

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 503

Introduced by Langemeier, 23.

Read first time January 21, 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. Any sport shooting range that exists on the
11 effective date of this act may continue to operate as a sport
12 shooting range, notwithstanding any zoning ordinance enacted
13 thereafter, if the sport shooting range is a lawful use or a
14 nonconforming use under any zoning ordinance in effect on the
15 effective date of this act.

16 Sec. 4. Any sport shooting range that exists on the
17 effective date of this act may continue to operate as a sport
18 shooting range notwithstanding, and without regard to, any law,
19 rule, regulation, ordinance, or resolution related to noise enacted
20 by any city, county, village, or other political subdivision of the
21 state.

22 Sec. 5. No city, county, village, or other political
23 subdivision of the state may enact any law, rule, regulation,
24 or ordinance regulating or having the effect of regulating the
25 discharge of a firearm at a sport shooting range. Any such

1 law, rule, regulation, or ordinance in existence at the time of
2 the effective date of this act is hereby repealed and may not
3 be enforced by such city, county, village, or other political
4 subdivision of the state.

5 Sec. 6. A sport shooting range that exists on the
6 effective date of this act, even if not in compliance with any
7 rule, regulation, ordinance, or resolution of a city, county,
8 village, or any other political subdivision of the state, shall be
9 permitted to do any of the following if done in compliance with
10 generally recognized operation practices:

11 (1) Repair, remodel, or reinforce any improvement or
12 facilities or building or structure as may be necessary in the
13 interest of public safety or to secure the continued use of the
14 building or improvement;

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

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

19 (a) Expand or enhance its membership or opportunities for
20 public participation; and

21 (b) Expand or increase facilities or activities.

22 Sec. 7. A city, county, village, or other political
23 subdivision of the state may limit the hours between 10:00 p.m. and
24 7:00 a.m. that an outdoor sport shooting range may operate, except
25 that such a limitation may not apply to a law enforcement officer

1 or a member of the United States armed forces.

2 Sec. 8. A person who is shooting in a customary or
3 generally acceptable manner at a sport shooting range between the
4 hours of 7:00 a.m. and 10:00 p.m. is presumed to not be engaging
5 in unlawful conduct merely because of the noise caused by the
6 shooting.

7 Sec. 9. (1) Except as otherwise provided in the Nebraska
8 Shooting Range Protection Act, the act does not prohibit a
9 political subdivision from regulating the location and construction
10 of a sport shooting range.

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

19 Sec. 10. Section 13-910, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 13-910 The Political Subdivisions Tort Claims Act and
22 sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall not apply
23 to:

24 (1) Any claim based upon an act or omission of an
25 employee of a political subdivision, exercising due care, in

1 the execution of a statute, ordinance, or officially adopted
2 resolution, rule, or regulation, whether or not such statute,
3 ordinance, resolution, rule, or regulation is valid;

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

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

17 (4) Any claim based upon the issuance, denial,
18 suspension, or revocation of or failure or refusal to issue,
19 deny, suspend, or revoke any permit, license, certificate, or
20 order. Nothing in this subdivision shall be construed to limit
21 a political subdivision's liability for any claim based upon the
22 negligent execution by an employee of the political subdivision
23 in the issuance of a certificate of title under the Motor Vehicle
24 Certificate of Title Act and the State Boat Act;

25 (5) Any claim arising with respect to the assessment or

1 collection of any tax or fee or the detention of any goods or
2 merchandise by any law enforcement officer;

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

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

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

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

22 (10) Any claim arising out of snow or ice conditions
23 or other temporary conditions caused by nature on any highway as
24 defined in section 60-624, bridge, public thoroughfare, or other
25 public place due to weather conditions. Nothing in this subdivision

1 shall be construed to limit a political subdivision's liability
2 for any claim arising out of the operation of a motor vehicle
3 by an employee of the political subdivision while acting within
4 the course and scope of his or her employment by the political
5 subdivision;

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

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

23 (13) (a) Any claim relating to recreational activities for
24 which no fee is charged (i) resulting from the inherent risk of
25 the recreational activity, (ii) arising out of a spot or localized

1 defect of the premises unless the spot or localized defect is
2 not corrected by the political subdivision leasing, owning, or
3 in control of the premises within a reasonable time after actual
4 or constructive notice of the spot or localized defect, or (iii)
5 arising out of the design of a skatepark or bicycle motocross
6 park constructed for purposes of skateboarding, inline skating,
7 bicycling, or scootering that was constructed or reconstructed,
8 reasonably and in good faith, in accordance with generally
9 recognized engineering or safety standards or design theories
10 in existence at the time of the construction or reconstruction.
11 For purposes of this subdivision, a political subdivision shall be
12 charged with constructive notice only when the failure to discover
13 the spot or localized defect of the premises is the result of gross
14 negligence.

15 (b) For purposes of this subdivision:

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

25 (ii) Inherent risk of recreational activities means those

1 risks that are characteristic of, intrinsic to, or an integral part
2 of the activity;

3 (iii) Gross negligence means the absence of even slight
4 care in the performance of a duty involving an unreasonable risk of
5 harm; and

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

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

17 Sec. 11. Section 14-102, Revised Statutes Cumulative
18 Supplement, 2008, is amended to read:

19 14-102 In addition to the powers granted in section
20 14-101, cities of the metropolitan class shall have power by
21 ordinance:

22 Taxes, special assessments.

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

25 Corporate seal.

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

8 Regulation of public health.

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

14 Appropriations for debts and expenses.

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

17 Protection of strangers and travelers.

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

21 Concealed weapons, firearms, fireworks, explosives.

22 (6) To punish and prevent the carrying of concealed
23 weapons and the discharge of firearms, fireworks, or explosives
24 of any description within the city, other than the discharge
25 of firearms at a sport shooting range pursuant to the Nebraska

1 Shooting Range Act;

2 Sale of foodstuffs.

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

6 Official bonds.

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

12 Official reports of city officers.

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

16 Cruelty to children and animals.

17 (10) To provide for the prevention of cruelty to children
18 and animals;

19 Dogs; taxes and restrictions.

20 (11) To regulate, license, or prohibit the running at
21 large of dogs and other animals within the city as well as in areas
22 within three miles of the corporate limits of the city, to guard
23 against injuries or annoyance from such dogs and other animals, and
24 to authorize the destruction of the dogs and other animals when
25 running at large contrary to the provisions of any ordinance. Any

1 licensing provision shall comply with subsection (2) of section
2 54-603 for service animals;

3 Cleaning sidewalks.

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

10 Planting and trimming of trees; protection of birds.

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

22 Naming and numbering streets and houses.

23 (14) To provide for, regulate, and require the numbering
24 or renumbering of houses along public streets or avenues; to care
25 for and control and to name and rename streets, avenues, parks, and

1 squares within the city;

2 Weeds.

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

16 Animals running at large.

17 (16) To prohibit and regulate the running at large or
18 the herding or driving of domestic animals, such as hogs, cattle,
19 horses, sheep, goats, fowls, or animals of any kind or description
20 within the corporate limits and provide for the impounding of
21 all animals running at large, herded, or driven contrary to such
22 prohibition; and to provide for the forfeiture and sale of animals
23 impounded to pay the expense of taking up, caring for, and selling
24 such impounded animals, including the cost of advertising and fees
25 of officers;

1 Use of streets.

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

6 Playing on streets and sidewalks.

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

14 Combustibles and explosives.

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

18 Public sale of chattels on streets.

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

23 Signs and obstruction in streets.

24 (21) To regulate and prevent the use of streets,
25 sidewalks, and public grounds for signs, posts, awnings, awning

1 posts, scales, or other like purposes; to regulate and prohibit
2 the exhibition or carrying or conveying of banners, placards,
3 advertisements, or the distribution or posting of advertisements or
4 handbills in the streets or public grounds or upon the sidewalks;

5 Disorderly conduct.

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

12 Vagrants and tramps.

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

20 Disorderly houses, gambling, offenses against public
21 morals.

22 (24) To prohibit, restrain, and suppress tippling shops,
23 houses of prostitution, opium joints, gambling houses, prize
24 fighting, dog fighting, cock fighting, and other disorderly houses
25 and practices, all games and gambling and desecration of the

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

13 Police regulation in general.

14 (25) To make and enforce all police regulations for the
15 good government, general welfare, health, safety, and security
16 of the city and the citizens thereof in addition to the police
17 powers expressly granted herein; and in the exercise of the police
18 power, to pass all needful and proper ordinances and impose fines,
19 forfeitures, penalties, and imprisonment at hard labor for the
20 violation of any ordinance, and to provide for the recovery,
21 collection, and enforcement thereof; and in default of payment to
22 provide for confinement in the city or county prison, workhouse,
23 or other place of confinement with or without hard labor as may be
24 provided by ordinance;

25 Fast driving on streets.

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

5 Libraries, art galleries, and museums.

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

14 Hospitals, workhouses, jails, firehouses, etc.; garbage
15 disposal.

16 (28) To erect, designate, establish, maintain, and
17 regulate hospitals or workhouses, houses of correction, jails,
18 station houses, fire engine houses, asphalt repair plants, and
19 other necessary buildings; and to erect, designate, establish,
20 maintain, and regulate plants for the removal, disposal, or
21 recycling of garbage and refuse or to make contracts for garbage
22 and refuse removal, disposal, or recycling, or all of the same, and
23 to charge equitable fees for such removal, disposal, or recycling,
24 or all of the same, except as hereinafter provided. The fees
25 collected pursuant to this subdivision shall be credited to a

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

18 Market places.

19 (29) To erect and establish market houses and market
20 places and to provide for the erection of all other useful and
21 necessary buildings for the use of the city and for the protection
22 and safety of all property owned by the city; and such market
23 houses and market places and buildings aforesaid may be located on
24 any street, alley, or public ground or on land purchased for such
25 purpose;

1 Cemeteries, registers of births and deaths.

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

7 Plumbing, etc., inspection.

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

13 Fire limits and fire protection.

14 (32) To prescribe fire limits and regulate the erection
15 of all buildings and other structures within the corporate limits;
16 to provide for the removal of any buildings or structures or
17 additions thereto erected contrary to such regulations, to provide
18 for the removal of dangerous buildings, and to provide that wooden
19 buildings shall not be erected or placed or repaired in the fire
20 limits; but such ordinance shall not be suspended or modified by
21 resolution nor shall exceptions be made by ordinance or resolution
22 in favor of any person, firm, or corporation or concerning any
23 particular lot or building; to direct that all and any building
24 within such fire limits, when the same shall have been damaged by
25 fire, decay, or otherwise, to the extent of fifty percent of the

1 value of a similar new building above the foundation, shall be torn
2 down or removed; and to prescribe the manner of ascertaining such
3 damages and to assess the cost of removal of any building erected
4 or existing contrary to such regulations or provisions, against the
5 lot or real estate upon which such building or structure is located
6 or shall be erected, or to collect such costs from the owner of
7 any such building or structure and enforce such collection by civil
8 action in any court of competent jurisdiction;

9 Building regulations.

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

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

18 Warehouses and street railways.

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

24 Lighting railroad property.

25 (35) To require the lighting of any railway within the

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

11 City publicity.

12 (36) To provide for necessary publicity and to
13 appropriate money for the purpose of advertising the resources and
14 advantages of the city;

15 Offstreet parking.

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

23 Public passenger transportation systems.

24 (38) To acquire, by the exercise of the power of eminent
25 domain or otherwise, lease, purchase, construct, own, maintain,

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

1 Regulation of air quality.

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

13 Sec. 12. Section 15-258, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 15-258 A city of the primary class may restrain,
16 prohibit, and suppress unlicensed tippling shops, billiard tables,
17 bowling alleys, houses of prostitution, opium joints, dens, and
18 other disorderly houses and practices, games, gambling houses,
19 desecration of the Sabbath day, commonly called Sunday, and may
20 prohibit all public amusements, shows, exhibitions, or ordinary
21 business pursuits upon such day, all lotteries, all fraudulent
22 devices and practices for the purposes of obtaining money or
23 property, all shooting galleries except as provided in the Nebraska
24 Shooting Range Protection Act, and all kinds of public indecencies,
25 except that nothing in this section shall be construed to apply to

1 bingo, lotteries, lotteries by the sale of pickle cards, or raffles
2 conducted in accordance with the Nebraska Bingo Act, the Nebraska
3 Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the
4 Nebraska Small Lottery and Raffle Act, or the State Lottery Act.

5 Sec. 13. Section 16-226, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 16-226 A city of the first class by ordinance may
8 regulate, prohibit, and suppress unlicensed tippling shops,
9 billiard tables, and bowling alleys, may restrain houses of
10 prostitution, opium joints, dens, and other disorderly houses and
11 practices, games, gambling houses, desecration of the Sabbath day,
12 commonly called Sunday, and may prohibit all public amusements,
13 shows, exhibitions, or ordinary business pursuits upon such day,
14 all lotteries, all fraudulent devices and practices for the purpose
15 of obtaining money or property, all shooting galleries except as
16 provided in the Nebraska Shooting Range Protection Act, and all
17 kinds of public indecencies, except that nothing in this section
18 shall be construed to apply to bingo, lotteries, lotteries by the
19 sale of pickle cards, or raffles conducted in accordance with
20 the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the
21 Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and
22 Raffle Act, or the State Lottery Act.

23 Sec. 14. Original sections 13-910, 15-258, and 16-226,
24 Reissue Revised Statutes of Nebraska, and section 14-102, Revised
25 Statutes Cumulative Supplement, 2008, are repealed.