

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 196

FINAL READING

Introduced by Urban Affairs Committee: Wayne, 13, Chairperson; Arch, 14;
Briese, 41; Crawford, 45; Hansen, M., 26; Hunt, 8; Lowe,
37.

Read first time January 11, 2019

Committee: Urban Affairs

- 1 A BILL FOR AN ACT relating to cities; to amend sections 14-407, 14-420,
- 2 and 19-4029.01, Revised Statutes Cumulative Supplement, 2018; to
- 3 change provisions relating to notice of certain zoning matters in
- 4 cities of the metropolitan class and for certain hearings under the
- 5 Business Improvement District Act; and to repeal the original
- 6 sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 14-407, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 14-407 (1) A city of the metropolitan class shall exercise the
4 powers conferred by sections 14-401 to 14-418 through such appropriate
5 planning board or official as exists in such city.

6 (2) When the city is considering the adoption or amendment of a
7 zoning ordinance or the approval of the platting or replatting of any
8 development of real estate, the city shall notify any military
9 installation which is located within the corporate boundary limits or the
10 extraterritorial zoning jurisdiction of the city if the city has received
11 a written request for such notification from the military installation.
12 The planning board shall deliver the notification to the military
13 installation at least ten days prior to the meeting of the planning board
14 at which the proposal is to be considered.

15 (3) When the city is considering the adoption or amendment of a
16 zoning ordinance, except for an amendment that serves only to correct a
17 misspelling or other typographical error, the city shall notify any
18 registered neighborhood association whose area of representation ~~concern~~
19 is located in whole or in part within the area that will be included in
20 such zoning ordinance. Each neighborhood association desiring to receive
21 such notice shall register with the city the area of representation
22 ~~concern~~ of such association and provide the name of and contact
23 information for the individual designated ~~who is~~ to receive notice on
24 behalf of such association and the requested manner of service, whether
25 by email or first-class or regular, ~~certified, or registered~~ mail. The
26 registration shall be in accordance with any rules and regulations
27 adopted and promulgated by the city. The planning board shall deliver the
28 notification to the neighborhood association (a) in the manner requested
29 by the neighborhood association and (b) at least ten days prior to the
30 meeting of the planning board at which the proposal is to be considered.

31 Sec. 2. Section 14-420, Revised Statutes Cumulative Supplement,

1 2018, is amended to read:

2 14-420 (1) A city of the metropolitan class shall provide written
3 notice of any properly filed request for a change in the zoning
4 classification of a subject property to the owners of adjacent property
5 in the manner set out in this section.

6 (2) Initial notice of the proposed zoning change on the subject
7 property shall be sent to the owners of adjacent property by regular
8 United States mail, postage prepaid, to the owner's address as it appears
9 in the records of the office of the register of deeds, postmarked at
10 least ten working days prior to the planning board public hearing on the
11 proposed change. The initial notice shall also be provided at least ten
12 working days prior to the hearing to any registered neighborhood
13 association when the subject property is located within the boundary of
14 the area of representation concern of such association in the manner
15 requested by the association. Each neighborhood association desiring to
16 receive such notice shall register with the city the area of
17 representation concern of such association and provide the name of and
18 contact information for the individual designated ~~who is~~ to receive
19 notice on behalf of such association and the requested manner of service,
20 whether by email or first-class or regular, certified, ~~or registered~~
21 mail. The registration shall be in accordance with any rules and
22 regulations adopted and promulgated by the city. Such notice shall
23 describe the subject property or give its address, describe the nature of
24 the zoning change requested, and contain the date, time, and location of
25 the planning board hearing.

26 (3) A second notice of the proposed zoning change on the subject
27 property shall be sent to the same owners of adjacent property who were
28 provided with notice under subsection (2) of this section. Such notice
29 shall be sent by regular United States mail, postage prepaid, to the
30 owner's address as it appears in the records of the office of the
31 register of deeds, postmarked at least ten working days prior to the city

1 council public hearing on the proposed change. Such notice shall describe
2 the subject property or give its address, describe the nature of the
3 zoning change requested, and contain the date, time, and location of the
4 city council public hearing.

5 (4) No additional or further notice beyond that required by
6 subsections (2) and (3) of this section shall be necessary in the event
7 that the scheduled planning board or city council public hearing on the
8 proposed zoning change is adjourned, continued, or postponed until a
9 later date.

10 (5) The requirements of this section shall not apply to proposed
11 changes in the text of the zoning code itself or any proposed changes in
12 the zoning code affecting whole classes or classifications of property
13 throughout the jurisdiction of the city.

14 (6) Except for a willful or deliberate failure to cause notice to be
15 given, no zoning decision made by a city of the metropolitan class either
16 to accept or reject a proposed zoning change with regard to a subject
17 property shall be void, invalidated, or affected in any way because of
18 any irregularity, defect, error, or failure on the part of the city or
19 its employees to cause notice to be given as required by this section if
20 a reasonable attempt to comply with this section was made. No action to
21 challenge the validity of the acceptance or rejection of a proposed
22 zoning change on the basis of this section shall be filed more than one
23 year following the date of the formal acceptance or rejection of the
24 zoning change by the city council.

25 (7) Except for a willful or deliberate failure to cause notice to be
26 given, the city and its employees shall not be liable for any damage to
27 any person resulting from any failure to cause notice to be given as
28 required by this section when a reasonable attempt was made to provide
29 such notice. No action for damages resulting from the failure to cause
30 notice to be provided as required by this section shall be filed more
31 than one year following the date of the formal acceptance or rejection of

1 the proposed zoning change by the city council.

2 (8) For purposes of this section:

3 (a) Adjacent property shall mean any piece of real property any
4 portion of which is located within three hundred feet of the nearest
5 boundary line of the subject property or within one thousand feet of the
6 nearest boundary line of the subject property if the proposed zoning
7 change involves a heavy industrial district classification;

8 (b) Owner shall mean the owner of a piece of adjacent property as
9 indicated on the records of the office of the register of deeds as
10 provided to or made available to the city no earlier than the last
11 business day before the twenty-fifth day preceding the planning board
12 public hearing on the zoning change proposed for the subject property;
13 and

14 (c) Subject property shall mean any tract of real property located
15 within the boundaries of a city of the metropolitan class or within the
16 zoning jurisdiction of a city of the metropolitan class which is the
17 subject of a properly filed request for a change of its zoning
18 classification.

19 Sec. 3. Section 19-4029.01, Revised Statutes Cumulative Supplement,
20 2018, is amended to read:

21 19-4029.01 (1) At least ten days prior to the date of any hearing
22 under sections 19-4029, 19-4029.02, and 19-4029.03, notice of such
23 hearing shall be given by:

24 (a) One publication of the notice of hearing in a legal newspaper in
25 or of general circulation in the city;

26 (b) Mailing a copy of the notice of hearing to each owner of taxable
27 property as shown on the latest tax rolls of the county treasurer for
28 such county;

29 (c) Providing a copy of the notice of hearing to any neighborhood
30 association registered pursuant to subsection (2) of this section in the
31 manner requested by such neighborhood association; and

1 (d) If an occupation tax is to be imposed, mailing a copy of the
2 notice of hearing to each user of space in the proposed business
3 improvement district.

4 (2) The notice required by subdivision (1)(c) of this section shall
5 be provided to any neighborhood association which is registered pursuant
6 to this subsection and whose area of representation concern is located,
7 in whole or in part, within a one-mile radius of the existing or proposed
8 boundaries of the business improvement district. Each neighborhood
9 association desiring to receive such notice shall register with the city
10 the area of representation concern of such association and provide the
11 name of and contact information for the individual designated who is to
12 receive notice on behalf of such association and the requested manner of
13 service, whether by email or first-class or regular, certified, ~~or~~
14 ~~registered~~ mail. The registration shall be in accordance with any rules
15 and regulations adopted and promulgated by the city.

16 (3) Any notice of hearing for any hearing required by section
17 19-4029 shall contain the following information:

18 (a) A description of the boundaries of the proposed business
19 improvement district;

20 (b) The time and place of a hearing to be held by the city council
21 to consider establishment of the business improvement district;

22 (c) The proposed public facilities and improvements to be made or
23 maintained within any such business improvement district; and

24 (d) The proposed or estimated costs for improvements and facilities
25 within the proposed business improvement district and the method by which
26 the revenue shall be raised. If a special assessment is proposed, the
27 notice shall also state the proposed method of assessment.

28 (4) Any notice of hearing for any hearing required by sections
29 19-4029.02 and 19-4029.03 shall contain the following information:

30 (a) A description of the boundaries of the area to be added to the
31 existing business improvement district and a description of the new

1 boundaries of the modified business improvement district;

2 (b) The time and place of a hearing to be held by the city council
3 to consider establishment of the modified business improvement district;

4 (c) The new public facilities and improvements, if any, to be made
5 or maintained within any such business improvement district; and

6 (d) The proposed or estimated costs for new and existing
7 improvements and facilities within the proposed modified business
8 improvement district and the method by which the revenue shall be raised.

9 If a special assessment is proposed, the notice shall also state the
10 proposed method of assessment.

11 Sec. 4. Original sections 14-407, 14-420, and 19-4029.01, Revised
12 Statutes Cumulative Supplement, 2018, are repealed.