

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 143**

Introduced by Langemeier, 23.

Read first time January 09, 2009

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to recreational activities; to amend sections  
2 13-910, 15-258, and 16-226, Reissue Revised Statutes of  
3 Nebraska, and section 14-102, Revised Statutes Cumulative  
4 Supplement, 2008; to adopt the Nebraska Shooting Range  
5 Protection Act; to change provisions relating to the  
6 Political Subdivisions Tort Claims Act; to harmonize  
7 provisions; and to repeal the original sections.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 12 of this act shall be known  
2 and may be cited as the Nebraska Shooting Range Protection Act.

3           Sec. 2. For purposes of the Nebraska Shooting Range  
4 Protection Act:

5           (1) Person means an individual, association,  
6 proprietorship, partnership, corporation, club, political  
7 subdivision, or other legal entity; and

8           (2) Sport shooting range means any property designed and  
9 operated for the use and discharge of firearms, archery, or both.

10          Sec. 3. A person who owns, operates, or uses a sport  
11 shooting range is immune from civil or criminal liability related  
12 to noise resulting from the operation of the sport shooting range  
13 and the discharge of firearms on the sport shooting range.

14          Sec. 4. A person who owns, operates, or uses a sport  
15 shooting range is not subject to any action relating to noise or  
16 lead control laws, rules, regulations, ordinances, or any nuisance  
17 claims, and no court may enjoin or restrain the operation or use  
18 of a sport shooting range on the basis of any noise or lead  
19 control law, rule, regulation, ordinance, or any nuisance claim.  
20 Any standards adopted by a state agency or a city, county, village,  
21 or other political subdivision of the state concerning pollution by  
22 lead, copper, brass, or other substance may not limit or prohibit  
23 the operation of a sport shooting range because of the existence  
24 of lead, copper, brass, or other substance resulting from shooting  
25 activities.

1           Sec. 5. Any sport shooting range that exists on the  
2 effective date of this act may continue to operate as a sport  
3 shooting range, notwithstanding any zoning ordinance enacted  
4 thereafter, if the sport shooting range is a lawful use or a  
5 nonconforming use under any zoning ordinance in effect on the  
6 effective date of this act.

7           Sec. 6. Any sport shooting range that exists on the  
8 effective date of this act may continue to operate as a sport  
9 shooting range notwithstanding, and without regard to, any law,  
10 rule, regulation, ordinance, or resolution related to noise enacted  
11 by any city, county, village, or other political subdivision of the  
12 state.

13           Sec. 7. No city, county, village, or other political  
14 subdivision of the state may enact any law, rule, regulation,  
15 or ordinance regulating or having the effect of regulating the  
16 discharge of a firearm at a sport shooting range. Any such  
17 law, rule, regulation, or ordinance in existence at the time of  
18 the effective date of this act is hereby repealed and may not  
19 be enforced by such city, county, village, or other political  
20 subdivision of the state.

21           Sec. 8. A sport shooting range that exists on the  
22 effective date of this act, even if not in compliance with any  
23 rule, regulation, ordinance, or resolution of a city, county,  
24 village, or any other political subdivision of the state, shall be  
25 permitted to do any of the following if done in compliance with

1 generally recognized operation practices:

2 (1) Repair, remodel, or reinforce any improvement or  
3 facilities or building or structure as may be necessary in the  
4 interest of public safety or to secure the continued use of the  
5 building or improvement;

6 (2) Reconstruct, repair, rebuild, or resume the use of a  
7 facility or building; or

8 (3) Do anything authorized under generally recognized  
9 operation practices, including, but not limited to:

10 (a) Expand or enhance its membership or opportunities for  
11 public participation; and

12 (b) Expand or increase facilities or activities.

13 Sec. 9. A city, county, village, or other political  
14 subdivision of the state may limit the hours between 11:00 p.m. and  
15 6:00 a.m. that an outdoor sport shooting range may operate, except  
16 that such a limitation may not apply to a law enforcement officer  
17 or a member of the United States armed forces.

18 Sec. 10. A person who is shooting in a customary or  
19 generally acceptable manner at a sport shooting range between the  
20 hours of 6:00 a.m. and 11:00 p.m. is presumed to not be engaging  
21 in unlawful conduct merely because of the noise caused by the  
22 shooting.

23 Sec. 11. (1) Except as otherwise provided in the Nebraska  
24 Shooting Range Protection Act, the act does not prohibit a  
25 political subdivision from regulating the location and construction

1 of a sport shooting range.

2 (2) No person, the state, or any political subdivision  
3 shall take title to property which has a sport shooting range by  
4 condemnation, eminent domain, or similar process when the proposed  
5 use of the property would be for shooting-related activities or  
6 recreational activities or for private commercial development.  
7 This subsection does not limit the exercise of eminent domain or  
8 easement necessary for infrastructure additions or improvements,  
9 such as highways, waterways, or utilities.

10 Sec. 12. For any sales of existing structures, new  
11 construction of any structures, and subdivision development located  
12 in whole or in part within five miles of the boundary of any sport  
13 shooting range, an ownership title transfer filed with the county  
14 register of deeds shall contain the following notice:

15 Shooting Range Area

16 This property is located within five (5) miles of an  
17 established sport shooting range. It can be anticipated that  
18 customary uses and activities at this sport shooting range will  
19 be conducted now and in the future. The use and enjoyment of this  
20 property is expressly conditioned on acceptance of any noise or  
21 other effects which may result from these uses and activities.

22 Sec. 13. Section 13-910, Reissue Revised Statutes of  
23 Nebraska, is amended to read:

24 13-910 The Political Subdivisions Tort Claims Act and  
25 sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall not apply

1 to:

2 (1) Any claim based upon an act or omission of an  
3 employee of a political subdivision, exercising due care, in  
4 the execution of a statute, ordinance, or officially adopted  
5 resolution, rule, or regulation, whether or not such statute,  
6 ordinance, resolution, rule, or regulation is valid;

7 (2) Any claim based upon the exercise or performance of  
8 or the failure to exercise or perform a discretionary function or  
9 duty on the part of the political subdivision or an employee of the  
10 political subdivision, whether or not the discretion is abused;

11 (3) Any claim based upon the failure to make an  
12 inspection or making an inadequate or negligent inspection of  
13 any property other than property owned by or leased to such  
14 political subdivision to determine whether the property complies  
15 with or violates any statute, ordinance, rule, or regulation or  
16 contains a hazard to public health or safety unless the political  
17 subdivision had reasonable notice of such hazard or the failure  
18 to inspect or inadequate or negligent inspection constitutes a  
19 reckless disregard for public health or safety;

20 (4) Any claim based upon the issuance, denial,  
21 suspension, or revocation of or failure or refusal to issue,  
22 deny, suspend, or revoke any permit, license, certificate, or  
23 order. Nothing in this subdivision shall be construed to limit  
24 a political subdivision's liability for any claim based upon the  
25 negligent execution by an employee of the political subdivision

1 in the issuance of a certificate of title under the Motor Vehicle  
2 Certificate of Title Act and the State Boat Act;

3 (5) Any claim arising with respect to the assessment or  
4 collection of any tax or fee or the detention of any goods or  
5 merchandise by any law enforcement officer;

6 (6) Any claim caused by the imposition or establishment  
7 of a quarantine by the state or a political subdivision, whether  
8 such quarantine relates to persons or property;

9 (7) Any claim arising out of assault, battery, false  
10 arrest, false imprisonment, malicious prosecution, abuse of  
11 process, libel, slander, misrepresentation, deceit, or interference  
12 with contract rights;

13 (8) Any claim by an employee of the political subdivision  
14 which is covered by the Nebraska Workers' Compensation Act;

15 (9) Any claim arising out of the malfunction,  
16 destruction, or unauthorized removal of any traffic or road sign,  
17 signal, or warning device unless it is not corrected by the  
18 political subdivision responsible within a reasonable time after  
19 actual or constructive notice of such malfunction, destruction, or  
20 removal. Nothing in this subdivision shall give rise to liability  
21 arising from an act or omission of any political subdivision  
22 in placing or removing any traffic or road signs, signals, or  
23 warning devices when such placement or removal is the result of a  
24 discretionary act of the political subdivision;

25 (10) Any claim arising out of snow or ice conditions

1 or other temporary conditions caused by nature on any highway as  
2 defined in section 60-624, bridge, public thoroughfare, or other  
3 public place due to weather conditions. Nothing in this subdivision  
4 shall be construed to limit a political subdivision's liability  
5 for any claim arising out of the operation of a motor vehicle  
6 by an employee of the political subdivision while acting within  
7 the course and scope of his or her employment by the political  
8 subdivision;

9 (11) Any claim arising out of the plan or design for  
10 the construction of or an improvement to any highway as defined  
11 in such section or bridge, either in original construction or any  
12 improvement thereto, if the plan or design is approved in advance  
13 of the construction or improvement by the governing body of the  
14 political subdivision or some other body or employee exercising  
15 discretionary authority to give such approval;

16 (12) Any claim arising out of the alleged insufficiency  
17 or want of repair of any highway as defined in such section,  
18 bridge, or other public thoroughfare. Insufficiency or want of  
19 repair shall be construed to refer to the general or overall  
20 condition and shall not refer to a spot or localized defect. A  
21 political subdivision shall be deemed to waive its immunity for  
22 a claim due to a spot or localized defect only if the political  
23 subdivision has had actual or constructive notice of the defect  
24 within a reasonable time to allow repair prior to the incident  
25 giving rise to the claim; or

1           (13) (a) Any claim relating to recreational activities for  
2 which no fee is charged (i) resulting from the inherent risk of  
3 the recreational activity, (ii) arising out of a spot or localized  
4 defect of the premises unless the spot or localized defect is  
5 not corrected by the political subdivision leasing, owning, or  
6 in control of the premises within a reasonable time after actual  
7 or constructive notice of the spot or localized defect, or (iii)  
8 arising out of the design of a skatepark or bicycle motocross  
9 park constructed for purposes of skateboarding, inline skating,  
10 bicycling, or scootering that was constructed or reconstructed,  
11 reasonably and in good faith, in accordance with generally  
12 recognized engineering or safety standards or design theories  
13 in existence at the time of the construction or reconstruction.  
14 For purposes of this subdivision, a political subdivision shall be  
15 charged with constructive notice only when the failure to discover  
16 the spot or localized defect of the premises is the result of gross  
17 negligence.

18           (b) For purposes of this subdivision:

19           (i) Recreational activities include, but are not  
20 limited to, whether as a participant or spectator: Hunting,  
21 fishing, sport shooting, swimming, boating, camping, picnicking,  
22 hiking, walking, running, horseback riding, use of trails, nature  
23 study, waterskiing, winter sports, use of playground equipment,  
24 biking, roller blading, skateboarding, golfing, athletic contests;  
25 visiting, viewing, or enjoying entertainment events, festivals,

1 or historical, archaeological, scenic, or scientific sites; and  
2 similar leisure activities;

3 (ii) Inherent risk of recreational activities means those  
4 risks that are characteristic of, intrinsic to, or an integral part  
5 of the activity;

6 (iii) Gross negligence means the absence of even slight  
7 care in the performance of a duty involving an unreasonable risk of  
8 harm; and

9 (iv) Fee means a fee to participate in or be a spectator  
10 at a recreational activity. A fee shall include payment by the  
11 claimant to any person or organization other than the political  
12 subdivision only to the extent the political subdivision retains  
13 control over the premises or the activity. A fee shall not include  
14 payment of a fee or charge for parking or vehicle entry.

15 (c) This subdivision, and not subdivision (3) of this  
16 section, shall apply to any claim arising from the inspection  
17 or failure to make an inspection or negligent inspection of  
18 premises owned or leased by the political subdivision and used for  
19 recreational activities.

20 Sec. 14. Section 14-102, Revised Statutes Cumulative  
21 Supplement, 2008, is amended to read:

22 14-102 In addition to the powers granted in section  
23 14-101, cities of the metropolitan class shall have power by  
24 ordinance:

25 Taxes, special assessments.

1           (1) To levy any tax or special assessment authorized by  
2 law;

3           Corporate seal.

4           (2) To provide a corporate seal for the use of the city,  
5 and also any official seal for the use of any officer, board,  
6 or agent of the city, whose duties under this act or under any  
7 ordinance require an official seal to be used. Such corporate  
8 seal shall be used in the execution of municipal bonds, warrants,  
9 conveyances, and other instruments and proceedings as this act or  
10 the ordinances of the city require;

11           Regulation of public health.

12           (3) To provide all needful rules and regulations for the  
13 protection and preservation of health within the city; and for this  
14 purpose they may provide for the enforcement of the use of water  
15 from public water supplies when the use of water from other sources  
16 shall be deemed unsafe;

17           Appropriations for debts and expenses.

18           (4) To appropriate money and provide for the payment of  
19 debts and expenses of the city;

20           Protection of strangers and travelers.

21           (5) To adopt all such measures as they may deem necessary  
22 for the accommodation and protection of strangers and the traveling  
23 public in person and property;

24           Concealed weapons, firearms, fireworks, explosives.

25           (6) To punish and prevent the carrying of concealed

1 weapons and the discharge of firearms, fireworks, or explosives  
2 of any description within the city, other than the discharge  
3 of firearms at a sport shooting range pursuant to the Nebraska  
4 Shooting Range Act;

5 Sale of foodstuffs.

6 (7) To regulate the inspection and sale of meats, flour,  
7 poultry, fish, milk, vegetables, and all other provisions or  
8 articles of food exposed or offered for sale in the city;

9 Official bonds.

10 (8) To require all officers or servants elected or  
11 appointed in pursuance of this act to give bond and security for  
12 the faithful performance of their duties; but no officer shall  
13 become security upon the official bond of another or upon any bond  
14 executed to the city;

15 Official reports of city officers.

16 (9) To require from any officer of the city at any time a  
17 report, in detail, of the transactions of his or her office or any  
18 matter connected therewith;

19 Cruelty to children and animals.

20 (10) To provide for the prevention of cruelty to children  
21 and animals;

22 Dogs; taxes and restrictions.

23 (11) To regulate, license, or prohibit the running at  
24 large of dogs and other animals within the city as well as in areas  
25 within three miles of the corporate limits of the city, to guard

1 against injuries or annoyance from such dogs and other animals, and  
2 to authorize the destruction of the dogs and other animals when  
3 running at large contrary to the provisions of any ordinance. Any  
4 licensing provision shall comply with subsection (2) of section  
5 54-603 for service animals;

6           Cleaning sidewalks.

7           (12) To provide for keeping sidewalks clean and free  
8 from obstructions and accumulations, to provide for the assessment  
9 and collection of taxes on real estate and for the sale and  
10 conveyance thereof, and to pay the expenses of keeping the sidewalk  
11 adjacent to such real estate clean and free from obstructions and  
12 accumulations as herein provided;

13           Planting and trimming of trees; protection of birds.

14           (13) To provide for the planting and protection of shade  
15 or ornamental and useful trees upon the streets or boulevards,  
16 to assess the cost thereof to the extent of benefits upon the  
17 abutting property as a special assessment, and to provide for the  
18 protection of birds and animals and their nests; to provide for  
19 the trimming of trees located upon the streets and boulevards or  
20 when the branches of trees overhang the streets and boulevards when  
21 in the judgment of the mayor and council such trimming is made  
22 necessary to properly light such street or boulevard or to furnish  
23 proper police protection and to assess the cost thereof upon the  
24 abutting property as a special assessment;

25           Naming and numbering streets and houses.

1           (14) To provide for, regulate, and require the numbering  
2 or renumbering of houses along public streets or avenues; to care  
3 for and control and to name and rename streets, avenues, parks, and  
4 squares within the city;

5           Weeds.

6           (15) To require weeds and worthless vegetation growing  
7 upon any lot or piece of ground within the city to be cut and  
8 destroyed so as to abate any nuisance occasioned thereby, to  
9 prohibit and control the throwing, depositing, or accumulation of  
10 litter on any lot or piece of ground within the city and to require  
11 the removal thereof so as to abate any nuisance occasioned thereby,  
12 and if the owner fails to cut and destroy weeds and worthless  
13 vegetation or remove litter, or both, after notice as required  
14 by ordinance, to assess the cost thereof upon the lots or lands  
15 as a special assessment. The notice required to be given may be  
16 by publication in the official newspaper of the city and may be  
17 directed in general terms to the owners of lots and lands affected  
18 without naming such owners;

19           Animals running at large.

20           (16) To prohibit and regulate the running at large or  
21 the herding or driving of domestic animals, such as hogs, cattle,  
22 horses, sheep, goats, fowls, or animals of any kind or description  
23 within the corporate limits and provide for the impounding of  
24 all animals running at large, herded, or driven contrary to such  
25 prohibition; and to provide for the forfeiture and sale of animals

1 impounded to pay the expense of taking up, caring for, and selling  
2 such impounded animals, including the cost of advertising and fees  
3 of officers;

4 Use of streets.

5 (17) To regulate the transportation of articles through  
6 the streets, to prevent injuries to the streets from overloaded  
7 vehicles, and to regulate the width of wagon tires and tires of  
8 other vehicles;

9 Playing on streets and sidewalks.

10 (18) To prevent or regulate the rolling of hoops, playing  
11 of ball, flying of kites, the riding of bicycles or tricycles, or  
12 any other amusement or practice having a tendency to annoy persons  
13 passing in the streets or on the sidewalks or to frighten teams or  
14 horses; to regulate the use of vehicles propelled by steam, gas,  
15 electricity, or other motive power, operated on the streets of the  
16 city;

17 Combustibles and explosives.

18 (19) To regulate or prohibit the transportation and  
19 keeping of gunpowder, oils, and other combustible and explosive  
20 articles;

21 Public sale of chattels on streets.

22 (20) To regulate, license, or prohibit the sale of  
23 domestic animals or of goods, wares, and merchandise at public  
24 auction on the streets, alleys, highways, or any public ground  
25 within the city;

1           Signs and obstruction in streets.

2           (21) To regulate and prevent the use of streets,  
3 sidewalks, and public grounds for signs, posts, awnings, awning  
4 posts, scales, or other like purposes; to regulate and prohibit  
5 the exhibition or carrying or conveying of banners, placards,  
6 advertisements, or the distribution or posting of advertisements or  
7 handbills in the streets or public grounds or upon the sidewalks;

8           Disorderly conduct.

9           (22) To provide for the punishment of persons disturbing  
10 the peace and good order of the city by clamor and noise,  
11 intoxication, drunkenness, fighting, or using obscene or profane  
12 language in the streets or other public places or otherwise  
13 violating the public peace by indecent or disorderly conduct or by  
14 lewd and lascivious behavior;

15           Vagrants and tramps.

16           (23) To provide for the punishment of vagrants, tramps,  
17 common street beggars, common prostitutes, habitual disturbers of  
18 the peace, pickpockets, gamblers, burglars, thieves, or persons who  
19 practice any game, trick, or device with intent to swindle, persons  
20 who abuse their families, and suspicious persons who can give no  
21 reasonable account of themselves; and to punish trespassers upon  
22 private property;

23           Disorderly houses, gambling, offenses against public  
24 morals.

25           (24) To prohibit, restrain, and suppress tippling shops,

1 houses of prostitution, opium joints, gambling houses, prize  
2 fighting, dog fighting, cock fighting, and other disorderly houses  
3 and practices, all games and gambling and desecration of the  
4 Sabbath, commonly called Sunday, and all kinds of indecencies; to  
5 regulate and license or prohibit the keeping and use of billiard  
6 tables, ten pins or ball alleys, shooting galleries except as  
7 provided in the Nebraska Shooting Range Protection Act, and other  
8 similar places of amusement; and to prohibit and suppress all  
9 lotteries and gift enterprises of all kinds under whatsoever name  
10 carried on, except that nothing in this subdivision shall be  
11 construed to apply to bingo, lotteries, lotteries by the sale of  
12 pickle cards, or raffles conducted in accordance with the Nebraska  
13 Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle  
14 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the  
15 State Lottery Act;

16           Police regulation in general.

17           (25) To make and enforce all police regulations for the  
18 good government, general welfare, health, safety, and security  
19 of the city and the citizens thereof in addition to the police  
20 powers expressly granted herein; and in the exercise of the police  
21 power, to pass all needful and proper ordinances and impose fines,  
22 forfeitures, penalties, and imprisonment at hard labor for the  
23 violation of any ordinance, and to provide for the recovery,  
24 collection, and enforcement thereof; and in default of payment to  
25 provide for confinement in the city or county prison, workhouse,

1 or other place of confinement with or without hard labor as may be  
2 provided by ordinance;

3 Fast driving on streets.

4 (26) To prevent horseracing and immoderate driving or  
5 riding on the street and to compel persons to fasten their horses  
6 or other animals attached to vehicles while standing in the  
7 streets;

8 Libraries, art galleries, and museums.

9 (27) To establish and maintain public libraries, reading  
10 rooms, art galleries, and museums and to provide the necessary  
11 grounds or buildings therefor; to purchase books, papers, maps,  
12 manuscripts, works of art, and objects of natural or of scientific  
13 curiosity, and instruction therefor; to receive donations and  
14 bequests of money or property for the same in trust or otherwise  
15 and to pass necessary bylaws and regulations for the protection and  
16 government of the same;

17 Hospitals, workhouses, jails, firehouses, etc.; garbage  
18 disposal.

19 (28) To erect, designate, establish, maintain, and  
20 regulate hospitals or workhouses, houses of correction, jails,  
21 station houses, fire engine houses, asphalt repair plants, and  
22 other necessary buildings; and to erect, designate, establish,  
23 maintain, and regulate plants for the removal, disposal, or  
24 recycling of garbage and refuse or to make contracts for garbage  
25 and refuse removal, disposal, or recycling, or all of the same, and

1 to charge equitable fees for such removal, disposal, or recycling,  
2 or all of the same, except as hereinafter provided. The fees  
3 collected pursuant to this subdivision shall be credited to a  
4 single fund to be used exclusively by the city for the removal,  
5 disposal, or recycling of garbage and refuse, or all of the same,  
6 including any costs incurred for collecting the fee. Before any  
7 contract for such removal, disposal, or recycling is let, the  
8 city council shall make specifications therefor, bids shall be  
9 advertised for as now provided by law, and the contract shall be  
10 let to the lowest and best bidder, who shall furnish bond to the  
11 city conditioned upon his or her carrying out the terms of the  
12 contract, the bond to be approved by the city council. Nothing  
13 in this act, and no contract or regulation made by the city  
14 council, shall be so construed as to prohibit any person, firm,  
15 or corporation engaged in any business in which garbage or refuse  
16 accumulates as a byproduct from selling, recycling, or otherwise  
17 disposing of his, her, or its garbage or refuse or hauling such  
18 garbage or refuse through the streets and alleys under such uniform  
19 and reasonable regulations as the city council may by ordinance  
20 prescribe for the removal and hauling of garbage or refuse;

21 Market places.

22 (29) To erect and establish market houses and market  
23 places and to provide for the erection of all other useful and  
24 necessary buildings for the use of the city and for the protection  
25 and safety of all property owned by the city; and such market

1 houses and market places and buildings aforesaid may be located on  
2 any street, alley, or public ground or on land purchased for such  
3 purpose;

4 Cemeteries, registers of births and deaths.

5 (30) To prohibit the establishment of additional  
6 cemeteries within the limits of the city, to regulate the  
7 registration of births and deaths, to direct the keeping and  
8 returning of bills of mortality, and to impose penalties on  
9 physicians, sextons, and others for any default in the premises;

10 Plumbing, etc., inspection.

11 (31) To provide for the inspection of steam boilers,  
12 electric light appliances, pipefittings, and plumbings, to regulate  
13 their erection and construction, to appoint inspectors, and to  
14 declare their powers and duties, except as herein otherwise  
15 provided;

16 Fire limits and fire protection.

17 (32) To prescribe fire limits and regulate the erection  
18 of all buildings and other structures within the corporate limits;  
19 to provide for the removal of any buildings or structures or  
20 additions thereto erected contrary to such regulations, to provide  
21 for the removal of dangerous buildings, and to provide that wooden  
22 buildings shall not be erected or placed or repaired in the fire  
23 limits; but such ordinance shall not be suspended or modified by  
24 resolution nor shall exceptions be made by ordinance or resolution  
25 in favor of any person, firm, or corporation or concerning any

1 particular lot or building; to direct that all and any building  
2 within such fire limits, when the same shall have been damaged by  
3 fire, decay, or otherwise, to the extent of fifty percent of the  
4 value of a similar new building above the foundation, shall be torn  
5 down or removed; and to prescribe the manner of ascertaining such  
6 damages and to assess the cost of removal of any building erected  
7 or existing contrary to such regulations or provisions, against the  
8 lot or real estate upon which such building or structure is located  
9 or shall be erected, or to collect such costs from the owner of  
10 any such building or structure and enforce such collection by civil  
11 action in any court of competent jurisdiction;

12 Building regulations.

13 (33) To regulate the construction, use, and maintenance  
14 of party walls, to prescribe and regulate the thickness, strength,  
15 and manner of constructing stone, brick, wood, or other buildings  
16 and the size and shape of brick and other material placed therein,  
17 to prescribe and regulate the construction and arrangement of fire  
18 escapes and the placing of iron and metallic shutters and doors  
19 therein and thereon, and to provide for the inspection of elevators  
20 and hoist-way openings to avoid accidents; to prescribe, regulate,  
21 and provide for the inspection of all plumbing, pipefitting, or  
22 sewer connections in all houses or buildings now or hereafter  
23 erected; to regulate the size, number, and manner of construction  
24 of halls, doors, stairways, seats, aisles, and passageways of  
25 theaters, tenement houses, audience rooms, and all buildings of

1 a public character, whether now built or hereafter to be built,  
2 so that there may be convenient, safe, and speedy exit in case  
3 of fire; to prevent the dangerous construction and condition of  
4 chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers,  
5 and heating appliances used in or about any building or a  
6 manufactory and to cause the same to be removed or placed in  
7 safe condition when they are considered dangerous; to regulate and  
8 prevent the carrying on of manufactures dangerous in causing and  
9 promoting fires; to prevent the deposit of ashes in unsafe places  
10 and to cause such buildings and enclosures as may be in a dangerous  
11 state to be put in a safe condition; to prevent the disposing of  
12 and delivery or use in any building or other structure, of soft,  
13 shelly, or imperfectly burned brick or other unsuitable building  
14 material within the city limits and provide for the inspection of  
15 the same; to provide for the abatement of dense volumes of smoke;  
16 to regulate the construction of areaways, stairways, and vaults  
17 and to regulate partition fences; to enforce proper heating and  
18 ventilation of buildings used for schools, workhouses, or shops of  
19 every class in which labor is employed or large numbers of persons  
20 are liable to congregate;

21 Warehouses and street railways.

22 (34) To regulate levees, depots and depot grounds, and  
23 places for storing freight and goods and to provide for and  
24 regulate the laying of tracks and the passage of steam or other  
25 railways through the streets, alleys, and public grounds of the

1 city;

2 Lighting railroad property.

3 (35) To require the lighting of any railway within the  
4 city, the cars of which are propelled by steam, and to fix and  
5 determine the number, size, and style of lampposts, burners, lamps,  
6 and all other fixtures and apparatus necessary for such lighting  
7 and the points of location for such lampposts; and in case any  
8 company owning or operating such railways shall fail to comply with  
9 such requirements, the council may cause the same to be done and  
10 may assess the expense thereof against such company, and the same  
11 shall constitute a lien upon any real estate belonging to such  
12 company and lying within such city and may be collected in the same  
13 manner as taxes for general purposes;

14 City publicity.

15 (36) To provide for necessary publicity and to  
16 appropriate money for the purpose of advertising the resources and  
17 advantages of the city;

18 Offstreet parking.

19 (37) To erect, establish, and maintain offstreet parking  
20 areas on publicly owned property located beneath any elevated  
21 segment of the National System of Interstate and Defense Highways  
22 or portion thereof, or public property title to which is in the  
23 city on May 12, 1971, or property owned by the city and used in  
24 conjunction with and incidental to city-operated facilities, and to  
25 regulate parking thereon by time limitation devises or by lease;

1           Public passenger transportation systems.

2           (38) To acquire, by the exercise of the power of eminent  
3 domain or otherwise, lease, purchase, construct, own, maintain,  
4 operate, or contract for the operation of public passenger  
5 transportation systems, excluding taxicabs and railroad systems,  
6 including all property and facilities required therefor, within and  
7 without the limits of the city, to redeem such property from prior  
8 encumbrance in order to protect or preserve the interest of the  
9 city therein, to exercise all powers granted by the Constitution  
10 of Nebraska and laws of the State of Nebraska or exercised by or  
11 pursuant to a home rule charter adopted pursuant thereto, including  
12 but not limited to receiving and accepting from the government of  
13 the United States or any agency thereof, from the State of Nebraska  
14 or any subdivision thereof, and from any person or corporation  
15 donations, devises, gifts, bequests, loans, or grants for or in  
16 aid of the acquisition, operation, and maintenance of such public  
17 passenger transportation systems and to administer, hold, use, and  
18 apply the same for the purposes for which such donations, devises,  
19 gifts, bequests, loans, or grants may have been made, to negotiate  
20 with employees and enter into contracts of employment, to employ  
21 by contract or otherwise individuals singularly or collectively, to  
22 enter into agreements authorized under the Interlocal Cooperation  
23 Act or the Joint Public Agency Act, to contract with an operating  
24 and management company for the purpose of operating, servicing, and  
25 maintaining any public passenger transportation systems any city

1 of the metropolitan class shall acquire under the provisions of  
2 this act, and to exercise such other and further powers as may be  
3 necessary, incident, or appropriate to the powers of such city; and  
4 Regulation of air quality.

5 (39) In addition to powers conferred elsewhere in the  
6 laws of the state and notwithstanding any other law of the state,  
7 to implement and enforce an air pollution control program within  
8 the corporate limits of the city under subdivision (23) of section  
9 81-1504 or subsection (1) of section 81-1528, which program shall  
10 be consistent with the Clean Air Act, as amended, 42 U.S.C. 7401 et  
11 seq. Such powers shall include without limitation those involving  
12 injunctive relief, civil penalties, criminal fines, and burden of  
13 proof. Nothing in this section shall preclude the control of air  
14 pollution by resolution, ordinance, or regulation not in actual  
15 conflict with the state air pollution control regulations.

16 Sec. 15. Section 15-258, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18 15-258 A city of the primary class may restrain,  
19 prohibit, and suppress unlicensed tippling shops, billiard tables,  
20 bowling alleys, houses of prostitution, opium joints, dens, and  
21 other disorderly houses and practices, games, gambling houses,  
22 desecration of the Sabbath day, commonly called Sunday, and may  
23 prohibit all public amusements, shows, exhibitions, or ordinary  
24 business pursuits upon such day, all lotteries, all fraudulent  
25 devices and practices for the purposes of obtaining money or

1 property, all shooting galleries except as provided in the Nebraska  
2 Shooting Range Protection Act, and all kinds of public indecencies,  
3 except that nothing in this section shall be construed to apply to  
4 bingo, lotteries, lotteries by the sale of pickle cards, or raffles  
5 conducted in accordance with the Nebraska Bingo Act, the Nebraska  
6 Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the  
7 Nebraska Small Lottery and Raffle Act, or the State Lottery Act.

8           Sec. 16. Section 16-226, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           16-226 A city of the first class by ordinance may  
11 regulate, prohibit, and suppress unlicensed tippling shops,  
12 billiard tables, and bowling alleys, may restrain houses of  
13 prostitution, opium joints, dens, and other disorderly houses and  
14 practices, games, gambling houses, desecration of the Sabbath day,  
15 commonly called Sunday, and may prohibit all public amusements,  
16 shows, exhibitions, or ordinary business pursuits upon such day,  
17 all lotteries, all fraudulent devices and practices for the purpose  
18 of obtaining money or property, all shooting galleries except as  
19 provided in the Nebraska Shooting Range Protection Act, and all  
20 kinds of public indecencies, except that nothing in this section  
21 shall be construed to apply to bingo, lotteries, lotteries by the  
22 sale of pickle cards, or raffles conducted in accordance with  
23 the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the  
24 Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and  
25 Raffle Act, or the State Lottery Act.

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1                   Sec. 17. Original sections 13-910, 15-258, and 16-226,  
2 Reissue Revised Statutes of Nebraska, and section 14-102, Revised  
3 Statutes Cumulative Supplement, 2008, are repealed.