

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 716

Introduced by McCoy, 39.

Read first time January 04, 2012

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to cities of the metropolitan class; to amend
2 section 14-219, Reissue Revised Statutes of Nebraska, and
3 section 14-102, Revised Statutes Cumulative Supplement,
4 2010; to change powers relating to extraterritorial
5 jurisdiction; to provide an operative date; and to repeal
6 the original sections.

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

1 trees located upon the streets and boulevards or when the branches of
2 trees overhang the streets and boulevards when in the judgment of the
3 mayor and council such trimming is made necessary to properly light
4 such street or boulevard or to furnish proper police protection and
5 to assess the cost thereof upon the abutting property as a special
6 assessment;

7 Naming and numbering streets and houses.

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

12 Weeds.

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

1 Animals running at large.

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

10 Use of streets.

11 (17) To regulate the transportation of articles through
12 the streets, to prevent injuries to the streets from overloaded
13 vehicles, and to regulate the width of wagon tires and tires of other
14 vehicles;

15 Playing on streets and sidewalks.

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

23 Combustibles and explosives.

24 (19) To regulate or prohibit the transportation and
25 keeping of gunpowder, oils, and other combustible and explosive

1 articles;

2 Public sale of chattels on streets.

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

7 Signs and obstruction in streets.

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

14 Disorderly conduct.

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

21 Vagrants and tramps.

22 (23) To provide for the punishment of vagrants, tramps,
23 common street beggars, common prostitutes, habitual disturbers of the
24 peace, pickpockets, gamblers, burglars, thieves, or persons who
25 practice any game, trick, or device with intent to swindle, persons

1 who abuse their families, and suspicious persons who can give no
2 reasonable account of themselves; and to punish trespassers upon
3 private property;

4 Disorderly houses, gambling, offenses against public
5 morals.

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

21 Police regulation in general.

22 (25) To make and enforce all police regulations for the
23 good government, general welfare, health, safety, and security of the
24 city and the citizens thereof in addition to the police powers
25 expressly granted herein; and in the exercise of the police power, to

1 pass all needful and proper ordinances and impose fines, forfeitures,
2 penalties, and imprisonment at hard labor for the violation of any
3 ordinance, and to provide for the recovery, collection, and
4 enforcement thereof; and in default of payment to provide for
5 confinement in the city or county prison, workhouse, or other place
6 of confinement with or without hard labor as may be provided by
7 ordinance;

8 Fast driving on streets.

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

12 Libraries, art galleries, and museums.

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

21 Hospitals, workhouses, jails, firehouses, etc.; garbage
22 disposal.

23 (28) To erect, designate, establish, maintain, and
24 regulate hospitals or workhouses, houses of correction, jails,
25 station houses, fire engine houses, asphalt repair plants, and other

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

25 (29) To erect and establish market houses and market

1 places and to provide for the erection of all other useful and
2 necessary buildings for the use of the city and for the protection
3 and safety of all property owned by the city; and such market houses
4 and market places and buildings aforesaid may be located on any
5 street, alley, or public ground or on land purchased for such
6 purpose;

7 Cemeteries, registers of births and deaths.

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

13 Plumbing, etc., inspection.

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

18 Fire limits and fire protection.

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

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

14 Building regulations.

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

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

22 Warehouses and street railways.

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

1 through the streets, alleys, and public grounds of the 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 and
7 the points of location for such lampposts; and in case any company
8 owning or operating such railways shall fail to comply with such
9 requirements, the council may cause the same to be done and may
10 assess the expense thereof against such company, and the same shall
11 constitute a lien upon any real estate belonging to such company and
12 lying within such city and may be collected in the same manner as
13 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 segment
21 of the National System of Interstate and Defense Highways or portion
22 thereof, or public property title to which is in the city on May 12,
23 1971, or property owned by the city and used in conjunction with and
24 incidental to city-operated facilities, and to regulate parking
25 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 city
9 therein, to exercise all powers granted by the Constitution of
10 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 the
13 United States or any agency thereof, from the State of Nebraska or
14 any subdivision thereof, and from any person or corporation
15 donations, devises, gifts, bequests, loans, or grants for or in aid
16 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 by
21 contract or otherwise individuals singularly or collectively, to
22 enter into agreements authorized under the Interlocal Cooperation Act
23 or the Joint Public Agency Act, to contract with an operating and
24 management company for the purpose of operating, servicing, and
25 maintaining any public passenger transportation systems any city of

1 the metropolitan class shall acquire under the provisions of this
2 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, to
7 implement and enforce an air pollution control program within the
8 corporate limits of the city under subdivision (23) of section
9 81-1504 or subsection (1) of section 81-1528, which program shall be
10 consistent with the federal Clean Air Act, as amended, 42 U.S.C. 7401
11 et 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. 2. Section 14-219, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 14-219 The mayor shall be the chief executive officer and
19 conservator of the peace throughout the city. He or she shall have
20 such jurisdiction as may be vested in him or her by ordinance over
21 all places within three miles of the corporate limits of the city,
22 for the enforcement of any health and quarantine ordinance or the
23 regulations thereof except the ordinances respecting taxation shall
24 not be enforced outside of the corporate limits of such city.

25 Sec. 3. This act becomes operative on January 1, 2013.

1 Sec. 4. Original section 14-219, Reissue Revised Statutes
2 of Nebraska, and section 14-102, Revised Statutes Cumulative
3 Supplement, 2010, are repealed.