

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 74

FINAL READING

Introduced by Crawford, 45.

Read first time January 05, 2017

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to cities and villages; to amend sections
2 16-130 and 17-407, Reissue Revised Statutes of Nebraska, and
3 sections 17-1002 and 18-3001, Revised Statutes Cumulative
4 Supplement, 2016; to change county population thresholds relating to
5 annexation, suburban development, and planned unit development by a
6 city or village; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 16-130, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 16-130 (1) The provisions of this section shall govern annexation by
4 a city of the first class located in whole or in part within the
5 boundaries of a county having a population in excess of one hundred
6 thousand inhabitants but less than two hundred fifty thousand inhabitants
7 as determined by the most recent federal decennial census or the most
8 recent revised certified count by the United States Bureau of the Census.

9 (2) Except as provided in sections 13-1111 to 13-1120 and subject to
10 this section, the mayor and city council of a city of the first class
11 described in subsection (1) of this section may by ordinance at any time
12 include within the corporate limits of such city any contiguous or
13 adjacent lands, lots, tracts, streets, or highways as are urban or
14 suburban in character and in such direction as may be deemed proper. Such
15 grant of power shall not be construed as conferring power upon the mayor
16 and city council to extend the limits of such a city over any
17 agricultural lands which are rural in character.

18 (3) The invalidity of the annexation of any tract of land in one
19 ordinance shall not affect the validity of the remaining tracts of land
20 which are annexed by the ordinance and which otherwise conform to state
21 law.

22 (4) Any owner of property contiguous or adjacent to such a city may
23 by petition request that such property be included within the corporate
24 limits of such city.

25 (5) Notwithstanding the requirements of this section, the mayor and
26 city council are not required to approve any petition requesting
27 annexation or any resolution or ordinance proposing to annex land
28 pursuant to this section.

29 (6) Not later than fourteen days prior to the public hearing before
30 the planning commission on a proposed annexation by the city, the city
31 clerk shall send notice of the proposed annexation by certified mail,

1 return receipt requested, to any of the following entities serving
2 customers in such city or in the area proposed for annexation: Any
3 natural gas public utility as defined in section 66-1802; any natural gas
4 utility owned or operated by the city; any metropolitan utilities
5 district; any public power district; any public power and irrigation
6 district; any municipality; any electric cooperative; and any other
7 governmental entity providing electric service. Such notice shall include
8 a copy of the proposed annexation ordinance, the date, time, and place of
9 the public hearing before the planning commission on the proposed
10 annexation ordinance, and a map showing the boundaries of the area
11 proposed for annexation.

12 (7) Prior to the final adoption of the annexation ordinance, the
13 minutes of the city council meeting at which such final adoption was
14 considered shall reflect formal compliance with the provisions of
15 subsection (6) of this section.

16 (8) No additional or further notice beyond that required by
17 subsection (6) of this section shall be necessary in the event (a) that
18 the scheduled city council public hearing on the proposed annexation is
19 adjourned, continued, or postponed until a later date or (b) that
20 subsequent to providing such notice the ordinance regarding such proposed
21 annexation was amended, changed, or rejected by action of the city
22 council prior to formal passage of the annexation ordinance.

23 (9) Except for a willful or deliberate failure to cause notice to be
24 given, no annexation decision made by a city either to accept or reject a
25 proposed annexation, either in whole or in part, shall be void,
26 invalidated, or affected in any way because of any irregularity, defect,
27 error, or failure on the part of the city or its employees to cause
28 notice to be given as required by this section if a reasonable attempt to
29 comply with this section was made.

30 (10) Except for a willful or deliberate failure to cause notice to
31 be given, the city and its employees shall not be liable for any damage

1 to any person resulting from any failure to cause notice to be given as
2 required by this section when a reasonable attempt was made to provide
3 such notice. No action for damages resulting from the failure to cause
4 notice to be provided as required by this section shall be filed more
5 than one year following the date of the formal acceptance or rejection of
6 the proposed annexation, either in whole or in part, by the city council.

7 (11) No action to challenge the validity of the acceptance or
8 rejection of a proposed annexation on the basis of this section shall be
9 filed more than one year following the date of the formal acceptance or
10 rejection of the annexation by the city council.

11 Sec. 2. Section 17-407, Reissue Revised Statutes of Nebraska, is
12 amended to read:

13 17-407 (1) The provisions of this section shall govern annexation by
14 a city of the second class or village located in whole or in part within
15 the boundaries of a county having a population in excess of one hundred
16 thousand inhabitants but less than two hundred fifty thousand inhabitants
17 as determined by the most recent federal decennial census or the most
18 recent revised certified count by the United States Bureau of the Census.

19 (2) The mayor and council of any city of the second class or the
20 chairperson and members of the board of trustees of any village described
21 in subsection (1) of this section may by ordinance, except as provided in
22 sections 13-1111 to 13-1118, at any time include within the corporate
23 limits of such city or village any contiguous or adjacent lands, lots,
24 tracts, streets, or highways as are urban or suburban in character and in
25 such direction as may be deemed proper. Such grant of power shall not be
26 construed as conferring power to extend the limits of any such
27 municipality over any agricultural lands which are rural in character.

28 (3) Not later than fourteen days prior to the public hearing before
29 the planning commission on a proposed annexation by the city or village,
30 the city or village clerk shall send notice of the proposed annexation by
31 certified mail, return receipt requested, to any of the following

1 entities serving customers in such city or village or in the area
2 proposed for annexation: Any natural gas public utility as defined in
3 section 66-1802; any natural gas utility owned or operated by the city or
4 village; any metropolitan utilities district; any public power district;
5 any public power and irrigation district; any municipality; any electric
6 cooperative; and any other governmental entity providing electric
7 service. Such notice shall include a copy of the proposed annexation
8 ordinance, the date, time, and place of the public hearing before the
9 planning commission on the proposed annexation ordinance, and a map
10 showing the boundaries of the area proposed for annexation.

11 (4) Prior to the final adoption of the annexation ordinance, the
12 minutes of the city council or village board meeting at which such final
13 adoption was considered shall reflect formal compliance with the
14 provisions of subsection (3) of this section.

15 (5) No additional or further notice beyond that required by
16 subsection (3) of this section shall be necessary in the event (a) that
17 the scheduled city council or village board public hearing on the
18 proposed annexation is adjourned, continued, or postponed until a later
19 date or (b) that subsequent to providing such notice the ordinance
20 regarding such proposed annexation was amended, changed, or rejected by
21 action of the city council or village board prior to formal passage of
22 the annexation ordinance.

23 (6) Except for a willful or deliberate failure to cause notice to be
24 given, no annexation decision made by a city of the second class or
25 village either to accept or reject a proposed annexation, either in whole
26 or in part, shall be void, invalidated, or affected in any way because of
27 any irregularity, defect, error, or failure on the part of the city or
28 village or its employees to cause notice to be given as required by this
29 section if a reasonable attempt to comply with this section was made.

30 (7) Except for a willful or deliberate failure to cause notice to be
31 given, the city or village and its employees shall not be liable for any

1 damage to any person resulting from any failure to cause notice to be
2 given as required by this section when a reasonable attempt was made to
3 provide such notice. No action for damages resulting from the failure to
4 cause notice to be provided as required by this section shall be filed
5 more than one year following the date of the formal acceptance or
6 rejection of the proposed annexation, either in whole or in part, by the
7 city council or village board.

8 (8) No action to challenge the validity of the acceptance or
9 rejection of a proposed annexation on the basis of this section shall be
10 filed more than one year following the date of the formal acceptance or
11 rejection of the annexation by the city council or village board.

12 Sec. 3. Section 17-1002, Revised Statutes Cumulative Supplement,
13 2016, is amended to read:

14 17-1002 (1) Except as provided in subsection (5) of this section,
15 any city of the second class or village may designate by ordinance the
16 portion of the territory located within one mile of the corporate limits
17 of such city or village and outside of any other organized city or
18 village within which the designating city or village will exercise the
19 powers and duties granted by this section and section 17-1003 or section
20 19-2402.

21 (2) No owner of any real property located within the area designated
22 by a city or village pursuant to subsection (1) or (5) of this section
23 may subdivide, plat, or lay out such real property in building lots,
24 streets, or other portions of the same intended to be dedicated for
25 public use or for the use of the purchasers or owners of lots fronting
26 thereon or adjacent thereto without first having obtained the approval of
27 the city council or board of trustees of such municipality or its agent
28 designated pursuant to section 19-916 and, when applicable, having
29 complied with sections 39-1311 to 39-1311.05. The fact that such real
30 property is located in a different county or counties than some or all
31 portions of the municipality shall not be construed as affecting the

1 necessity of obtaining the approval of the city council or board of
2 trustees of such municipality or its designated agent.

3 (3) No plat of such real property shall be recorded or have any
4 force or effect unless approved by the city council or board of trustees
5 of such municipality or its designated agent.

6 (4) Except as provided in subsection (6) of this section, in
7 counties that have adopted a comprehensive development plan which meets
8 the requirements of section 23-114.02 and are enforcing subdivision
9 regulations, the county planning commission shall be provided with all
10 available materials on any proposed subdivision plat, contemplating
11 public streets or improvements, which is filed with a municipality in
12 that county, when such proposed plat lies partially or totally within the
13 extraterritorial zoning jurisdiction being exercised by that municipality
14 in such county. The commission shall be given four weeks to officially
15 comment on the appropriateness of the design and improvements proposed in
16 the plat. The review period for the commission shall run concurrently
17 with subdivision review activities of the municipality after the
18 commission receives all available material for a proposed subdivision
19 plat.

20 (5) If a city of the second class or village receives approval for
21 the cession and transfer of additional extraterritorial zoning
22 jurisdiction under section 13-327, such city or village may designate by
23 ordinance the portion of the territory located within one mile of the
24 corporate limits of such city or village and outside of any other
25 organized city or village within which the designating city or village
26 will exercise the powers and duties granted by this section and section
27 17-1003 or section 19-2402 and shall include territory ceded under
28 section 13-327 within such designation.

29 (6) In counties having a population in excess of one hundred
30 thousand inhabitants but less than two hundred fifty thousand inhabitants
31 as determined by the most recent federal decennial census or the most

1 recent revised certified count by the United States Bureau of the Census
2 that have adopted a comprehensive development plan which meets the
3 requirements of section 23-114.02 and are enforcing subdivision
4 regulations, the county planning department and public works department
5 shall be provided with all available materials on any proposed
6 subdivision plat, contemplating public streets or improvements, which is
7 filed with a city of the second class or village municipality in that
8 county, when such proposed plat lies partially or totally within the
9 extraterritorial subdivision jurisdiction being exercised by that city of
10 the second class or village municipality in such county. The county may
11 officially comment on the appropriateness of the design and improvements
12 proposed in the plat.

13 Sec. 4. Section 18-3001, Revised Statutes Cumulative Supplement,
14 2016, is amended to read:

15 18-3001 (1) Except as provided in subsection (5) of this section and
16 notwithstanding any provisions of Chapter 14, article 4, Chapter 15,
17 article 9, Chapter 19, article 9, or of any home rule charter to the
18 contrary, every city or village may include within its zoning ordinance
19 provisions authorizing and regulating planned unit developments within
20 such city or village or within the zoning jurisdiction of such city or
21 village, except such cities or villages shall not have authority to
22 impose such power over other organized cities or villages within the
23 zoning jurisdiction of such cities or villages. As used in this section,
24 planned unit development includes any development of a parcel of land or
25 an aggregation of contiguous parcels of land to be developed as a single
26 project which proposes density transfers, density increases, and mixing
27 of land uses, or any combination thereof, based upon the application of
28 site planning criteria. The purpose of such ordinance shall be to permit
29 flexibility in the regulation of land development, to encourage
30 innovation in land use and variety in design, layout, and type of
31 structures constructed, to achieve economy and efficiency in the use of

1 land, natural resources, and energy and the provision of public services
2 and utilities, to encourage the preservation and provision of useful open
3 space, and to provide improved housing, employment, or shopping
4 opportunities particularly suited to the needs of an area.

5 (2) An ordinance authorizing and regulating planned unit
6 developments shall establish criteria relating to the review of proposed
7 planned unit developments to ensure that the land use or activity
8 proposed through a planned unit development shall be compatible with
9 adjacent uses of land and the capacities of public services and utilities
10 affected by such planned unit development and to ensure that the approval
11 of such planned unit development is consistent with the public health,
12 safety, and general welfare of the city or village and is in accordance
13 with the comprehensive plan.

14 (3) Within a planned unit development, regulations relating to the
15 use of land, including permitted uses, lot sizes, setbacks, height
16 limits, required facilities, buffers, open spaces, roadway and parking
17 design, and land-use density shall be determined in accordance with the
18 planned unit development regulations specified in the zoning ordinance.
19 The planned unit development regulations need not be uniform with regard
20 to each type of land use.

21 (4) The approval of planned unit developments, as authorized under a
22 planned unit development ordinance, shall be generally similar to the
23 procedures established for the approval of zone changes. In approving any
24 planned unit development, a city or village may, either as a condition of
25 the ordinance approving a planned unit development, by covenant, by
26 separate agreement, or otherwise, impose reasonable conditions as deemed
27 necessary to ensure that a planned unit development shall be compatible
28 with adjacent uses of land, will not overburden public services and
29 facilities, and will not be detrimental to the public health, safety, and
30 welfare. Such conditions or agreements may provide for dedications of
31 land for public purposes.

1 (5) Except as provided in subsection (6) of this section, a city of
2 the second class or village located in a county that has adopted a
3 comprehensive development plan which meets the requirements of section
4 23-114.02 and is enforcing subdivision regulations shall not finally
5 approve a planned unit development upon property located outside of the
6 corporate boundaries of the city or village until the plans for the
7 planned unit development have been submitted to, reviewed, and approved
8 by the county's planning commission pursuant to subsection (4) of section
9 17-1002.

10 (6) A city of the second class or village located in whole or in
11 part within the boundaries of a county having a population in excess of
12 one hundred thousand inhabitants but less than two hundred fifty thousand
13 inhabitants as determined by the most recent federal decennial census or
14 the most recent revised certified count by the United States Bureau of
15 the Census that has adopted a comprehensive development plan which meets
16 the requirements of section 23-114.02 and is enforcing subdivision
17 regulations shall not finally approve a planned unit development upon
18 property located outside of the corporate boundaries of the city or
19 village until the plans for the planned unit development have been
20 submitted to the county's planning department and public works department
21 for review.

22 Sec. 5. Original sections 16-130 and 17-407, Reissue Revised
23 Statutes of Nebraska, and sections 17-1002 and 18-3001, Revised Statutes
24 Cumulative Supplement, 2016, are repealed.