

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 713

Introduced by Haar, 21; Mello, 5.

Read first time January 04, 2012

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to solar energy; to amend sections 15-201,
2 16-207, 17-555, 66-901, 66-902, 66-905, 66-906, 66-909,
3 66-912, and 66-913, Reissue Revised Statutes of Nebraska,
4 and section 14-102, Revised Statutes Cumulative
5 Supplement, 2010; to provide powers and duties for cities
6 and villages; to prevent the prohibition of the
7 installation of solar energy systems by private entities;
8 to provide for the removal or relocation of vegetation to
9 permit the installation of solar energy systems; to
10 define, redefine, and transfer terms; to harmonize
11 provisions; to provide an operative date; and to repeal
12 the original sections.

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

1 Section 1. Section 14-102, Revised Statutes Cumulative
2 Supplement, 2010, is amended to read:

3 14-102 In addition to the powers granted in section
4 14-101, cities of the metropolitan class shall have power by
5 ordinance:

6 Taxes, special assessments.

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

9 Corporate seal.

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

17 Regulation of public health.

18 (3) To provide all needful rules and regulations for the
19 protection and preservation of health within the city; and for this
20 purpose they may provide for the enforcement of the use of water from
21 public water supplies when the use of water from other sources shall
22 be deemed unsafe;

23 Appropriations for debts and expenses.

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

1 Protection of strangers and travelers.

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

5 Concealed weapons, firearms, fireworks, explosives.

6 (6) To punish and prevent the carrying of concealed
7 weapons, except the carrying of a concealed handgun in compliance
8 with the Concealed Handgun Permit Act, and the discharge of firearms,
9 fireworks, or explosives of any description within the city, other
10 than the discharge of firearms at a shooting range pursuant to the
11 Nebraska Shooting Range Protection Act;

12 Sale of foodstuffs.

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

16 Official bonds.

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

22 Official reports of city officers.

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

1 Cruelty to children and animals.

2 (10) To provide for the prevention of cruelty to children
3 and animals;

4 Dogs; taxes and restrictions.

5 (11) To regulate, license, or prohibit the running at
6 large of dogs and other animals within the city as well as in areas
7 within three miles of the corporate limits of the city, to guard
8 against injuries or annoyance from such dogs and other animals, and
9 to authorize the destruction of the dogs and other animals when
10 running at large contrary to the provisions of any ordinance. Any
11 licensing provision shall comply with subsection (2) of section
12 54-603 for service animals;

13 Cleaning sidewalks.

14 (12) To provide for keeping sidewalks clean and free from
15 obstructions and accumulations, to provide for the assessment and
16 collection of taxes on real estate and for the sale and conveyance
17 thereof, and to pay the expenses of keeping the sidewalk adjacent to
18 such real estate clean and free from obstructions and accumulations
19 as herein provided;

20 Planting and trimming of trees; protection of birds;
21 removal and relocation of trees.

22 (13) To provide for the planting and protection of shade
23 or ornamental and useful trees upon the streets or boulevards, to
24 assess the cost thereof to the extent of benefits upon the abutting
25 property as a special assessment, and to provide for the protection

1 of birds and animals and their nests; to provide for the trimming of
2 trees located upon the streets and boulevards or when the branches of
3 trees overhang the streets and boulevards when in the judgment of the
4 mayor and council such trimming is made necessary to properly light
5 such street or boulevard or to furnish proper police protection and
6 to assess the cost thereof upon the abutting property as a special
7 assessment; to provide for the removal or relocation of trees to
8 permit the reasonable installation of solar energy systems in
9 accordance with sections 66-901 to 66-914 and sections 7, 8, 10, and
10 11 of this act;

11 Naming and numbering streets and houses.

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

16 Weeds.

17 (15) To require weeds and worthless vegetation growing
18 upon any lot or piece of ground within the city to be cut and
19 destroyed so as to abate any nuisance occasioned thereby, to prohibit
20 and control the throwing, depositing, or accumulation of litter on
21 any lot or piece of ground within the city and to require the removal
22 thereof so as to abate any nuisance occasioned thereby, and if the
23 owner fails to cut and destroy weeds and worthless vegetation or
24 remove litter, or both, after notice as required by ordinance, to
25 assess the cost thereof upon the lots or lands as a special

1 assessment. The notice required to be given may be by publication in
2 the official newspaper of the city and may be directed in general
3 terms to the owners of lots and lands affected without naming such
4 owners;

5 Animals running at large.

6 (16) To prohibit and regulate the running at large or the
7 herding or driving of domestic animals, such as hogs, cattle, horses,
8 sheep, goats, fowls, or animals of any kind or description within the
9 corporate limits and provide for the impounding of all animals
10 running at large, herded, or driven contrary to such prohibition; and
11 to provide for the forfeiture and sale of animals impounded to pay
12 the expense of taking up, caring for, and selling such impounded
13 animals, including the cost of advertising and fees of officers;

14 Use of streets.

15 (17) To regulate the transportation of articles through
16 the streets, to prevent injuries to the streets from overloaded
17 vehicles, and to regulate the width of wagon tires and tires of other
18 vehicles;

19 Playing on streets and sidewalks.

20 (18) To prevent or regulate the rolling of hoops, playing
21 of ball, flying of kites, the riding of bicycles or tricycles, or any
22 other amusement or practice having a tendency to annoy persons
23 passing in the streets or on the sidewalks or to frighten teams or
24 horses; to regulate the use of vehicles propelled by steam, gas,
25 electricity, or other motive power, operated on the streets of the

1 city;

2 Combustibles and explosives.

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

6 Public sale of chattels on streets.

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

11 Signs and obstruction in streets.

12 (21) To regulate and prevent the use of streets,
13 sidewalks, and public grounds for signs, posts, awnings, awning
14 posts, scales, or other like purposes; to regulate and prohibit the
15 exhibition or carrying or conveying of banners, placards,
16 advertisements, or the distribution or posting of advertisements or
17 handbills in the streets or public grounds or upon the sidewalks;

18 Disorderly conduct.

19 (22) To provide for the punishment of persons disturbing
20 the peace and good order of the city by clamor and noise,
21 intoxication, drunkenness, fighting, or using obscene or profane
22 language in the streets or other public places or otherwise violating
23 the public peace by indecent or disorderly conduct or by lewd and
24 lascivious behavior;

25 Vagrants and tramps.

1 (23) To provide for the punishment of vagrants, tramps,
2 common street beggars, common prostitutes, habitual disturbers of the
3 peace, pickpockets, gamblers, burglars, thieves, or persons who
4 practice any game, trick, or device with intent to swindle, persons
5 who abuse their families, and suspicious persons who can give no
6 reasonable account of themselves; and to punish trespassers upon
7 private property;

8 Disorderly houses, gambling, offenses against public
9 morals.

10 (24) To prohibit, restrain, and suppress tippling shops,
11 houses of prostitution, opium joints, gambling houses, prize
12 fighting, dog fighting, cock fighting, and other disorderly houses
13 and practices, all games and gambling and desecration of the Sabbath,
14 commonly called Sunday, and all kinds of indecencies; to regulate and
15 license or prohibit the keeping and use of billiard tables, ten pins
16 or ball alleys, shooting galleries except as provided in the Nebraska
17 Shooting Range Protection Act, and other similar places of amusement;
18 and to prohibit and suppress all lotteries and gift enterprises of
19 all kinds under whatsoever name carried on, except that nothing in
20 this subdivision shall be construed to apply to bingo, lotteries,
21 lotteries by the sale of pickle cards, or raffles conducted in
22 accordance with the Nebraska Bingo Act, the Nebraska Lottery and
23 Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small
24 Lottery and Raffle Act, or the State Lottery Act;

25 Police regulation in general.

1 (25) To make and enforce all police regulations for the
2 good government, general welfare, health, safety, and security of the
3 city and the citizens thereof in addition to the police powers
4 expressly granted herein; and in the exercise of the police power, to
5 pass all needful and proper ordinances and impose fines, forfeitures,
6 penalties, and imprisonment at hard labor for the violation of any
7 ordinance, and to provide for the recovery, collection, and
8 enforcement thereof; and in default of payment to provide for
9 confinement in the city or county prison, workhouse, or other place
10 of confinement with or without hard labor as may be provided by
11 ordinance;

12 Fast driving on streets.

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

16 Libraries, art galleries, and museums.

17 (27) To establish and maintain public libraries, reading
18 rooms, art galleries, and museums and to provide the necessary
19 grounds or buildings therefor; to purchase books, papers, maps,
20 manuscripts, works of art, and objects of natural or of scientific
21 curiosity, and instruction therefor; to receive donations and
22 bequests of money or property for the same in trust or otherwise and
23 to pass necessary bylaws and regulations for the protection and
24 government of the same;

25 Hospitals, workhouses, jails, firehouses, etc.; garbage

1 disposal.

2 (28) To erect, designate, establish, maintain, and
3 regulate hospitals or workhouses, houses of correction, jails,
4 station houses, fire engine houses, asphalt repair plants, and other
5 necessary buildings; and to erect, designate, establish, maintain,
6 and regulate plants for the removal, disposal, or recycling of
7 garbage and refuse or to make contracts for garbage and refuse
8 removal, disposal, or recycling, or all of the same, and to charge
9 equitable fees for such removal, disposal, or recycling, or all of
10 the same, except as hereinafter provided. The fees collected pursuant
11 to this subdivision shall be credited to a single fund to be used
12 exclusively by the city for the removal, disposal, or recycling of
13 garbage and refuse, or all of the same, including any costs incurred
14 for collecting the fee. Before any contract for such removal,
15 disposal, or recycling is let, the city council shall make
16 specifications therefor, bids shall be advertised for as now provided
17 by law, and the contract shall be let to the lowest and best bidder,
18 who shall furnish bond to the city conditioned upon his or her
19 carrying out the terms of the contract, the bond to be approved by
20 the city council. Nothing in this act, and no contract or regulation
21 made by the city council, shall be so construed as to prohibit any
22 person, firm, or corporation engaged in any business in which garbage
23 or refuse accumulates as a byproduct from selling, recycling, or
24 otherwise disposing of his, her, or its garbage or refuse or hauling
25 such garbage or refuse through the streets and alleys under such

1 uniform and reasonable regulations as the city council may by
2 ordinance prescribe for the removal and hauling of garbage or refuse;

3 Market places.

4 (29) To erect and establish market houses and market
5 places and to provide for the erection of all other useful and
6 necessary buildings for the use of the city and for the protection
7 and safety of all property owned by the city; and such market houses
8 and market places and buildings aforesaid may be located on any
9 street, alley, or public ground or on land purchased for such
10 purpose;

11 Cemeteries, registers of births and deaths.

12 (30) To prohibit the establishment of additional
13 cemeteries within the limits of the city, to regulate the
14 registration of births and deaths, to direct the keeping and
15 returning of bills of mortality, and to impose penalties on
16 physicians, sextons, and others for any default in the premises;

17 Plumbing, etc., inspection.

18 (31) To provide for the inspection of steam boilers,
19 electric light appliances, pipefittings, and plumbings, to regulate
20 their erection and construction, to appoint inspectors, and to
21 declare their powers and duties, except as herein otherwise provided;

22 Fire limits and fire protection.

23 (32) To prescribe fire limits and regulate the erection
24 of all buildings and other structures within the corporate limits; to
25 provide for the removal of any buildings or structures or additions

1 thereto erected contrary to such regulations, to provide for the
2 removal of dangerous buildings, and to provide that wooden buildings
3 shall not be erected or placed or repaired in the fire limits; but
4 such ordinance shall not be suspended or modified by resolution nor
5 shall exceptions be made by ordinance or resolution in favor of any
6 person, firm, or corporation or concerning any particular lot or
7 building; to direct that all and any building within such fire
8 limits, when the same shall have been damaged by fire, decay, or
9 otherwise, to the extent of fifty percent of the value of a similar
10 new building above the foundation, shall be torn down or removed; and
11 to prescribe the manner of ascertaining such damages and to assess
12 the cost of removal of any building erected or existing contrary to
13 such regulations or provisions, against the lot or real estate upon
14 which such building or structure is located or shall be erected, or
15 to collect such costs from the owner of any such building or
16 structure and enforce such collection by civil action in any court of
17 competent jurisdiction;

18 Building regulations.

19 (33) To regulate the construction, use, and maintenance
20 of party walls, to prescribe and regulate the thickness, strength,
21 and manner of constructing stone, brick, wood, or other buildings and
22 the size and shape of brick and other material placed therein, to
23 prescribe and regulate the construction and arrangement of fire
24 escapes and the placing of iron and metallic shutters and doors
25 therein and thereon, and to provide for the inspection of elevators

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

1 Warehouses and street railways.

2 (34) To regulate levees, depots and depot grounds, and
3 places for storing freight and goods and to provide for and regulate
4 the laying of tracks and the passage of steam or other railways
5 through the streets, alleys, and public grounds of the city;

6 Lighting railroad property.

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

18 City publicity.

19 (36) To provide for necessary publicity and to
20 appropriate money for the purpose of advertising the resources and
21 advantages of the city;

22 Offstreet parking.

23 (37) To erect, establish, and maintain offstreet parking
24 areas on publicly owned property located beneath any elevated segment
25 of the National System of Interstate and Defense Highways or portion

1 thereof, or public property title to which is in the city on May 12,
2 1971, or property owned by the city and used in conjunction with and
3 incidental to city-operated facilities, and to regulate parking
4 thereon by time limitation devises or by lease;

5 Public passenger transportation systems.

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

1 enter into agreements authorized under the Interlocal Cooperation Act
2 or the Joint Public Agency Act, to contract with an operating and
3 management company for the purpose of operating, servicing, and
4 maintaining any public passenger transportation systems any city of
5 the metropolitan class shall acquire under the provisions of this
6 act, and to exercise such other and further powers as may be
7 necessary, incident, or appropriate to the powers of such city; and

8 Regulation of air quality.

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

20 Sec. 2. Section 15-201, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 15-201 Cities of the primary class shall be bodies
23 corporate and politic and shall have power:

24 (1) To sue and be sued;

25 (2) To purchase, lease, or otherwise acquire as

1 authorized by their home rule charters or state statutes real estate
2 or personal property within or without the limits of the city for its
3 use for a public purpose;

4 (3) To purchase real or personal property upon sale for
5 general or special taxes or assessments and to lease, sell, convey,
6 or exchange such property so purchased;

7 (4) To sell, convey, exchange, or lease real or personal
8 property owned by the city in such manner and upon such terms and
9 conditions as shall be deemed in the best interests of the city as
10 authorized by its home rule charter, except that real estate owned by
11 the city may be conveyed without consideration to the State of
12 Nebraska for state armory sites or, if acquired for state armory
13 sites, shall be conveyed in the manner strictly as provided in
14 sections 18-1001 to 18-1006;

15 (5) To make contracts and do all acts relative to the
16 property and concerns of the city necessary or incident or
17 appropriate to the exercise of its corporate powers, including powers
18 granted by the Constitution of Nebraska or exercised by or pursuant
19 to a home rule charter adopted pursuant thereto and including the
20 power to execute such bonds and obligations on the part of the city
21 as may be required in judicial proceedings;

22 (6) To purchase, construct, and otherwise acquire, own,
23 maintain, and operate public service and public utility property and
24 facilities within and without the limits of the city and to redeem
25 such property from prior encumbrance in order to protect or preserve

1 the interest of the city therein and to exercise such other and
2 further powers as may be necessary or incident or appropriate to the
3 powers of such city, including powers granted by the Constitution of
4 Nebraska or exercised by or pursuant to a home rule charter adopted
5 pursuant thereto. If the public service or public utility property or
6 facility is located outside the limits of the city but within the
7 zoning jurisdiction of another political subdivision, the city and
8 the other political subdivision may by interlocal agreement provide
9 or exchange services, including utility services, relating to the
10 property or facilities;

11 (7) To receive grants, devises, donations, and bequests
12 of money or property for public purposes in trust or otherwise; ~~and~~

13 (8) To provide for the planting, maintenance, protection,
14 and removal of shade, ornamental, and other useful trees upon the
15 streets or boulevards; to assess the cost thereof, when appropriate,
16 as a special assessment against the property specially benefited to
17 the extent of benefits received; and to provide by general ordinance
18 for the manner in which such benefits are to be measured and the
19 assessments calculated and the means of notice to the owners of the
20 record title of the property proposed to be improved, including a
21 written statement of the proposed benefits and an estimate of the
22 costs to be assessed according to the method of assessment. The city
23 may create districts by ordinance which shall designate the property
24 within the district to be benefited and the method of assessment.
25 Notwithstanding the provisions of any city charter and except as

1 provided below, no such improvement shall be finally ordered by the
2 city council until a petition, signed by the owners of the record
3 title of property within the proposed district which would be subject
4 to more than fifty percent of the total of all special assessments to
5 be levied for the purposes authorized by this subdivision, is
6 presented and filed with the city clerk petitioning therefor. The
7 sufficiency of the petitions and objections so presented and the
8 sufficiency of notice as provided in this subdivision shall be
9 determined by the city council and its determination thereof shall be
10 conclusive in the absence of objections made and presented to the
11 city council prior to the letting of the contract for the
12 improvement. If an assessment district is proposed without a prior
13 authorizing petition as described in this subdivision, the owners of
14 the record title of property within the proposed district which would
15 be subject to more than fifty percent of the total of all special
16 assessments to be levied for the purposes authorized by this
17 subdivision may, by petition, stop formation of such district. Such
18 written protest shall be submitted to the city council or clerk
19 within thirty calendar days after publication of notice concerning
20 the ordinance in a newspaper of general circulation in the city;
21 and -

22 (9) To provide for the removal or relocation of trees to
23 permit the reasonable installation of solar energy systems in
24 accordance with sections 66-901 to 66-914 and sections 7, 8, 10, and
25 11 of this act.

1 The powers shall be exercised by the mayor and council of
2 the city except in cases otherwise specified by law. The mayor and
3 council shall adopt a corporate seal for the use of any officer,
4 board, or agent of the city whose duties require an official seal.

5 Sec. 3. Section 16-207, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 16-207 (1) A city of the first class may by ordinance
8 provide for the removal of all obstructions from the sidewalks,
9 curbstones, gutters, and crosswalks at the expense of the owners or
10 occupants of the grounds fronting thereon or at the expense of the
11 person placing ~~the same~~ them there and may require and regulate the
12 planting and protection of shade trees in the streets and along the
13 ~~same streets~~ and the trimming and removing of ~~the same~~. such trees.

14 (2) A city of the first class may by ordinance declare it
15 to be a nuisance for a property owner to permit, allow, or maintain
16 any dead or diseased trees within the right-of-way of streets within
17 the corporate limits of the city. Notice to abate and remove such
18 nuisance and notice of the right to a hearing and the manner in which
19 it may be requested shall be given to each owner or owner's duly
20 authorized agent and to the occupant, if any, by personal service or
21 certified mail. Within thirty days after the receipt of such notice,
22 if the owner or occupant of the lot or piece of ground does not
23 request a hearing or fails to comply with the order to abate and
24 remove the nuisance, the city may have such work done and may levy
25 and assess all or any portion of the costs and expenses of the work

1 upon the lot or piece of ground so benefited in the same manner as
2 other special taxes for improvements are levied and assessed.

3 (3) A city of the first class may provide for the removal
4 or relocation of trees to permit the reasonable installation of solar
5 energy systems in accordance with sections 66-901 to 66-914 and
6 sections 7, 8, 10, and 11 of this act.

7 ~~The city-~~(4) A city of the first class may also regulate
8 the building of bulkheads, cellars, basements, ways, stairways,
9 railways, windows, doorways, awnings, hitching posts and rails,
10 lampposts, awning posts, and all other structures projecting upon or
11 over any adjoining excavation through and under the sidewalks in the
12 city.

13 Sec. 4. Section 17-555, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 17-555 (1) Cities of the second class and villages shall
16 ~~have the power to may~~ remove all obstructions from the sidewalks,
17 curbstones, gutters, and crosswalks at the expense of the person
18 placing them there or of the city or village and to require and
19 regulate the planting and protection of shade trees in and along the
20 streets and the trimming and removing of such trees.

21 (2) Cities of the second class ~~or~~ and villages may by
22 ordinance declare it to be a nuisance for a property owner to permit,
23 allow, or maintain any dead or diseased trees within the right-of-way
24 of streets within the corporate limits of the city or village. Notice
25 to abate and remove such nuisance and notice of the right to a

1 hearing and the manner in which it may be requested shall be given to
2 each owner or owner's duly authorized agent and to the occupant, if
3 any, by personal service or certified mail. Within thirty days after
4 the receipt of such notice, if the owner or occupant of the lot or
5 piece of ground does not request a hearing or fails to comply with
6 the order to abate and remove the nuisance, the city or village may
7 have such work done and may levy and assess all or any portion of the
8 costs and expenses of the work upon the lot or piece of ground so
9 benefited in the same manner as other special taxes for improvements
10 are levied and assessed.

11 (3) Cities of the second class and villages may provide
12 for the removal or relocation of trees to permit the reasonable
13 installation of solar energy systems in accordance with sections
14 66-901 to 66-914 and sections 7, 8, 10, and 11 of this act.

15 (4) Cities of the second class and villages shall have
16 the power to may regulate the building of bulkheads, cellar and
17 basement ways, stairways, railways, windows, doorways, awnings,
18 hitching posts and rails, lampposts, awning posts, all other
19 structures projecting upon or over and adjoining, and all other
20 excavations through and under the sidewalks in the city or village.

21 Sec. 5. Section 66-901, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 66-901 The Legislature hereby finds and declares that the
24 use of solar energy and wind energy in Nebraska: (1) Can help reduce
25 the nation's reliance upon irreplaceable domestic and imported fossil

1 fuels; (2) can reduce air and water pollution resulting from the use
2 of conventional energy sources; (3) requires effective legislation
3 and efficient administration of state and local programs to be of
4 greatest value to its citizens; and (4) is of such importance to the
5 public health, safety, and welfare that the state should take
6 appropriate action to encourage its use.

7 As the use of solar energy and wind energy devices
8 increases, the possibility of restriction by private entities and
9 future shading and obstruction of such devices by structures or
10 vegetation will also increase. The Legislature therefor declares that
11 the purpose of sections 66-901 to 66-914 and sections 7, 8, 10, and
12 11 of this act is to promote the public health, safety, and welfare
13 by protecting the use of solar energy systems and access to solar
14 skyspace and wind energy as provided in sections 66-901 to 66-914 and
15 sections 7, 8, 10, and 11 of this act.

16 Sec. 6. Section 66-902, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 66-902 For purposes of sections 66-901 to 66-914 and
19 sections 7, 8, 10, and 11 of this act, unless the context otherwise
20 requires, the definitions found in sections 66-903 to 66-909.03 and
21 sections 7, 8, and 10 of this act apply.

22 Sec. 7. Section 66-906, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 ~~66-906~~ Passive solar energy system ~~shall mean~~ means any
25 space or structural components that are specifically designed to

1 retain heat derived from solar energy, including ponds for
2 evaporative cooling, and any moving parts that increase heat
3 retention by the system.

4 Sec. 8. Private entity means any association of
5 homeowners, community association, condominium association,
6 cooperative, or any other nongovernmental entity with covenants,
7 bylaws, and administrative provisions with which the homeowner's
8 compliance is required.

9 Sec. 9. Section 66-905, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 66-905 Solar energy system ~~shall mean a complete design~~
12 ~~or assembly consisting of a solar energy collector, an energy storage~~
13 ~~facility when used, and components for the distribution of~~
14 ~~transformed energy to the extent that they cannot be used jointly~~
15 ~~with a conventional energy system.~~ means the equipment and requisite
16 hardware that provide and are used for collecting, transferring,
17 converting, storing, or using incident solar energy for water
18 heating, space heating, cooling, or other applications that would
19 otherwise require the use of a conventional source of energy such as
20 petroleum products, natural gas, manufactured gas, or electricity.
21 Passive solar energy systems are included in this definition but not
22 to the extent that they fulfill other functions, such as structural
23 or recreational.

24 Sec. 10. Section 66-909, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 ~~66-909~~ Solar skyspace easement ~~shall mean~~ means a right,
2 whether or not stated in the form of a restriction, easement,
3 covenant, or condition, in any deed, will, or other instrument
4 executed by any person for the purpose of insuring adequate access of
5 a solar energy system to solar energy.

6 Sec. 11. (1) Notwithstanding any law to the contrary, on
7 or after January 1, 2013, no person shall be prevented by any
8 covenant, declaration, bylaws, restriction, deed, lease, term,
9 provision, condition, codicil, contract, or similar binding
10 agreement, however worded, from installing a solar energy system on
11 any single-family residential dwelling or townhouse unit that the
12 person owns. Any provision in any lease, instrument, or contract
13 contrary to the intent of this section shall be void and
14 unenforceable.

15 (2) A private entity may adopt rules that provide limited
16 restrictions on the placement of solar energy systems. The rules
17 shall facilitate the placement of solar energy systems and shall not
18 unduly or unreasonably restrict that placement so as to reduce system
19 efficiency below ten percent. No private entity shall assess or
20 charge any owner any fees for the placement of a solar energy system.

21 (3) Any person may place a solar energy system on any
22 single-family residential dwelling or townhouse unit owned by that
23 person if:

24 (a) The system is in compliance with any rules adopted
25 pursuant to subsection (2) of this section; and

1 (b) The private entity is notified of such placement
2 within thirty days after installation.

3 (4) If a solar energy system is to be placed on a common
4 element or limited common element:

5 (a) The owner shall first obtain the consent of the
6 private entity. Such consent shall be given if the owner agrees in
7 writing to:

8 (i) Comply with the private entity's design specification
9 for the installation of the system;

10 (ii) Engage a licensed contractor to install the system;

11 (iii) Within fourteen days after approval of the solar
12 energy system by the private entity, provide a certificate of
13 insurance naming the private entity as an additional insured on the
14 owner's insurance policy; and

15 (iv) Provide a copy of any interconnection agreement
16 entered into pursuant to sections 70-2001 to 70-2005;

17 (b) The owner and each successive owner of the single-
18 family residential dwelling or townhouse unit for which the system is
19 to be used shall be responsible for any costs for damages to the
20 system, the common elements, limited common elements, and any
21 adjacent units arising or resulting from the installation,
22 maintenance, repair, removal, or replacement of the system. The
23 repair, maintenance, removal, and replacement responsibilities shall
24 be assumed by each successive owner until the solar energy system has
25 been removed from the common element or limited common element. The

1 owner and each successive owner shall at all times have and maintain
2 a policy of insurance covering the obligations of the owner under
3 this subdivision and shall name the private entity as an additional
4 insured under the policy; and

5 (c) The owner and any successive owner of the single-
6 family residential dwelling or townhouse unit for which the system is
7 to be used shall be responsible for removing the solar energy system
8 if reasonably necessary or convenient for the repair, maintenance, or
9 replacement of any common element or limited common element.

10 (5) If a material or labor roof warranty exists at the
11 time a solar energy system is installed on a roof that is a common
12 element or limited common element, the owner of the single-family
13 residential dwelling or townhouse unit for which the system is to be
14 used shall obtain confirmation in writing from the company that
15 issued the warranty that the installation of the solar energy system
16 will not void the roof warranty. The owner shall provide the private
17 entity with a copy of the confirmation.

18 Sec. 12. Section 66-912, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 66-912 A solar skyspace easement or wind energy easement
21 and solar energy system provisions contained in section 11 of this
22 act may be enforced by injunction or proceedings in equity or other
23 civil action. Any court costs and attorney's fees shall be awarded to
24 the prevailing party.

25 Sec. 13. Section 66-913, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 66-913 All counties or municipalities having zoning or
3 subdivision jurisdiction are hereby authorized to include
4 considerations for the encouragement of solar energy and wind energy
5 use and the protection of access to solar energy and wind energy in
6 all applicable zoning regulations or ordinances and comprehensive
7 development plans. Such considerations may include, but not be
8 limited to, regulation of height, location, setback, and use of
9 structures, the height and location of vegetation with respect to
10 property boundary lines, the removal or relocation of vegetation to
11 permit the reasonable installation of solar energy systems, the type
12 and location of energy systems or their components, and the use of
13 districts to encourage the use of solar energy systems and wind
14 energy conversion systems and protect access to solar energy and wind
15 energy. Comprehensive development plans may contain an element for
16 protection and development of solar energy and wind energy access
17 which will promote energy conservation and ensure coordination of
18 solar energy and wind energy use with conventional energy use.

19 Sec. 14. This act becomes operative on January 1, 2013.

20 Sec. 15. Original sections 15-201, 16-207, 17-555,
21 66-901, 66-902, 66-905, 66-906, 66-909, 66-912, and 66-913, Reissue
22 Revised Statutes of Nebraska, and section 14-102, Revised Statutes
23 Cumulative Supplement, 2010, are repealed.