrendered.

Source: Laws 1993, LB 732, § 8.

18-2732 Refunding bonds; deposit of proceeds in trust; investments authorized; section, how construed.

To the extent not required for the immediate payment and retirement of the obligations being refunded or for the payment of expenses incurred in connection with such refunding and subject to any agreement with the holders of any outstanding bonds, principal proceeds from the sale of any refunding bonds under section 18-2730 shall be deposited in trust to provide for the payment and retirement of the bonds being refunded, payment of interest and any redemption premiums, and payment of any expenses incurred in connection with such refunding, but provision may be made for the pledging and disposition of any surplus, including, but not limited to, provision for the pledging of any such surplus to the payment of the principal of and interest on any issue or

series of refunding bonds. Money in any such trust fund may be invested in direct obligations of or obligations the principal of and interest on which are guaranteed by the United States Government, in obligations of any agency or instrumentality of the United States Government, or in certificates of deposit issued by a bank, capital stock financial institution, qualifying mutual financial institution, or trust company if such certificates are secured by a pledge of any of such obligations having an aggregate market value, exclusive of accrued interest, equal at least to the principal amount of the certificates so secured. Nothing in this section shall be construed as a limitation on the duration of any deposit in trust for the retirement of obligations being refunded but which have not matured and which are not presently redeemable or, if presently redeemable, have not been called for redemption. Section 77-2366 shall apply to deposits in capital stock financial institutions. Section 77-2365.01 shall apply to deposits in qualifying mutual financial institutions.

Source: Laws 1993, LB 732, § 9; Laws 2001, LB 362, § 28.

18-2733 Refunding bonds; general provisions applicable.

The issue of refunding bonds, the manner of sale, the maturities, interest rates, form, and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties, and obligations of the city in respect of the same shall be governed by the provisions of sections 18-2724 to 18-2736 relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

Source: Laws 1993, LB 732, § 10.

18-2734 Issuance of bonds; consent or other conditions not required.

Bonds may be issued under sections 18-2724 to 18-2736 without obtaining the consent of any department, division, commission, board, bureau, or instrumentality of this state and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, or things which are specifically required therefor by such sections, and the validity of and security for any bonds shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions, or things.

Source: Laws 1993, LB 732, § 11.

18-2735 Bonds; securities; investment authorized.

Bonds issued pursuant to sections 18-2724 to 18-2736 shall be securities in which all public officers and instrumentalities of the state and all political subdivisions, insurance companies, trust companies, banks, savings and loan associations, investment companies, executors, administrators, personal representatives, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds shall be securities which may properly and legally be deposited with and received by any officer or instrumentality of this state or any political subdivision for any purpose for which the deposit of bonds or obligations of this state or any political subdivision thereof is now or may hereafter be authorized by law.

Source: Laws 1993, LB 732, § 12.

18-2736 Bonds; tax exempt.

All bonds of a city issued pursuant to sections 18-2724 to 18-2736 are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all taxes.

Source: Laws 1993, LB 732, § 13.

18-2737 Economic development program approved prior to June 1, 1993; bond issuance; authorized; procedure.

(1) Any city which has received voter approval to conduct an economic development program pursuant to the Local Option Municipal Economic Development Act prior to June 1, 1993, may, subject to subsection (2) of this section, issue bonds as provided by the act even though the proposed plan prepared pursuant to section 18-2710 did not contemplate or provide for the issuance of bonds and the question on the ballot approved by the voters did not set out that the city proposed to issue bonds to provide funds to carry out the economic development program.

(2) The governing body of any city proposing to issue bonds pursuant to the authority granted by subsection (1) of this section shall adopt a resolution expressing the intent of the city to issue bonds from time to time pursuant to the act to provide funds to carry out the economic development program. Such resolution shall set a date for a public hearing on the issue of exercising such authority, and notice of such hearing shall be published in a legal newspaper in or of general circulation in the city at least seven days prior to the date of such hearing. Following such hearing, the governing body of the city shall amend or incorporate into the ordinance adopted pursuant to section 18-2714 a provision authorizing the governing body to exercise, in the manner set forth in the act, the authority granted by the act to issue bonds to provide funds to carry out the economic development program.

(3) Any city desiring to exercise the authority granted by this section which complies with the provisions of subsection (2) of this section may exercise the authority to issue bonds as provided in the act.

Source: Laws 1993, LB 732, § 14; Laws 2021, LB163, § 195.

18-2738 Act; supplemental powers; how construed.

The powers conferred by the Local Option Municipal Economic Development Act shall be in addition and supplemental to the powers conferred by any other law and shall be independent of and in addition to any other provisions of the law of Nebraska, including the Community Development Law. The act and all grants of power, authority, rights, or discretion to a city under the act shall be liberally construed, and all incidental powers necessary to carry the act into effect are hereby expressly granted to and conferred upon a city.

Source: Laws 1993, LB 732, § 15.

Cross References

Community Development Law, see section 18-2101.

18-2739 Production of films, commercials, and television programs; qualifying business; duties.

A qualifying business which derives its principal source of income from the production of films, commercials, and television programs and which is utiliz-

ing an economic development program shall (1) provide notice to the Nebraska Film Office or its successor of each project for which the qualifying business intends to utilize the economic development program and (2) acknowledge in the production credits of the film, commercial, or television program the State of Nebraska and the city operating the economic development program. The acknowledgment shall be required only when production credits are displayed and shall not be required if prohibited by local, state, or federal law, rule, or regulation.

Source: Laws 2012, LB863, § 3.

ARTICLE 28

MUNICIPAL PROPRIETARY FUNCTIONS

Section
18-2801. Act, how cited.
18-2802. Purpose of act.
18-2803. Terms, defined.
18-2804. Fiscal year established.
18-2805. Proposed proprietary budget statement; contents; filing.
18-2806. Proposed proprietary budget statement; hearing; procedure; adopted statement; filing.
18-2807. Proprietary function reconciliation statement; when adopted; filing; public hearing; when.
18-2808. Act; exemption; accounting of income.

18-2801 Act, how cited.

Sections 18-2801 to 18-2808 shall be known and may be cited as the Municipal Proprietary Function Act.

Source: Laws 1993, LB 734, § 1.

18-2802 Purpose of act.

The purpose of the Municipal Proprietary Function Act is to require municipal governing bodies of cities of all classes and villages to follow prescribed procedures and make available to the public pertinent financial information with regard to functions of municipal government which generate revenue and expend funds based largely on customer demand.

Source: Laws 1993, LB 734, § 2.

18-2803 Terms, defined.

For purposes of the Municipal Proprietary Function Act:

(1) Fiscal year shall mean the twelve-month period established by each governing body for each proprietary function of municipal government for determining and carrying on its financial affairs for each proprietary function;

(2) Governing body shall mean the city council in the case of a city of any class, including any city with a home rule charter, and the village board of trustees in the case of a village;

(3) Municipal budget statement shall mean a budget statement adopted by a governing body for nonproprietary functions of the municipality under the Nebraska Budget Act;

(4) Proprietary budget statement shall mean a budget adopted by a governing body for each proprietary function pursuant to the Municipal Proprietary Function Act; and

(5) Proprietary function shall mean a water supply or distribution utility, a wastewater collection or treatment utility, an electric generation, transmission, or distribution utility, a gas supply, transmission, or distribution utility, an integrated solid waste management collection, disposal, or handling utility, or a hospital or a nursing home owned by a municipality.

Source: Laws 1993, LB 734, § 3; Laws 2021, LB163, § 196.

Cross References

Nebraska Budget Act, see section 13-501.

18-2804 Fiscal year established.

Each governing body may establish a separate fiscal year for each proprietary function, except that any proprietary function which is subsidized by appropriations from the municipality's general fund shall have the same fiscal year as the municipality. For purposes of this section, subsidization shall mean that the costs of operation of a proprietary function are regularly financed by appropriations from the municipality's general fund in excess of the amount paid by the municipality to the proprietary function for actual service or services received.

Source: Laws 1993, LB 734, § 4.

18-2805 Proposed proprietary budget statement; contents; filing.

(1) At least thirty days prior to the start of the fiscal year of each proprietary function, a proposed proprietary budget statement shall be prepared in writing and filed with the municipal clerk containing the following information:

(a) For the immediately preceding fiscal year, the revenue from all sources, the unencumbered cash balance at the beginning and end of the year, the amount received by taxation, and the amount of actual expenditure;

(b) For the current fiscal year, actual and estimated revenue from all sources separately stated as to each such source, the actual unencumbered cash balance available at the beginning of the year, the amount received from taxation, and the amount of actual and estimated expenditure, whichever is applicable;

(c) For the immediately ensuing fiscal year, an estimate of revenue from all sources separately stated as to each such source, the actual or estimated unencumbered cash balance, whichever is applicable, to be available at the beginning of the year, the amounts proposed to be expended during the fiscal year, and the amount of cash reserve based on actual experience of prior years; and

(d) A uniform summary of the proposed budget statement which shall include a total of all funds maintained for the proprietary function.

(2) Such statement shall contain the estimated cash reserve for each fiscal year and shall note whether or not such reserve is encumbered. The cash reserve projections shall be based upon the actual experience of prior years.

(3) Each proprietary budget statement shall be filed on forms prescribed and furnished by the Auditor of Public Accounts following consultation with repre-

sentatives of such governing bodies as operate proprietary functions subject to the provisions of the Municipal Proprietary Function Act.

Source: Laws 1993, LB 734, § 5; Laws 1999, LB 86, § 9; Laws 2006, LB 1066, § 1.

18-2806 Proposed proprietary budget statement; hearing; procedure; adopted statement; filing.

(1) After a proposed proprietary budget statement is filed with the municipal clerk, the governing body shall conduct a public hearing on such statement. Notice of the time and place of the hearing, a summary of the proposed proprietary budget statement, and notice that the full proposed proprietary budget statement is available for public review with the municipal clerk during normal business hours shall be published one time at least five days prior to the hearing in a legal newspaper in or of general circulation within the governing body's jurisdiction or by mailing to each resident within the governing body's jurisdiction.

(2) After such hearing, the proposed proprietary budget statement shall be adopted or amended and adopted as amended, and a written record shall be kept of such hearing. If the adopted proprietary budget statement reflects a change from the proposed proprietary budget statement presented at the hearing, a copy of the adopted proprietary budget statement shall be filed with the municipal clerk within twenty days after its adoption and published in a legal newspaper in or of general circulation within the governing body's jurisdiction or by mailing to each resident within the governing body's jurisdiction.

Source: Laws 1993, LB 734, § 6; Laws 2021, LB163, § 197.

18-2807 Proprietary function reconciliation statement; when adopted; filing; public hearing; when.

If the actual expenditures for a proprietary function exceed the estimated expenditures in the proprietary budget statement during its fiscal year, the governing body shall adopt a proprietary function reconciliation statement within ninety days after the end of such fiscal year which reflects any difference between the adopted proprietary budget statement for the previous fiscal year and the actual expenditures and revenue for such fiscal year. After adoption of a proprietary function reconciliation statement, it shall be filed with the municipal clerk and published in a legal newspaper in or of general circulation within the governing body's jurisdiction or by mailing to each resident within the governing body's jurisdiction. If the difference between the adopted proprietary budget for the previous fiscal year and the actual expenditures and revenue for such fiscal year is greater than ten percent, the proprietary function reconciliation statement shall only be adopted following a public hearing.

Source: Laws 1993, LB 734, § 7; Laws 2021, LB163, § 198.

18-2808 Act; exemption; accounting of income.

If the budget of a proprietary function is included in the municipal budget statement created pursuant to the Nebraska Budget Act, the Municipal Proprietary Function Act need not be followed for that proprietary function. Any income from a proprietary function which is transferred to the general fund of

the municipality shall be shown as a source of revenue in the municipal budget statement created pursuant to the Nebraska Budget Act.

Source: Laws 1993, LB 734, § 8.

Cross References

Nebraska Budget Act, see section 13-501.

ARTICLE 29
URBAN GROWTH DISTRICTS

Section
18-2901. Urban growth district; authorized; urban growth bonds and refunding bonds.

18-2901 Urban growth district; authorized; urban growth bonds and refunding bonds.

(1) The Legislature recognizes that there is a growing concern among municipalities that infrastructure costs and needs are great, especially in areas that are on the edge of or near the municipal boundaries and in need of development resources, and the governing bodies of municipalities must identify and develop financing mechanisms to respond to all infrastructure needs in an effective and efficient manner. The authorization of urban growth bonds, with local option sales and use tax revenue identified as the source of financing for the bonds, will encourage municipalities to use such revenue to bond infrastructure needs.

(2) The governing body of a municipality may create one or more urban growth districts for the purpose of using local option sales and use tax revenue to finance municipal infrastructure needs. An urban growth district may be in an area along the edge of a municipality's boundary or in any other growth area designated by the governing body, except that the territory of each urban growth district shall be (a) within the municipality's corporate limits and (b) outside the municipality's corporate limits as they existed as of the date twenty years prior to the creation of the urban growth district.

(3) The governing body shall establish an urban growth district by ordinance. The ordinance shall include:

(a) A description of the boundaries of the proposed district; and

(b) The local option sales tax rate and estimated urban growth local option sales and use tax revenue anticipated to be identified as a result of the creation of the district.

(4) Any municipality that has established an urban growth district may, by ordinance approved by a vote of two-thirds of the members of its governing body, authorize the issuance of urban growth bonds and refunding bonds to finance and refinance the construction or improvement of roads, streets, streetscapes, bridges, and related structures within the urban growth district and in any other area of the municipality. The bonds shall be secured as to payment by a pledge, as determined by the municipality, of the urban growth local option sales and use tax revenue and shall mature not later than twenty-five years after the date of issuance. Annual debt service on all bonds issued with respect to an urban growth district pursuant to this section shall not exceed the urban growth local option sales and use tax revenue with respect to such district for the fiscal year prior to the fiscal year in which the current

series of such bonds are issued. For purposes of this section, urban growth local option sales and use tax revenue means the municipality's total local option sales and use tax revenue multiplied by the ratio of the area included in the urban growth district to the total area of the municipality.

(5) The issuance of urban growth bonds by any municipality under the authority of this section shall not be subject to any charter or statutory limitations of indebtedness or be subject to any restrictions imposed upon or conditions precedent to the exercise of the powers of municipalities to issue bonds or evidences of indebtedness which may be contained in such charters or other statutes. Any municipality which issues urban growth bonds under the authority of this section shall levy property taxes upon all the taxable property in the municipality at such rate or rates within any applicable charter, statutory, or constitutional limitations as will provide funds which, together with the urban growth local option sales and use tax revenue pledged to the payment of such bonds and any other money made available and used for that purpose, will be sufficient to pay the principal of and interest on such urban growth bonds as they severally mature.

Source: Laws 2009, LB85, § 1; Laws 2017, LB131, § 1.

ARTICLE 30

PLANNED UNIT DEVELOPMENT

Section
18-3001. Planned unit development ordinance; authorized; planned unit development approval; conditions.

18-3001 Planned unit development ordinance; authorized; planned unit development approval; conditions.

(1) Except as provided in subsection (5) of this section and notwithstanding any provisions of Chapter 14, article 4, Chapter 15, article 9, or Chapter 19, article 9, or of any home rule charter to the contrary, every city or village may include within its zoning ordinance provisions authorizing and regulating planned unit developments within such city or village or within the extraterritorial zoning jurisdiction of such city or village. As used in this section, planned unit development includes any development of a parcel of land or an aggregation of contiguous parcels of land to be developed as a single project which proposes density transfers, density increases, and mixing of land uses, or any combination thereof, based upon the application of site planning criteria. The purpose of such ordinance shall be to permit flexibility in the regulation of land development, to encourage innovation in land use and variety in design, layout, and type of structures constructed, to achieve economy and efficiency in the use of land, natural resources, and energy and the provision of public services and utilities, to encourage the preservation and provision of useful open space, and to provide improved housing, employment, or shopping opportunities particularly suited to the needs of an area.

(2) An ordinance authorizing and regulating planned unit developments shall establish criteria relating to the review of proposed planned unit developments to ensure that the land use or activity proposed through a planned unit development shall be compatible with adjacent uses of land and the capacities of public services and utilities affected by such planned unit development and to ensure that the approval of such planned unit development is consistent with

the public health, safety, and general welfare of the city or village and is in accordance with the comprehensive plan.

(3) Within a planned unit development, regulations relating to the use of land, including permitted uses, lot sizes, setbacks, height limits, required facilities, buffers, open spaces, roadway and parking design, and land-use density shall be determined in accordance with the planned unit development regulations specified in the zoning ordinance. The planned unit development regulations need not be uniform with regard to each type of land use.

(4) The approval of planned unit developments, as authorized under a planned unit development ordinance, shall be generally similar to the procedures established for the approval of zone changes. In approving any planned unit development, a city or village may, either as a condition of the ordinance approving a planned unit development, by covenant, by separate agreement, or otherwise, impose reasonable conditions as deemed necessary to ensure that a planned unit development shall be compatible with adjacent uses of land, will not overburden public services and facilities, and will not be detrimental to the public health, safety, and welfare. Such conditions or agreements may provide for dedications of land for public purposes.

(5) Except as provided in subsection (6) of this section, a city of the second class or village located in a county that has adopted a comprehensive development plan which meets the requirements of section 23-114.02 and is enforcing subdivision regulations shall not finally approve a planned unit development upon property located outside of the corporate boundaries of the city or village until the plans for the planned unit development have been submitted to, reviewed, and approved by the county's planning commission pursuant to subsection (4) of section 17-1002.

(6) A city of the second class or village located in whole or in part within the boundaries of a county having a population in excess of one hundred thousand inhabitants but less than two hundred fifty thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census that has adopted a comprehensive development plan which meets the requirements of section 23-114.02 and is enforcing subdivision regulations shall not finally approve a planned unit development upon property located outside of the corporate boundaries of the city or village until the plans for the planned unit development have been submitted to the county's planning department and public works department for review.

Source: Laws 1983, LB 135, § 1; R.S.1943, (2007), § 19-4401; Laws 2011, LB146, § 1; Laws 2016, LB875, § 1; Laws 2017, LB74, § 4; Laws 2021, LB163, § 199.

ARTICLE 31

MUNICIPAL CUSTODIANSHIP FOR DISSOLVED HOMEOWNERS ASSOCIATIONS ACT

Section
18-3101. Act, how cited.
18-3102. Terms, defined.
18-3103. Municipality; action to be appointed custodian.
18-3104. Appointment of municipality as custodian; findings; hearing; powers; compensation; costs; lien; recording; foreclosure; termination of custodianship; withdrawal or termination of custodianship.

Section
18-3105. Dissolved homeowners association; reinstatement; procedure; fee; Secretary of State; duties; effect of reinstatement.

18-3101 Act, how cited.

Sections 18-3101 to 18-3105 shall be known and may be cited as the Municipal Custodianship for Dissolved Homeowners Associations Act.

Source: Laws 2015, LB304, § 1.

18-3102 Terms, defined.

For purposes of the Municipal Custodianship for Dissolved Homeowners Associations Act, unless the context otherwise requires:

(1) Common area means lot or outlot within a plat or subdivision of real property including the improvements thereon owned or otherwise maintained, cared for, or administered by the homeowners association for the common use, benefit, and enjoyment of its members;

(2) Homeowners association means a nonprofit corporation duly incorporated under the laws of the State of Nebraska for the purpose of enforcing the restrictive covenants established upon the real property legally described in the articles of incorporation which is located within the corporate limits of a municipality, each member of which is an owner of a lot located within the plat or subdivision and, by virtue of membership or ownership of a lot, is obligated to pay costs for the administration, maintenance, and care of the common area within the plat or subdivision. Homeowners association includes associations of residential homeowners, nonresidential property owners, or both;

(3) Lot means any designated parcel of land located within a plat or subdivision to be separately owned, used, developed, or built upon;

(4) Member means an owner that is qualified to be a member of a homeowners association by virtue of ownership of a lot covered by the property described in the declaration and articles of incorporation of a homeowners association dissolved under section 21-19,138;

(5) Municipality means any city or incorporated village of this state;

(6) Owner means the owner of a lot within the plat or subdivision, but does not include a person who has an interest in a lot solely as security for an obligation; and

(7) Real property means the real property described in the articles of incorporation which is located within or to be located within a plat or subdivision approved by a municipality and which is subject to restrictive covenants to be enforced by the homeowners association and filed of record in the office of the register of deeds of the county in which the real property is located.

Source: Laws 2015, LB304, § 2.

18-3103 Municipality; action to be appointed custodian.

In the event a homeowners association is dissolved pursuant to section 21-19,138 and not reinstated pursuant to the Nebraska Nonprofit Corporation Act, any municipality may bring an action to be appointed as custodian to

manage the affairs of the homeowners association as set forth in section 18-3104.

Source: Laws 2015, LB304, § 3.

Cross References

Nebraska Nonprofit Corporation Act, see section 21-1901.

18-3104 Appointment of municipality as custodian; findings; hearing; powers; compensation; costs; lien; recording; foreclosure; termination of custodianship; withdrawal or termination of custodianship.

(1) The district court of the county in which a dissolved homeowners association was previously existing shall, in a proceeding brought by a municipality by petition to the district court, appoint the municipality as custodian to manage the affairs of the homeowners association upon a finding that:

(a) The homeowners association has been administratively dissolved by the Secretary of State pursuant to section 21-19,138;

(b) The homeowners association has failed in one or more of the following ways:

(i) To maintain the common area as required by the municipality's conditions of approval for the plat or subdivision of real property;

(ii) To maintain the common area or private improvements located outside of the common area on the real property in the plat or subdivision in accordance with all terms and conditions of any agreement with the municipality; or

(iii) To comply with any applicable laws, rules, or regulations pertaining to maintenance of the common area or private improvements located outside of the common area on the real property in the plat or subdivision such that the noncompliance is adverse to the interests of the municipality and may result in expenditures by the municipality not otherwise required;

(c) The municipality has made a demand on the members to hold a special meeting to remove and elect new directors and to approve a submission of an application to the Secretary of State for reinstatement pursuant to the Municipal Custodianship for Dissolved Homeowners Associations Act or the Nebraska Nonprofit Corporation Act; and

(d) The members have failed to reinstate the homeowners association within six months after the demand.

(2) The district court shall hold a hearing, after written notification thereof by the petitioner to all parties to the proceeding and any interested persons designated by the court, before appointing a custodian, and the petitioner shall provide sufficient proof of service to the court. Service by first-class mail shall be deemed sufficient service. The district court appointing the custodian shall have exclusive jurisdiction over the homeowners association and all of its property wherever located.

(3) The district court shall describe the powers and duties of the custodian in its appointing order, which order may be amended upon motion and notice to the parties from time to time. Among other powers, the appointing order shall provide that the custodian may exercise all of the powers of the homeowners association, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the association in the best interests of its members. The custodian shall not be liable for the actions or inactions of the

homeowners association and shall maintain all immunities granted to municipalities by applicable law.

(4) Upon application of the custodian, the district court from time to time during the custodianship may order compensation paid and expense disbursements or reimbursements made to the custodian from the assets of the association or proceeds from the sale of the assets. Notice of a hearing to determine compensation and costs shall be provided to all owners and interested parties by the custodian as set forth in subsection (2) of this section, with proof of service provided by the custodian. In the event the district court awards compensation or reimbursement of costs, all such compensation and costs shall be a lien on each and all of the lots in the manner as set forth in subsection (5) of this section. Any court order awarding compensation or reimbursement of costs herein shall identify each lot and the amount of compensation or reimbursement of costs each lot shall be charged as a lien.

(5)(a) A lien created under subsection (4) of this section shall be effective from the time the district court awards the compensation or reimbursement of costs and a notice containing the dollar amount of the lien is recorded in the office where mortgages or deeds of trust are recorded. The lien may be foreclosed in like manner as a mortgage on real estate but the municipality shall give reasonable notice of its action to all other lienholders whose interest would be affected.

(b) A lien created under subsection (4) of this section is prior to all other liens and encumbrances on real estate except (i) liens and encumbrances recorded before the recordation of the declaration or agreement, (ii) a first mortgage or deed of trust on real estate recorded before the notice required under subdivision (5)(a) of this section has been recorded, and (iii) liens for real estate taxes.

(6) In the event the homeowners association is reinstated after appointment of a custodian, any interested party may make a request to the district court for termination of the custodianship.

(7) A custodian may be allowed to withdraw from or terminate the custodianship upon an order from the district court permitting such withdrawal or termination following a hearing for which notice is provided to all owners and interested parties by the custodian.

Source: Laws 2015, LB304, § 4.

Cross References

Nebraska Nonprofit Corporation Act, see section 21-1901.

18-3105 Dissolved homeowners association; reinstatement; procedure; fee; Secretary of State; duties; effect of reinstatement.

(1) Notwithstanding any provision to the contrary in the Nebraska Nonprofit Corporation Act or the articles of incorporation or bylaws of a homeowners association, a homeowners association dissolved pursuant to section 21-19,138 may, in addition to any other procedure allowed by law, apply to the Secretary of State for reinstatement in one or more of the following ways:

(a) An application for reinstatement may be brought at any time after dissolution by an officer or director of the dissolved homeowners association pursuant to section 21-19,139; or

(b) Three or more members of such homeowners association may, at any time after dissolution, call a special meeting to (i) remove and elect new directors

and (ii) approve the submission of an application to the Secretary of State for reinstatement. Such members may set the time and place of the meeting. Notice of the meeting shall be given pursuant to section 21-1955. For purposes of this section only and notwithstanding the declaration, the articles of incorporation, or the bylaws of a dissolved homeowners association, action on matters described in this subsection shall be approved by the affirmative vote of the voters present and voting on the matter. Three members eligible to vote on the matter shall constitute a quorum.

(2) Upon action being taken to apply for reinstatement as set forth in subdivision (1)(a) or (b) of this section, the process for reinstatement set forth in section 21-19,139 shall apply, except that the reinstatement fee for a homeowners association dissolved more than five years shall be one hundred dollars. Nothing in this subsection shall be construed to abolish, modify, or otherwise change any restrictive covenant or other benefit or obligation of membership in a homeowners association.

(3) The application for reinstatement must:

(a) Recite the name of the homeowners association and the effective date of its administrative dissolution;

(b) State that the ground or grounds for dissolution either did not exist or have been eliminated; and

(c) State that the homeowners association's name satisfies the requirements of section 21-1931.

(4) If the Secretary of State determines that the application contains the information required by subdivisions (1)(a) and (b) of this section and that the information is correct, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement reciting that determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the homeowners association under section 21-1937.

(5) When reinstatement is effective, the reinstatement shall relate back to and take effect as of the effective date of the administrative dissolution, and the homeowners association shall resume carrying on its activities as if the administrative dissolution had never occurred.

Source: Laws 2015, LB304, § 5.

Cross References

Nebraska Nonprofit Corporation Act, see section 21-1901.

ARTICLE 32

PROPERTY ASSESSED CLEAN ENERGY ACT

Section
18-3201. Transferred to section 13-3201.
18-3202. Transferred to section 13-3202.
18-3203. Transferred to section 13-3203.
18-3204. Transferred to section 13-3204.
18-3205. Transferred to section 13-3205.
18-3206. Transferred to section 13-3206.
18-3207. Transferred to section 13-3207.
18-3208. Transferred to section 13-3208.
18-3209. Transferred to section 13-3209.
18-3210. Transferred to section 13-3210.

Section
18-3211. Transferred to section 13-3211.

18-3201 Transferred to section 13-3201.

18-3202 Transferred to section 13-3202.

18-3203 Transferred to section 13-3203.

18-3204 Transferred to section 13-3204.

18-3205 Transferred to section 13-3205.

18-3206 Transferred to section 13-3206.

18-3207 Transferred to section 13-3207.

18-3208 Transferred to section 13-3208.

18-3209 Transferred to section 13-3209.

18-3210 Transferred to section 13-3210.

18-3211 Transferred to section 13-3211.

ARTICLE 33
CORPORATE LIMITS

(a) ANNEXATION

Section
18-3301. Contiguous land; annexation; plat; approval; recording; effect.
18-3302. City or village in two or more counties; annexation; petition of owners; procedure.
18-3303. State-owned land; effect of annexation.

(b) PLATTING

18-3304. Additions; plat; contents; duty to file.
18-3305. Additions; plat; acknowledgment; filing.
18-3306. Additions; plat; acknowledgment and recording; effect.
18-3307. Additions; streets and alleys.
18-3308. Additions; plat; how vacated; approval required.
18-3309. Additions; plats; vacation of part; effect.
18-3310. Additions; plat; vacation of part; rights of owners.
18-3311. Additions; plat; vacation; recording.
18-3312. Additions; plat; vacation; right of owner to plat.
18-3313. Additions; plat; failure to execute and record; power of county clerk; costs; collection.
18-3314. Land less than forty acres; ownership in severalty; county clerk may plat.
18-3315. Additions; lots; sale before platting; penalty.

(c) DETACHMENT

18-3316. Detachment of property from corporate limits; procedure.

(a) ANNEXATION

18-3301 Contiguous land; annexation; plat; approval; recording; effect.

(1) Whenever the owner or owners or a majority of the owners of any territory lying contiguous to the corporate limits of any city or village, whether the territory be already in fact subdivided into lots or parcels of ten acres or

less or remains unsubdivided, except as provided in section 13-1115, shall desire to annex such territory to any city or village, they shall first cause an accurate plat or map of the territory to be made, showing such territory subdivided into blocks and lots, conforming as nearly as may be to the blocks, lots, and streets of the adjacent city or village. It shall also show the descriptions and numberings, as provided in section 18-3304, for platting additions, and conforming thereto as nearly as may be.

(2) Such plat or map shall be prepared under the supervision of the city engineer in cases of annexation to adjacent cities, under the supervision of the village engineer in cases of annexation to adjacent villages, and under the supervision of a competent surveyor in any case. A copy of such plat or map, certified by such engineer or surveyor, as the case may be, shall be filed in the office of the city clerk or village clerk, together with a request in writing, signed by a majority of the property owners of the territory described in such plat for the annexation of such territory. The city council or village board of trustees shall, at the next regular meeting after the filing of such plat and request for annexation, vote upon the question of such annexation, and such vote shall be recorded in the minutes of such city council or village board of trustees. If a majority of all the members of the city council or village board of trustees vote for such annexation, an ordinance shall be prepared and passed by the city council or village board of trustees declaring the annexation of such territory to the corporate limits of the city or village.

(3) An accurate map or plat of such territory certified by the city engineer, village engineer, or surveyor and acknowledged and proved as provided by law in such cases shall at once be filed and recorded in the office of the county clerk or register of deeds and county assessor of the proper county, together with a certified copy of the ordinance declaring such annexation, under the seal of the city or village. Upon such filing, the annexation of the adjacent territory shall be deemed complete, and the territory included and described in the plat on file in the office of the county clerk or register of deeds shall be deemed and held to be a part of such city or village, and the inhabitants of such territory shall thereafter enjoy the privileges and benefits of such annexation and be subject to the ordinances and regulations of such city or village.

Source: Laws 1879, § 95, p. 229; Laws 1881, c. 23, § 10, p. 188; R.S.1913, § 5086; C.S.1922, § 4253; C.S.1929, § 17-407; R.S.1943, § 17-405; Laws 1957, c. 51, § 11, p. 243; Laws 1965, c. 64, § 1, p. 281; Laws 1974, LB 757, § 4; R.S.1943, (2012), § 17-405; Laws 2017, LB133, § 312.

This section refers to voluntary annexation by resolution upon request of owners and inhabitants, but not to annexation by ordinance. Holden v. City of Tecumseh, 188 Neb. 117, 195 N.W.2d 225 (1972).

Village cannot annex territory not contiguous to it. Village of Niobrara v. Tichy, 158 Neb. 517, 63 N.W.2d 867 (1954).

Land annexed under section 17-407 is not exempt from taxation for prior city indebtedness because of this section. Gottschalk v. Becher, 32 Neb. 653, 49 N.W. 715 (1891).

18-3302 City or village in two or more counties; annexation; petition of owners; procedure.

Whenever the owner, owners, or a majority of the owners of any territory lying contiguous to the corporate limits of any city or village, the corporate limits of which city or village is situated in two or more counties and, whether the territory shall be situated within or without the counties of which such city or village is a part, except as provided in section 13-1115, shall desire to annex

such territory to such city or village, such territory may be annexed in the manner provided in section 18-3301 and when so annexed shall thereafter be a part of such city or village.

Source: Laws 1903, c. 23, § 1, p. 259; R.S.1913, § 5087; C.S.1922, § 4259; C.S.1929, § 17-408; R.S.1943, § 17-406; Laws 1957, c. 51, § 12, p. 245; R.S.1943, (2012), § 17-406; Laws 2017, LB133, § 313.

18-3303 State-owned land; effect of annexation.

The extension of the corporate limits of any city or village beyond or around any lands belonging to the State of Nebraska shall not affect the status of such state land.

Source: Laws 1917, c. 101, § 2, p. 267; C.S.1922, § 4261; C.S.1929, § 17-410; R.S.1943, § 17-412; R.S.1943, (2012), § 17-412; Laws 2017, LB133, § 314.

(b) PLATTING

18-3304 Additions; plat; contents; duty to file.

Every original owner of any tract or parcel of land, who shall subdivide such tract or parcel into two or more parts for the purpose of laying out any city or village or an addition to any city or village, or suburban lots, shall cause a plat of such subdivision, with references to known or permanent monuments, to be made, which shall accurately describe all subdivisions of such tract or parcel of land, numbering such tract or parcel by progressive numbers, and giving the dimensions and length and breadth of such tract or parcel, and the breadth and courses of all streets and alleys established therein. Descriptions of lots or parcels of land in such subdivisions, according to the number and designation on such plat, in conveyances or for the purposes of taxation, shall be deemed good and valid for all purposes. The duty to file for record a plat as provided in sections 18-3304 to 18-3315 shall attach as a covenant of warranty in all conveyances made of any part or parcel of such subdivision by the original owners against any and all assessments, costs, and damages paid, lost, or incurred by any grantee in consequence of the omission on the part of the owner filing such plat.

Source: Laws 1879, § 104, p. 233; R.S.1913, § 5092; C.S.1922, § 4265; C.S.1929, § 17-414; R.S.1943, § 17-415; Laws 1967, c. 75, § 3, p. 243; R.S.1943, (2012), § 17-415; Laws 2017, LB133, § 315.

When plat of proposed subdivision is prepared, executed, and filed by landowner without any representations by city with regard to disputed easement, it operates as deed of portion of land set apart for public use. Vakoc Constr. Co. v. City of Wayne, 191 Neb. 45, 213 N.W.2d 721 (1974).

Filing of plat is dedication of streets shown thereon. Village of Maxwell v. Booth, 161 Neb. 300, 73 N.W.2d 177 (1955).

Where a plat is filed by the owner and surrounding the lands shown on the plat are continuous boundary lines on which appear the words ''street'', it is equivalent to a deed of the portion so shown as streets in fee simple to the public. City of Schuyler v. Verba, 120 Neb. 729, 235 N.W. 341 (1931).

Dedication deed of lot for street to public must be signed by owner and lienholder without notice is not estopped to deny that he consented to dedication. Morning v. City of Lincoln, 93 Neb. 364, 140 N.W. 638 (1913).

Where land is platted pursuant to this section, the fee simple title to streets and alleys vests in the public, and title is held in trust for the use for which such ways were dedicated. Jaynes v. Omaha Street Ry. Co., 53 Neb. 631, 74 N.W. 67 (1898).

A plat filed with the county clerk and recorded by him becomes an instrument in which the public as well as the proprietor is interested and it should remain in the possession of the county clerk. Lincoln Land Co. v. Ackerman, 24 Neb. 46, 38 N.W. 25 (1888).

Lines actually run and marked on the ground will control over plat in case of variance. Holst v. Streitz, 16 Neb. 249, 20 N.W. 307 (1884).

Where land has been platted, occupied, and taxed for more than twenty-five years, courts will not consider evidence to show that plat was not recorded. Bryant v. Estabrook, 16 Neb. 217, 20 N.W. 245 (1884).

18-3305 Additions; plat; acknowledgment; filing.

Every plat created pursuant to section 18-3304 shall contain a statement to the effect that the subdivision of (here insert a correct description of the land or parcel subdivided), as appears on this plat, is made with the free consent and in accordance with the desire of the undersigned owners and shall be duly acknowledged before some officer authorized to take the acknowledgment of deeds. When thus executed and acknowledged, the plat shall be filed for record and recorded in the office of the register of deeds and county assessor of the proper county.

Source: Laws 1879, § 105, p. 234; R.S.1913, § 5093; C.S.1922, § 4266; C.S.1929, § 17-415; R.S.1943, § 17-416; Laws 1974, LB 757, § 5; R.S.1943, (2012), § 17-416; Laws 2017, LB133, § 316.

When plat of proposed subdivision is prepared, executed, and filed by landowner without any representations by city with regard to disputed easement, it operates as deed of portion of land set apart for public use. Vakoc Constr. Co. v. City of Wayne, 191 Neb. 45, 213 N.W.2d 721 (1974).

Platting is required before county board can establish a village. State ex rel. Schoonover v. Crabill, 136 Neb. 819, 287 N.W. 669 (1939).

If plat is filed and recorded, failure to sign that plat does not make it void. Pillsbury v. Alexander, 40 Neb. 242, 58 N.W. 859 (1894).

18-3306 Additions; plat; acknowledgment and recording; effect.

The acknowledgment and recording of a plat created pursuant to section 18-3304 is equivalent to a deed in fee simple of such portion of the premises platted as is on such plat set apart for streets or other public use or as is on such plat dedicated to charitable, religious, or educational purposes.

Source: Laws 1879, § 106, p. 234; R.S.1913, § 5094; C.S.1922, § 4267; C.S.1929, § 17-416; R.S.1943, § 17-417; R.S.1943, (2012), § 17-417; Laws 2017, LB133, § 317.

1. Effect
2. Miscellaneous

1. Effect

When plat of proposed subdivision is prepared, executed, and filed by landowner without any representations by city with regard to disputed easement, it operates as deed of portion of land set apart for public use. Vakoc Constr. Co. v. City of Wayne, 191 Neb. 45, 213 N.W.2d 721 (1974).

By dedication of plat, landowners transferred the fee in the street to city. Hammer v. Department of Roads, 175 Neb. 178, 120 N.W.2d 909 (1963).

Title conveyed by plat to streets and alleys is a determinable fee. Dell v. City of Lincoln, 170 Neb. 176, 102 N.W.2d 62 (1960).

City was entitled to share in rentals from oil and gas produced from under its streets and alleys. Belgum v. City of Kimball, 163 Neb. 774, 81 N.W.2d 205 (1957).

Filing of plat is dedication of streets shown thereon. Village of Maxwell v. Booth, 161 Neb. 300, 73 N.W.2d 177 (1955).

Where a plat is filed by the undisputed owner and surrounding the land shown in the plat as continuous boundaries there appear the words ''streets'', it is equivalent to a deed in fee simple conveying that portion of the plat set apart as streets. City of Schuyler v. Verba, 120 Neb. 729, 235 N.W. 341 (1931).

Village's acceptance of plat passes fee title of streets and alleys from original owner to the municipality, and village is entitled to grass and other natural products grown thereon. Carroll v. Village of Elmwood, 88 Neb. 352, 129 N.W. 537 (1911).

Where land is platted, the fee simple title to the streets and alleys vests in city. Krueger v. Jenkins, 59 Neb. 641, 81 N.W. 844 (1900).

Where land is platted, the fee simple title to the streets and alleys vests in the public and said title is held in trust for the use to which it was dedicated. Jaynes v. Omaha Street Ry. Co., 53 Neb. 631, 74 N.W. 67 (1898).

A block designated on a plat as a park in the name of the ''party signing and filing the plat'' is a dedication thereof and does not imply a reservation of the block for private use. Ehmen v. Village of Gothenburg, 50 Neb. 715, 70 N.W. 237 (1897).

The acknowledgment and recording of a plat by owner is equivalent to a deed in fee simple to the public to such portion of premises so platted. Lincoln Land Co. v. Ackerman, 24 Neb. 46, 38 N.W. 25 (1888).

2. Miscellaneous

Where lands are platted pursuant to this section and are vacated by written instrument, such vacation divests all public rights therein and the streets so vacated become the property of owners of the adjoining lots. Hart v. Village of Ainsworth, 89 Neb. 418, 131 N.W. 816 (1911).

Where no plat is signed, acknowledged, certified, or filed and the acts of the owner are relied upon to show a dedication of a street by the owners, the intention must be clearly shown that the owner has abandoned the use to the public. City of Omaha v. Hawver, 49 Neb. 1, 67 N.W. 891 (1896).

Where the question whether a block within a plat designated as a park was dedicated to the public, thereby placing title

thereto in a city, is once decided by the highest court of the state, such decision will ordinarily be binding in federal courts. Ehmen v. City of Gothenburg, 200 F. 564 (8th Cir. 1912).

18-3307 Additions; streets and alleys.

Streets and alleys laid out in any addition to any city or village shall be continuous with and correspond in direction and width to the streets and alleys of the city or village to which they are in addition.

Source: Laws 1879, § 107, p. 234; R.S.1913, § 5095; C.S.1922, § 4268; C.S.1929, § 17-417; R.S.1943, § 17-418; R.S.1943, (2012), § 17-418; Laws 2017, LB133, § 318.

18-3308 Additions; plat; how vacated; approval required.

Any plat created pursuant to section 18-3304 may be vacated at any time before the sale of any lots contained in such plat by a written instrument declaring such plat to be vacated. Such written instrument shall be approved by the city council or village board of trustees and shall be duly executed, acknowledged, or proved, and recorded in the same office with the plat to be vacated. The execution and recording of such written instrument shall operate to destroy the force and effect of the recording of the plat so vacated and to divest all public rights in the streets, alleys, commons, and public grounds laid out or described in such plat. In cases when any lots have been sold, the plat may be vacated, as provided in this section, by all the owners of lots in such plat joining in the execution of such written instrument.

Source: Laws 1879, § 108, p. 234; R.S.1913, § 5096; C.S.1922, § 4269; C.S.1929, § 17-418; R.S.1943, § 17-419; Laws 1985, LB 51, § 1; R.S.1943, (2012), § 17-419; Laws 2017, LB133, § 319.

Upon vacation of plat of addition to city of second class, property in streets vacated reverts to adjoining landowner. City of Ord v. Zlomke, 181 Neb. 573, 149 N.W.2d 747 (1967).

Effect of vacation of plat of street is discussed and determined. Dell v. City of Lincoln, 170 Neb. 176, 102 N.W.2d 62 (1960).

Only those property owners whose property abuts on the vacated part of the street need join in the deed of vacation. Village of Hay Springs v. Hay Springs Commercial Co., 131 Neb. 170, 267 N.W. 398 (1936).

18-3309 Additions; plats; vacation of part; effect.

Any part of a plat may be vacated under section 18-3308. Such vacating does not abridge or destroy any of the rights and privileges of other property owners in such plat. Nothing contained in this section shall authorize the closing or obstructing of any public highways laid out according to law.

Source: Laws 1879, § 109, p. 235; R.S.1913, § 5097; C.S.1922, § 4270; C.S.1929, § 17-419; R.S.1943, § 17-420; R.S.1943, (2012), § 17-420; Laws 2017, LB133, § 320.

Closing or obstruction of public highway is not authorized on vacation of plat. City of Ord v. Zlomke, 181 Neb. 573, 149 N.W.2d 747 (1967).

Effect of vacation of plat of street is discussed and determined. Dell v. City of Lincoln, 170 Neb. 176, 102 N.W.2d 62 (1960).

After dedication and acceptance of street, private proprietors of adjoining land cannot vacate or change the dedication. Village of Maxwell v. Booth, 161 Neb. 300, 73 N.W.2d 177 (1955).

That part of this section that provides "nothing contained in this section shall authorize the closing or obstruction of any public highway laid out according to law", does not apply to nominal streets designated on plats which were never used as public highways. Village of Hay Springs v. Hay Springs Commercial Co., 131 Neb. 170, 267 N.W. 398 (1936).

18-3310 Additions; plat; vacation of part; rights of owners.

When any part of a plat shall be vacated as provided in section 18-3308, the owners of the lots so vacated may enclose the streets, alleys, and public grounds adjoining such lots in equal proportions.

Source: Laws 1879, § 110, p. 235; R.S.1913, § 5098; C.S.1922, § 4271; C.S.1929, § 17-420; R.S.1943, § 17-421; R.S.1943, (2012), § 17-421; Laws 2017, LB133, § 321.

Vacated streets are the property of the proprietors of adjoining lots. City of Ord v. Zlomke, 181 Neb. 573, 149 N.W.2d 747 (1967).

Effect of vacation of plat of street is discussed and determined. Dell v. City of Lincoln, 170 Neb. 176, 102 N.W.2d 62 (1960).

Constitutionality of this section stated not to be involved. Village of Hay Springs v. Hay Springs Commercial Co., 131 Neb. 170, 267 N.W. 398 (1936).

18-3311 Additions; plat; vacation; recording.

The county clerk in whose office any vacated plats are recorded shall write in plain, legible letters across that part of such plat so vacated the word, vacated, and also make a reference on the plat to the volume and page in which such instrument of vacation is recorded.

Source: Laws 1879, § 111, p. 235; R.S.1913, § 5099; C.S.1922, § 4272; C.S.1929, § 17-421; R.S.1943, § 17-422; R.S.1943, (2012), § 17-422; Laws 2017, LB133, § 322.

18-3312 Additions; plat; vacation; right of owner to plat.

The owner of any lots in a plat vacated under section 18-3308 may cause such lots and a proportionate part of adjacent streets and public grounds to be platted and numbered by the county surveyor. When such plat is acknowledged by such owner and is recorded in the record office of the county, such lots may be conveyed and assessed by the numbers given them on such plat.

Source: Laws 1879, § 112, p. 235; R.S.1913, § 5100; C.S.1922, § 4273; C.S.1929, § 17-422; R.S.1943, § 17-423; R.S.1943, (2012), § 17-423; Laws 2017, LB133, § 323.

18-3313 Additions; plat; failure to execute and record; power of county clerk; costs; collection.

Whenever the original owners of any subdivision of land as provided in sections 18-3304 and 18-3305 have sold or conveyed any part of such subdivision or invested the public with any rights in such subdivision and have failed and neglected to execute and file for record a plat as provided in sections 18-3304 and 18-3305, the county clerk shall notify such owners by certified mail and demand an execution of such plat as required by law. If such owners fail and neglect to execute and file for record such plat for thirty days following the issuance of such notice, the county clerk shall cause the plat of such subdivision to be made, along with any necessary surveying. Such plat shall be signed and acknowledged by the county clerk, who shall certify that he or she executed it by reason of the failure of the owners required to do so, and filed for record. When so filed for record, it shall have the same effect for all purposes as if executed, acknowledged, and recorded by the owners themselves. A correct statement of the costs and expenses of such plat, surveying, and recording, verified by oath, shall be submitted by the county clerk to the county board, who shall allow such costs and expenses to be paid out of the county treasury and shall assess such amount, pro rata, upon all subdivisions of such

tract, lot, or parcel so subdivided. Such assessment shall be collected with and in like manner as the general taxes and shall go to the county general fund. The county board may also direct suit to be brought in the name of the county, before any court having jurisdiction, to recover from the original owners the cost and expense of procuring and recording such plat.

Source: Laws 1879, § 113, p. 235; R.S.1913, § 5101; C.S.1922, § 4274; C.S.1929, § 17-423; R.S.1943, § 17-424; R.S.1943, (2012), § 17-424; Laws 2017, LB133, § 324.

18-3314 Land less than forty acres; ownership in severalty; county clerk may plat.

Whenever any subdivision of land of forty acres or less or any lot or subdivision is owned by two or more persons in severalty, and the description of one or more of the different parts or parcels cannot, in the judgment of the county clerk, be made sufficiently certain and accurate for the purpose of assessment and taxation without noting the metes and bounds of such parts or parcels, the county clerk shall require and cause to be made and recorded a plat of such tract or lot of land with its several subdivisions, in accordance with section 18-3304. The county clerk shall proceed in such cases according to section 18-3313, and all the provisions of law in relation to the plats of cities and villages shall govern any tracts and parcels of land platted pursuant to this section.

Source: Laws 1879, § 114, p. 236; R.S.1913, § 5102; C.S.1922, § 4275; C.S.1929, § 17-424; R.S.1943, § 17-425; R.S.1943, (2012), § 17-425; Laws 2017, LB133, § 325.

This section has nothing to do with incorporation of cities and villages and, though a method is provided for vacation of plat hereunder, such act of vacating does not have the effect of disconnecting land from a municipality. Kershaw v. Jansen, 49 Neb. 467, 68 N.W. 616 (1896).

18-3315 Additions; lots; sale before platting; penalty.

Any person who sells or offers for sale or lease any lots in any municipality or addition to any municipality, before the plat of such lots has been duly acknowledged and recorded as provided in section 18-3305, shall pay a penalty of fifty dollars for each lot or part of lot sold, leased, or offered for sale.

Source: Laws 1879, § 116, p. 237; R.S.1913, § 5104; C.S.1922, § 4277; C.S.1929, § 17-426; R.S.1943, § 17-426; R.S.1943, (2012), § 17-426; Laws 2017, LB133, § 326.

Platting is required before county board can establish a village. State ex rel. Schoonover v. Crabill, 136 Neb. 819, 287 N.W. 669 (1939).

(c) DETACHMENT

18-3316 Detachment of property from corporate limits; procedure.

(1) Any person owning real property located within and adjacent to the corporate limits of a city of the first class, city of the second class, or village seeking to have such property detached from the corporate limits of such city or village may file a request with the city council or village board of trustees asking that such property be detached. The request shall contain the legal description of the property sought to be detached. If the city council or village board of trustees determines that the property meets the requirements of this

section and that all or a part of such property ought to be detached, the city council or village board of trustees shall adopt an ordinance by a majority vote of its members to order such property detached from the corporate limits of the city or village. The city clerk or village clerk shall file a certified copy of such ordinance in the office of the register of deeds and of the election commissioner or county clerk of the county in which such property is located.

(2) A city of any class or village may initiate detachment of any real property located within and adjacent to the corporate limits of such city or village by first publishing notice in a legal newspaper in or of general circulation in the city or village of the intention of the city or village to detach such property. Such notice shall include a legal description of the property to be detached and shall provide the date, time, and place of the meeting at which the ordinance ordering such property to be detached will be voted on by the city council or village board of trustees. If, by a majority vote of its members, the city council or village board of trustees adopts the ordinance ordering such property detached from the corporate limits of the city or village, the city clerk or village clerk shall file a certified copy of such ordinance in the office of the register of deeds and of the election commissioner or county clerk of the county in which such property is located.

Source: Laws 2021, LB131, § 15.

ARTICLE 34

NEBRASKA MUNICIPAL LAND BANK ACT

Section
18-3401. Act, how cited.
18-3402. Legislative findings and declarations.
18-3403. Terms, defined.
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18-3405. Board; requirements; members; qualifications; vacancy; compensation; removal; meetings; actions of board; liability; automatically accepted bid procedure; reasons.
18-3406. Agents and employees.
18-3407. Land bank; powers; no power of eminent domain; no power to levy or receive revenue from property taxes.
18-3408. Land bank; acquire property; limits; maintenance; accept transfer from land reutilization authority.
18-3409. Exemption from taxation.
18-3410. Land bank; hold property in own name; inventory; consideration for transfer of property; form; powers; priorities for use; limits on certain dispositions.
18-3411. Land bank; funding; real property taxes collected on conveyed property; allocation; notice to county treasurer; when required.
18-3412. Land bank; bonds; issuance; procedure; negotiable instruments; tax exempt; liability; termination of power to issue bonds.
18-3413. Board; minutes; record; meetings; public records; reports.
18-3414. Land bank; dissolution; procedure; notice; assets.
18-3415. Conflicts of interest; board; duties.
18-3416. Taxes or special assessments; lien or claim; discharge and extinguishment; procedure; remit payments to county treasurer.
18-3417. Sale of property for nonpayment of taxes; land bank; power to bid; purchase of tax sale certificate; apply for tax deed or foreclose lien.
18-3418. Sale of property as part of foreclosure proceedings; land bank; powers.

18-3401 Act, how cited.

Sections 18-3401 to 18-3418 shall be known and may be cited as the Nebraska Municipal Land Bank Act.

Source: Laws 2013, LB97, § 1; R.S.Supp.,2018, § 19-5201; Laws 2020, LB424, § 1.

18-3402 Legislative findings and declarations.

The Legislature finds and declares as follows:

(1) Nebraska's municipalities are important to the social and economic vitality of the state, and many municipalities are struggling to cope with vacant, abandoned, and tax-delinquent properties;

(2) Vacant, abandoned, and tax-delinquent properties represent lost revenue to municipalities and large costs associated with demolition, safety hazards, and the deterioration of neighborhoods;

(3) There is an overriding public need to confront the problems caused by vacant, abandoned, and tax-delinquent properties through the creation of new tools for municipalities to use to turn vacant spaces into vibrant places; and

(4) Land banks are one of the tools that can be utilized by municipalities to facilitate the return of vacant, abandoned, and tax-delinquent properties to productive use.

Source: Laws 2013, LB97, § 2; R.S.Supp.,2018, § 19-5202; Laws 2020, LB424, § 2.

18-3403 Terms, defined.

For purposes of the Nebraska Municipal Land Bank Act:

(1) Board means the board of directors of a land bank;

(2) Chief executive officer means the mayor, city manager, or chairperson of the board of trustees of a municipality;

(3) Immediate family has the same meaning as in section 49-1425;

(4) Land bank means a land bank established in accordance with the act;

(5) Municipality means any city or village of this state; and

(6) Real property means lands, lands under water, structures, and any and all easements, air rights, franchises, and incorporeal hereditaments and every estate and right therein, legal and equitable, including terms for years and liens by way of judgment, mortgage, or otherwise, and any and all fixtures and improvements located thereon.

Source: Laws 2013, LB97, § 3; R.S.Supp.,2018, § 19-5203; Laws 2020, LB424, § 3.

18-3404 Creation of land bank; procedure; use of Interlocal Cooperation Act; join by agreement; goal of land bank.

(1) A single municipality may create a land bank if the municipality is a city of the metropolitan class or city of the primary class. Such municipality shall create the land bank by the adoption of an ordinance which specifies the following:

(a) The name of the land bank;

(b) The initial individuals to serve as members of the board and the length of terms for which they are to serve; and

(c) The qualifications and terms of office of members of the board.

(2) Two or more municipalities may elect to enter into an agreement pursuant to the Interlocal Cooperation Act to create a single land bank to act on behalf of such municipalities, which agreement shall contain the information required by subsection (1) of this section.

(3) A municipality may elect to join an existing land bank by entering into an agreement pursuant to the Interlocal Cooperation Act with a city of the metropolitan class or city of the primary class that has created a land bank pursuant to subsection (1) of this section or by joining an existing agreement pursuant to the Interlocal Cooperation Act with the municipalities that formed a land bank pursuant to subsection (2) of this section. Agreements entered into or joined under this subsection shall contain the information required by subsection (1) of this section.

(4) Each land bank created pursuant to the Nebraska Municipal Land Bank Act shall be deemed to be a public corporation acting in a governmental capacity and a political subdivision of the state and shall have permanent and perpetual duration until terminated and dissolved in accordance with section 18-3414.

(5) The primary goal of any land bank shall be to facilitate the return of vacant, abandoned, and tax-delinquent properties to productive use.

Source: Laws 2013, LB97, § 4; R.S.Supp.,2018, § 19-5204; Laws 2020, LB424, § 4.

Cross References

Interlocal Cooperation Act, see section 13-801.

18-3405 Board; requirements; members; qualifications; vacancy; compensation; removal; meetings; actions of board; liability; automatically accepted bid procedure; reasons.

(1) If a land bank is created by a single municipality pursuant to subsection (1) of section 18-3404, the board of such land bank shall meet the following requirements:

(a) The board shall consist of:

(i) Seven voting members appointed by the chief executive officer of the municipality that created the land bank and confirmed by a two-thirds vote of the governing body of such municipality; and

(ii) The following nonvoting members:

(A) The planning director of the municipality that created the land bank or his or her designee or, if there is no planning director, a person designated by the governing body of the municipality that created the land bank;

(B) One member of the governing body of the municipality that created the land bank, appointed by such governing body; and

(C) Such other nonvoting members as are appointed by the chief executive officer of the municipality that created the land bank and confirmed by a two-thirds vote of the governing body of such municipality;

(b) The seven voting members of the board shall be residents of the municipality that created the land bank;

(c) If the governing body of the municipality creating the land bank has any of its members elected by district or ward, then at least one voting member of

the board shall be appointed from each such district or ward. Such voting members shall represent, to the greatest extent possible, the racial and ethnic diversity of the municipality creating the land bank;

(d) The seven voting members of the board shall have, collectively, verifiable skills, expertise, and knowledge in market-rate and affordable residential, commercial, industrial, and mixed-use real estate development, financing, law, purchasing and sales, asset management, economic and community development, and the acquisition of tax sale certificates;

(e) The seven voting members of the board shall include:

(i) At least one member representing a chamber of commerce;

(ii) At least one member with experience in banking;

(iii) At least one member with experience in real estate development;

(iv) At least one member with experience as a realtor;

(v) At least one member with experience in nonprofit or affordable housing; and

(vi) At least one member with experience in large-scale residential or commercial property rental; and

(f) A single voting member may satisfy more than one of the requirements provided in subdivision (1)(e) of this section if he or she has the required qualifications. It is not necessary that there be a different member to fulfill each such requirement.

(2) If a land bank is created by more than one municipality pursuant to an agreement under the Interlocal Cooperation Act as described in subsection (2) or (3) of section 18-3404, the board of such land bank shall meet the following requirements:

(a) The board shall consist of:

(i) An odd number of voting members, totaling at least seven, appointed by the chief executive officers of the municipalities that created the land bank, as mutually agreed to by such chief executive officers, and confirmed by a two-thirds vote of the governing body of each municipality that created the land bank; and

(ii) The following nonvoting members:

(A) The planning director of each municipality that created the land bank or his or her designee or, if there is no planning director for any municipality that created the land bank, a person designated by the governing body of such municipality;

(B) One member of the governing body of each municipality that created the land bank, appointed by the governing body on which such member serves; and

(C) Such other nonvoting members as are appointed by the chief executive officers of the municipalities that created the land bank, as mutually agreed to by such chief executive officers, and confirmed by a two-thirds vote of the governing body of each municipality that created the land bank;

(b) Each voting member of the board shall be a resident of one of the municipalities that created the land bank. If a land bank is created by a city of the metropolitan class or a city of the primary class, at least one voting member of the board shall be appointed from each of the municipalities that created the land bank;

(c) The voting members of the board shall have, collectively, verifiable skills, expertise, and knowledge in market-rate and affordable residential, commercial, industrial, and mixed-use real estate development, financing, law, purchasing and sales, asset management, economic and community development, and the acquisition of tax sale certificates;

(d) The voting members of the board shall include:

(i) At least one member representing a chamber of commerce;

(ii) At least one member with experience in banking;

(iii) At least one member with experience in real estate development;

(iv) At least one member with experience as a realtor;

(v) At least one member with experience in nonprofit or affordable housing; and

(vi) At least one member with experience in large-scale residential or commercial property rental; and

(e) A single voting member may satisfy more than one of the requirements provided in subdivision (2)(d) of this section if he or she has the required qualifications. It is not necessary that there be a different member to fulfill each such requirement.

(3) The members of the board shall select annually from among themselves a chairperson, a vice-chairperson, a treasurer, and such other officers as the board may determine.

(4) A public official or public employee shall be eligible to be a member of the board.

(5) A vacancy on the board among the appointed board members shall be filled not later than six months after the date of such vacancy in the same manner as the original appointment.

(6) Board members shall serve without compensation.

(7) The board shall meet in regular session according to a schedule adopted by the board and shall also meet in special session as convened by the chairperson or upon written notice signed by a majority of the voting members. The presence of a majority of the voting members of the board shall constitute a quorum.

(8) Except as otherwise provided in this section and in sections 18-3410, 18-3417, and 18-3418, all actions of the board shall be approved by the affirmative vote of a majority of the voting members present and voting.

(9) Any action of the board on the following matters shall be approved by a majority of the voting members:

(a) Adoption of bylaws and other rules and regulations for conduct of the land bank's business;

(b) Hiring or firing of any employee or contractor of the land bank. This function may, by majority vote of the voting members, be delegated by the board to a specified officer or committee of the land bank, under such terms and conditions, and to the extent, that the board may specify;

(c) The incurring of debt;

(d) Adoption or amendment of the annual budget; and

(e) Sale, lease, encumbrance, or alienation of real property, improvements, or personal property with a value of more than fifty thousand dollars.

(10) Members of a board shall not be liable personally on the bonds or other obligations of the land bank, and the rights of creditors shall be solely against such land bank.

(11) The board of a land bank created by a city of the metropolitan class that borders a county in which at least three cities of the first class are located shall adopt policies and procedures to specify the conditions that must be met in order for such land bank to give an automatically accepted bid as authorized in sections 18-3417 and 18-3418. The adoption of such policies and procedures shall require the approval of two-thirds of the voting members of the board. At a minimum, such policies and procedures shall ensure that the automatically accepted bid shall only be given for one of the following reasons:

(a) The real property substantially meets more than one of the following criteria as determined by two-thirds of the voting members of the board:

(i) The property is not occupied by the owner or any lessee or licensee of the owner;

(ii) There are no utilities currently being provided to the property;

(iii) Any buildings on the property have been deemed unfit for human habitation, occupancy, or use by local housing officials;

(iv) Any buildings on the property are exposed to the elements such that deterioration of the building is occurring;

(v) Any buildings on the property are boarded up;

(vi) There have been previous efforts to rehabilitate any buildings on the property;

(vii) There is a presence of vermin, uncut vegetation, or debris accumulation on the property;

(viii) There have been past actions by the municipality to maintain the grounds or any building on the property; or

(ix) The property has been out of compliance with orders of local housing officials;

(b) The real property is contiguous to a parcel that meets more than one of the criteria in subdivision (11)(a) of this section or that is already owned by the land bank; or

(c) Acquisition of the real property by the land bank would serve the best interests of the community as determined by two-thirds of the voting members of the board. In determining whether the acquisition would serve the best interests of the community, the board shall take into consideration the hierarchical ranking of priorities for the use of real property conveyed by a land bank established pursuant to subsection (5) of section 18-3410, if any such hierarchical ranking is established.

(12)(a) A member of the board may be removed for neglect of duty, misconduct in office, conviction of any felony, or other good cause as follows:

(i) In the case of a land bank created pursuant to subsection (1) of section 18-3404, a board member may be removed by the chief executive officer of the municipality that created the land bank after such removal has been approved by a two-thirds vote of the governing body of such municipality; or

(ii) In the case of a land bank created pursuant to subsection (2) or (3) of section 18-3404, a board member may be removed by the chief executive officer

of the municipality where the member resides after such removal has been approved by a two-thirds vote of the governing body of such municipality.

(b) Such chief executive officer shall send a notice of removal to such board member, which notice shall set forth the charges against him or her. The member shall be deemed removed from office unless within ten days from the receipt of such notice he or she files a request for a hearing. Such request shall be filed with:

(i) In the case of a land bank created pursuant to subsection (1) of section 18-3404, the city clerk of the city that created the land bank; or

(ii) In the case of a land bank created pursuant to subsection (2) or (3) of section 18-3404, the city clerk or village clerk of the municipality where the member resides.

(c) If a request for hearing is so filed, the governing body of the municipality receiving the request shall hold a hearing not sooner than ten days after the date a hearing is requested, at which hearing the board member shall have the right to appear in person or by counsel and the governing body shall determine whether the removal shall be upheld. If the removal is not upheld by the governing body, the board member shall continue to hold his or her office.

Source: Laws 2013, LB97, § 5; Laws 2016, LB699, § 1; R.S.Supp.,2018, § 19-5205; Laws 2020, LB424, § 5; Laws 2020, LB1003, § 182.

Cross References

Interlocal Cooperation Act, see section 13-801.

18-3406 Agents and employees.

A land bank may employ such agents and employees, permanent or temporary, as it may require, and may determine the qualifications and fix the compensation and benefits of such persons.

Source: Laws 2013, LB97, § 6; R.S.Supp.,2018, § 19-5206; Laws 2020, LB424, § 6.

18-3407 Land bank; powers; no power of eminent domain; no power to levy or receive revenue from property taxes.

(1) A land bank shall have the following powers:

(a) To adopt, amend, and repeal bylaws for the regulation of its affairs and the conduct of its business;

(b) To sue and be sued in its own name and plead and be impleaded in all civil actions;

(c) To borrow money from private lenders, from municipalities, from the state, or from federal government funds as may be necessary for the operation and work of the land bank;

(d) To issue negotiable revenue bonds and notes according to the provisions of the Nebraska Municipal Land Bank Act, except that a land bank shall not issue any bonds on or after November 14, 2020;

(e) To procure insurance or guarantees from the state or federal government of the payments of any debts or parts thereof incurred by the land bank and to pay premiums in connection therewith;

(f) To enter into contracts and other instruments necessary, incidental, or convenient to the performance of its duties and the exercise of its powers, including, but not limited to, agreements under the Interlocal Cooperation Act for the joint administration of multiple land banks or the joint exercise of powers under the Nebraska Municipal Land Bank Act;

(g) To enter into contracts and other instruments necessary, incidental, or convenient to the performance of functions by the land bank on behalf of municipalities or agencies or departments of municipalities, or the performance by municipalities or agencies or departments of municipalities of functions on behalf of the land bank;

(h) To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the land bank;

(i) To provide foreclosure prevention counseling and re-housing assistance;

(j) To procure insurance against losses in connection with the real property, assets, or activities of the land bank;

(k) To invest money of the land bank, at the discretion of the board, in instruments, obligations, securities, or property determined proper by the board and name and use depositories for its money, except that a land bank shall not invest its money in any instrument, obligation, security, or property in which a direct or indirect interest is held by a member of the board or an employee of the land bank, by a board member's or an employee's immediate family, or by a business or entity in which a board member or an employee has a financial interest;

(l) To enter into contracts for the management of, the collection of rent from, or the sale of real property of the land bank;

(m) To design, develop, construct, demolish, reconstruct, rehabilitate, renovate, relocate, and otherwise improve real property or rights or interests in real property of the land bank;

(n) To fix, charge, and collect fees and charges for services provided by the land bank;

(o) To fix, charge, and collect rents and leasehold payments for the use of real property of the land bank for a period not to exceed twelve months, except that such twelve-month limitation shall not apply if the real property of the land bank is subject to a lease with a remaining term of more than twelve months at the time such real property is acquired by the land bank;

(p) To grant or acquire a license, easement, lease, as lessor and as lessee, or option with respect to real property of the land bank;

(q) Except as provided in subsection (8) of section 18-3408, to enter into partnerships, joint ventures, and other collaborative relationships with municipalities and other public and private entities for the ownership, management, development, and disposition of real property; and

(r) To do all other things necessary or convenient to achieve the objectives and purposes of the land bank or other laws that relate to the purposes and responsibilities of the land bank.

(2) A land bank shall neither possess nor exercise the power of eminent domain.

(3) A land bank shall not have the authority to (a) levy property taxes or (b) receive property tax revenue from a political subdivision pursuant to an agreement entered into under the Joint Public Agency Act.

Source: Laws 2013, LB97, § 7; R.S.Supp.,2018, § 19-5207; Laws 2020, LB424, § 7.

Cross References

Interlocal Cooperation Act, see section 13-801.
Joint Public Agency Act, see section 13-2501.

18-3408 Land bank; acquire property; limits; maintenance; accept transfer from land reutilization authority.

(1) A land bank may acquire real property or interests in real property by gift, devise, transfer, exchange, foreclosure, purchase, or otherwise on terms and conditions and in a manner the land bank considers proper.

(2) A land bank may acquire real property or interests in real property by purchase contracts, lease-purchase agreements, installment sales contracts, or land contracts and may accept transfers from political subdivisions upon such terms and conditions as agreed to by the land bank and the political subdivision. Notwithstanding any other law to the contrary, any political subdivision may transfer to the land bank real property and interests in real property of the political subdivision on such terms and conditions and according to such procedures as determined by the political subdivision.

(3) A land bank shall maintain all of its real property in accordance with the laws and ordinances of the jurisdiction in which the real property is located.

(4) A land bank shall not own or hold real property located outside the jurisdictional boundaries of the municipality or municipalities that created the land bank. For purposes of this subsection, jurisdictional boundaries of a municipality does not include the extraterritorial zoning jurisdiction of such municipality.

(5) A land bank may accept transfers of real property and interests in real property from a land reutilization authority on such terms and conditions, and according to such procedures, as mutually determined by the transferring land reutilization authority and the land bank.

(6) A land bank shall not hold legal title at any one time to more than:

(a) Seven percent of the total number of parcels located in a city of the metropolitan class, and no more than ten percent of such parcels shall be zoned as commercial property;

(b) Three percent of the total number of parcels located in a city of the primary class, and no more than five percent of such parcels shall be zoned as commercial property;

(c) Five percent of the total number of parcels located in a city of the first class, and no more than five percent of such parcels shall be zoned as commercial property; or

(d) Ten percent of the total number of parcels located in a city of the second class or village, and no more than five percent of such parcels shall be zoned as commercial property.

(7) A land bank shall not acquire a parcel that is zoned as commercial property unless the parcel has been vacant for at least three years.

(8) Beginning on November 14, 2020, a land bank shall not enter into an agreement with any nonprofit corporation or other private entity for the purpose of temporarily holding real property for such nonprofit corporation or private entity, except that a land bank may enter into such an agreement for the purpose of providing clear title to such real property, but in no case shall such agreement exceed a term of one year.

Source: Laws 2013, LB97, § 8; R.S.Supp.,2018, § 19-5208; Laws 2020, LB424, § 8.

18-3409 Exemption from taxation.

The real property of a land bank and the land bank's income and operations are exempt from all taxation by the state or any political subdivision thereof.

Source: Laws 2013, LB97, § 9; R.S.Supp.,2018, § 19-5209; Laws 2020, LB424, § 9.

18-3410 Land bank; hold property in own name; inventory; consideration for transfer of property; form; powers; priorities for use; limits on certain dispositions.

(1) A land bank shall hold in its own name all real property acquired by the land bank irrespective of the identity of the transferor of such property.

(2) A land bank shall maintain and make available for public review and inspection an inventory of all real property held by the land bank.

(3) A land bank shall determine and set forth in policies and procedures of the board the general terms and conditions for consideration to be received by the land bank for the transfer of real property and interests in real property, which consideration may take the form of monetary payments and secured financial obligations, covenants and conditions related to the present and future use of the property, contractual commitments of the transferee, and such other forms of consideration as determined by the board to be in the best interest of the land bank.

(4) A land bank may convey, exchange, sell, transfer, grant, release and demise, pledge, and hypothecate any and all interests in, upon, or to real property of the land bank. A land bank may lease as lessor real property of the land bank for a period not to exceed twelve months, except that such twelve-month limitation shall not apply if the real property of the land bank is subject to a lease with a remaining term of more than twelve months at the time such real property is acquired by the land bank.

(5) The municipality or municipalities that created the land bank may establish by resolution or ordinance a hierarchical ranking of priorities for the use of real property conveyed by a land bank. Such ranking shall take into consideration the highest and best use that, when possible, will bring the greatest benefit to the community. The priorities may include, but are not limited to, (a) use for purely public spaces and places, (b) use for affordable housing, (c) use for retail, commercial, and industrial activities, (d) use for urban agricultural activities including the establishment of community gardens as defined in section 2-303, and (e) such other uses and in such hierarchical order as determined by the municipality or municipalities.

(6) The municipality or municipalities that created the land bank may require by resolution or ordinance that any particular form of disposition of real

property, or any disposition of real property located within specified jurisdictions, be subject to specified voting and approval requirements of the board. Except and unless restricted or constrained in this manner, the board may delegate to officers and employees the authority to enter into and execute agreements, instruments of conveyance, and all other related documents pertaining to the conveyance of real property by the land bank.

Source: Laws 2013, LB97, § 10; Laws 2016, LB699, § 2; R.S.Supp.,2018, § 19-5210; Laws 2020, LB424, § 10.

18-3411 Land bank; funding; real property taxes collected on conveyed property; allocation; notice to county treasurer; when required.

(1) A land bank may receive funding through grants and loans from the municipality or municipalities that created the land bank, from other municipalities, from the state, from the federal government, and from other public and private sources.

(2) A land bank may receive and retain payments for services rendered, for rents and leasehold payments received, for consideration for disposition of real and personal property, for proceeds of insurance coverage for losses incurred, for income from investments, and for any other asset and activity lawfully permitted to a land bank under the Nebraska Municipal Land Bank Act.

(3)(a) Except as otherwise provided in subdivision (b) of this subsection, fifty percent of the real property taxes collected on real property conveyed by a land bank pursuant to the laws of this state shall be remitted to the land bank. Such allocation of property tax revenue shall commence with the first taxable year following the date of conveyance and shall continue for a period of five years. Such allocation of property tax revenue shall not occur if such taxes have been divided under section 18-2147 as part of a redevelopment project under the Community Development Law, unless the authority, as defined in section 18-2103, enters into an agreement with the land bank for the remittance of such funds to the land bank.

(b) A land bank may, by resolution of the board, elect not to receive the real property taxes described in subdivision (a) of this subsection for any real property conveyed by the land bank. If such an election is made, the land bank shall notify the county treasurer of the county in which the real property is located by filing a copy of the resolution with the county treasurer, and thereafter the county treasurer shall remit such real property taxes to the appropriate taxing entities.

Source: Laws 2013, LB97, § 11; R.S.Supp.,2018, § 19-5211; Laws 2020, LB424, § 11.

Cross References

Community Development Law, see section 18-2101.

18-3412 Land bank; bonds; issuance; procedure; negotiable instruments; tax exempt; liability; termination of power to issue bonds.

(1) Subject to subsection (7) of this section, a land bank shall have the power to issue bonds for any of its corporate purposes, the principal and interest of which are payable from its revenue generally. Any of such bonds shall be secured by a pledge of any revenue of the land bank or by a mortgage of any property of the land bank.

(2) The bonds issued by a land bank are hereby declared to have all the qualities of negotiable instruments under the Uniform Commercial Code.

(3) The bonds of a land bank and the income therefrom shall at all times be exempt from all taxes imposed by the state or any political subdivision thereof.

(4) Bonds issued by the land bank shall be authorized by resolution of the board and shall be limited obligations of the land bank. The principal and interest, costs of issuance, and other costs incidental thereto shall be payable solely from the income and revenue derived from the sale, lease, or other disposition of the assets of the land bank. Any refunding bonds issued shall be payable from any source described above or from the investment of any of the proceeds of the refunding bonds, and shall not constitute an indebtedness or pledge of the general credit of any municipality within the meaning of any constitutional or statutory limitation of indebtedness and shall contain a recital to that effect. Bonds of the land bank shall be issued in such form, shall be in such denominations, shall bear interest, shall mature in such manner, and shall be executed by one or more members of the board as provided in the resolution authorizing the issuance thereof. Such bonds may be subject to redemption at the option of and in the manner determined by the board in the resolution authorizing the issuance thereof.

(5) Bonds issued by the land bank shall be issued, sold, and delivered in accordance with the terms and provisions of a resolution adopted by the board. The board may sell such bonds in such manner, either at public or private sale, and for such price as it may determine to be in the best interests of the land bank. The resolution issuing bonds shall be published in a newspaper of general circulation within the municipality or municipalities that created the land bank.

(6) Neither the members of the board nor any person executing the bonds shall be liable personally on any such bonds by reason of the issuance thereof. Such bonds or other obligations of a land bank shall not be a debt of any municipality and shall so state on their face, nor shall any municipality nor any revenue or any property of any municipality be liable therefor.

(7) A land bank shall not issue any bonds on or after November 14, 2020.

Source: Laws 2013, LB97, § 12; R.S.Supp.,2018, § 19-5212; Laws 2020, LB424, § 12.

18-3413 Board; minutes; record; meetings; public records; reports.

(1) The board shall cause minutes and a record to be kept of all its proceedings. Meetings of the board shall be subject to the Open Meetings Act.

(2) All of a land bank's records and documents shall be considered public records for purposes of sections 84-712 to 84-712.09.

(3) The board shall provide monthly reports to the municipality or municipalities that created the land bank on the board's activities pursuant to the Nebraska Municipal Land Bank Act. The board shall also provide an annual report to the municipality or municipalities that created the land bank, the Speaker of the Legislature, the chairperson of the Executive Board of the Legislative Council, the Revenue Committee of the Legislature, and the Urban Affairs Committee of the Legislature by March 1 of each year summarizing the board's activities for the prior calendar year. The reports submitted to the Legislature shall be submitted electronically.

(4) The annual report required under subsection (3) of this section shall include, but not be limited to:

(a) A listing of each property owned by the land bank at the end of the prior calendar year, including how long each such property has been owned by the land bank and whether such property was acquired utilizing the automatically accepted bid under section 18-3417 or 18-3418;

(b) A list of entities and individuals who received more than two thousand five hundred dollars from the land bank in the prior calendar year;

(c) A list of financial institutions in which the land bank has deposited funds;

(d) The percentage of total parcels located in each municipality which are held by the land bank; and

(e) A statement certifying that all board members and employees of the land bank comply with the conflict of interest requirements in sections 18-3407 and 18-3415.

Source: Laws 2013, LB97, § 13; Laws 2016, LB699, § 3; R.S.Supp.,2018, § 19-5213; Laws 2020, LB424, § 13.

Cross References

Open Meetings Act, see section 84-1407.

18-3414 Land bank; dissolution; procedure; notice; assets.

A land bank may be dissolved sixty calendar days after a resolution of dissolution is approved in accordance with this section. For a land bank created pursuant to subsection (1) of section 18-3404, the resolution of dissolution must be approved by two-thirds of the members of the governing body of the municipality that created the land bank. For a land bank created pursuant to subsection (2) or (3) of section 18-3404, the resolution of dissolution must be approved by a majority of the members of the governing body of each municipality that created the land bank. A governing body shall give sixty calendar days' advance written notice of its consideration of a resolution of dissolution by publishing such notice in a newspaper of general circulation within the municipality or municipalities that created the land bank and shall send such notice by certified mail to the trustee of any outstanding bonds of the land bank. Upon dissolution of the land bank, all real property, personal property, and other assets of the land bank shall become the assets of the municipality or municipalities that created the land bank.

Source: Laws 2013, LB97, § 14; R.S.Supp.,2018, § 19-5214; Laws 2020, LB424, § 14.

18-3415 Conflicts of interest; board; duties.

(1) No member of the board or employee of a land bank shall acquire any interest, direct or indirect, in real property of the land bank, in any real property to be acquired by the land bank, or in any real property to be acquired from the land bank. No member of the board or employee of a land bank shall have any interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used by a land bank. No member of the board or employee of a land bank shall have any interest, direct or indirect, in any investment of the land bank. The restrictions in this subsection shall also apply to a board member's or employee's immediate family and to any business or entity in which the board member or employee has a financial interest.

(2) The board shall adopt:

(a) Rules addressing potential conflicts of interest; and

(b) Ethical guidelines for members of the board and employees of the land bank.

Source: Laws 2013, LB97, § 15; R.S.Supp.,2018, § 19-5215; Laws 2020, LB424, § 15.

18-3416 Taxes or special assessments; lien or claim; discharge and extinguishment; procedure; remit payments to county treasurer.

(1) Whenever any real property is acquired by a land bank and is encumbered by a lien or claim for real property taxes or special assessments owed to one or more political subdivisions of the state, the land bank may, by resolution of the board, discharge and extinguish any and all such liens or claims, except that no lien or claim represented by a tax sale certificate held by a private third party shall be discharged or extinguished pursuant to this section. To the extent necessary and appropriate, the land bank shall file in appropriate public records evidence of the extinguishment and dissolution of such liens or claims.

(2) To the extent that a land bank receives payments of any kind attributable to liens or claims for real property taxes or special assessments owed to a political subdivision on property acquired by the land bank, the land bank shall remit the full amount of the payments to the county treasurer of the county that levied such taxes or special assessments for distribution to the appropriate taxing entity.

Source: Laws 2013, LB97, § 16; R.S.Supp.,2018, § 19-5216; Laws 2020, LB424, § 16.

18-3417 Sale of property for nonpayment of taxes; land bank; power to bid; purchase of tax sale certificate; apply for tax deed or foreclose lien.

(1)(a) At any sale of real property for the nonpayment of taxes conducted pursuant to sections 77-1801 to 77-1863, a land bank may:

(i) Bid on such real property in an amount equal to the total amount of taxes, interest, and costs due on the real property. If a bid is given pursuant to this subdivision, the bid shall not receive any special treatment by the county treasurer and shall be accepted or rejected in the same manner as any other bid on such real property; or

(ii) If a land bank is created by a city of the metropolitan class that borders a county in which at least three cities of the first class are located and if approved by a two-thirds vote of the board, give an automatically accepted bid on such real property in an amount equal to the total amount of taxes, interest, and costs due on the real property. If an automatically accepted bid is given, it shall be accepted by the county treasurer regardless of any other bids on such real property. An automatically accepted bid may be given only if the conditions for making such a bid prescribed by the board pursuant to subsection (11) of section 18-3405 have been met.

(b) If a land bank's bid pursuant to subdivision (1)(a) of this section is accepted by the county treasurer, the land bank shall pay the county treasurer and shall be entitled to a tax sale certificate for such real property.

(2) If a county holds a tax sale certificate pursuant to section 77-1809, a land bank may purchase such tax sale certificate from the county by paying the

county treasurer the amount expressed on the face of the certificate and interest thereon at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date the tax sale certificate was first issued to the county to the date such certificate was purchased by the land bank.

(3)(a) Subdivision (b) of this subsection applies until January 1, 2015. Subdivision (c) of this subsection applies beginning January 1, 2015.

(b) Within six months after the expiration of three years from the date of sale of real property for the nonpayment of taxes pursuant to sections 77-1801 to 77-1863, a land bank that has acquired a tax sale certificate for such real property under this section may:

(i) Apply to the county treasurer for a tax deed for the real property described in the tax sale certificate. A land bank applying for a tax deed shall comply with all the requirements of sections 77-1801 to 77-1863 relating to such tax deed; or

(ii) Foreclose the lien represented by the tax sale certificate as authorized in section 77-1902.

(c) Within nine months after the expiration of three years from the date of sale of real property for the nonpayment of taxes pursuant to sections 77-1801 to 77-1863, a land bank that has acquired a tax sale certificate for such real property under this section may:

(i) Apply to the county treasurer for a tax deed for the real property described in the tax sale certificate. A land bank applying for a tax deed shall comply with all the requirements of sections 77-1801 to 77-1863 relating to such tax deed; or

(ii) Foreclose the lien represented by the tax sale certificate as authorized in section 77-1902.

Source: Laws 2013, LB97, § 17; Laws 2014, LB851, § 1; R.S.Supp.,2018, § 19-5217; Laws 2020, LB424, § 17.

18-3418 Sale of property as part of foreclosure proceedings; land bank; powers.

(1)(a) At any sale of real property conducted as part of foreclosure proceedings under sections 77-1901 to 77-1941, a land bank may:

(i) Bid on such real property in an amount that the land bank would be willing to pay for such real property. If a bid is given pursuant to this subdivision, the bid shall not receive any special treatment by the sheriff conducting the sale and shall be accepted or rejected in the same manner as any other bid on such real property; or

(ii) If a land bank is created by a city of the metropolitan class that borders a county in which at least three cities of the first class are located and if approved by a two-thirds vote of the board, give an automatically accepted bid on such real property in an amount equal to the total amount of taxes, interest, and costs due on the real property. If an automatically accepted bid is given, it shall be accepted by the sheriff regardless of any other bids on such real property. An automatically accepted bid may be given only if the conditions for making such a bid prescribed by the board pursuant to subsection (11) of section 18-3405 have been met and only if the land bank has obtained written consent to the tender of an automatically accepted bid from the holder of a mortgage or the beneficiary or trustee under a trust deed giving rise to a lien against such real property. To obtain such written consent, the land bank shall send, by certified

mail, a notice of its intent to make an automatically accepted bid to any such holder of a mortgage or beneficiary or trustee under a trust deed and shall request that written consent be given within thirty days. If no response is given within such thirty-day time period, such holder of a mortgage or beneficiary or trustee under a trust deed shall be deemed to have given written consent.

(b) If a land bank's bid pursuant to subdivision (1)(a) of this section is accepted by the sheriff, the land bank shall pay the sheriff and shall be entitled to a deed to the real property in accordance with sections 77-1901 to 77-1941.

(2) If a sheriff attempts to sell real property as part of foreclosure proceedings under sections 77-1901 to 77-1941, there is no bid given at such sale equal to the total amount of taxes, interest, and costs due thereon, and the real property being sold lies within a municipality that has created a land bank, then such land bank shall be deemed to have bid the total amount of taxes, interest, and costs due thereon and such bid shall be accepted by the sheriff. The land bank may then discharge and extinguish the liens for delinquent taxes included in the foreclosure proceedings pursuant to section 18-3416. The land bank shall then be entitled to a deed to the real property in accordance with sections 77-1901 to 77-1941. If the acquisition of real property under this subsection would result in a land bank exceeding the total number of parcels that a land bank may hold legal title to pursuant to subsection (6) of section 18-3408, the acquisition of such property shall not be counted towards such limit.

Source: Laws 2013, LB97, § 18; R.S.Supp.,2018, § 19-5218; Laws 2020, LB424, § 18.