

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 695

Introduced by Blood, 3.

Read first time January 05, 2022

Committee: Urban Affairs

1 A BILL FOR AN ACT relating to political subdivisions; to amend section
2 23-114.01, Reissue Revised Statutes of Nebraska, section 19-929,
3 Revised Statutes Cumulative Supplement, 2020, and section 18-2119,
4 Revised Statutes Supplement, 2021; to prohibit granting conditional
5 use permits or zoning exceptions to persons delinquent in the
6 payment of real property taxes; to provide a duty and a contracting
7 requirement under the Community Development Law; to harmonize
8 provisions; to provide a duty for the Revisor of Statutes; and to
9 repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. A city of the metropolitan class or any appropriate
2 planning board or city official of such city, in exercising the powers
3 conferred by sections 14-401 to 14-418, shall not grant a conditional use
4 permit or zoning change or exception to any person applying for such
5 permit, change, or exception who is delinquent in the payment of any real
6 property taxes owed to such city until such delinquent taxes are paid and
7 collected in full.

8 Sec. 2. A city of the primary class or any city planning commission
9 or city planning director of such city shall not grant a conditional use
10 permit or zoning change or exception to any person applying for such
11 permit, change, or exception who is delinquent in the payment of any real
12 property taxes owed to such city until such delinquent taxes are paid and
13 collected in full.

14 Sec. 3. Section 18-2119, Revised Statutes Supplement, 2021, is
15 amended to read:

16 18-2119 (1)(a) (1) An authority shall, by public notice by
17 publication once each week for two consecutive weeks in a legal newspaper
18 having a general circulation in the city, prior to the consideration of
19 any redevelopment contract proposal relating to real estate owned or to
20 be owned by the authority, invite proposals from, and make available all
21 pertinent information to, private redevelopers or any persons interested
22 in undertaking the redevelopment of an area, or any part thereof, which
23 the governing body has declared to be in need of redevelopment. Such
24 notice shall identify the area, and shall state that such further
25 information as is available may be obtained at the office of the
26 authority. The authority shall consider all redevelopment proposals and
27 the financial and legal ability of the prospective redevelopers to carry
28 out their proposals. The authority shall state in any request for
29 proposals issued pursuant to this section that no contract will be
30 entered into with any redeveloper who is delinquent in the payment of any
31 real property taxes owed to the city.

1 **(b)** The authority ~~and~~ may negotiate with any redevelopers for
2 proposals for the purchase or lease of any real property in the
3 redevelopment project area. The authority may accept such redevelopment
4 contract proposal as it deems to be in the public interest and in
5 furtherance of the purposes of the Community Development Law if the
6 authority has, not less than thirty days prior thereto, notified the
7 governing body in writing of its intention to accept such redevelopment
8 contract proposal. Thereafter, the authority may execute such
9 redevelopment contract in accordance with the provisions of section
10 18-2118 and deliver deeds, leases, and other instruments and take all
11 steps necessary to effectuate such redevelopment contract. In its
12 discretion, the authority may, without regard to the foregoing provisions
13 of this subdivision section, dispose of real property in a redevelopment
14 project area to private redevelopers for redevelopment under such
15 reasonable competitive bidding procedures as it shall prescribe, subject
16 to the provisions of section 18-2118.

17 (2) In the case of any real estate owned by a redeveloper, the
18 authority may enter into a redevelopment contract providing for such
19 undertakings as the authority shall determine appropriate. Any such
20 redevelopment contract relating to real estate within an enhanced
21 employment area shall include a statement of the redeveloper's consent
22 with respect to the designation of the area as an enhanced employment
23 area, shall be recorded with respect to the real estate owned by the
24 redeveloper, and shall be binding upon all future owners of such real
25 estate.

26 (3)(a) Prior to entering into a redevelopment contract pursuant to
27 this section for a redevelopment plan that includes the division of taxes
28 as provided in section 18-2147, the authority shall require the
29 redeveloper to certify the following to the authority:

30 (i) Whether the redeveloper has filed or intends to file an
31 application to receive tax incentives under the Nebraska Advantage Act or

1 the ImagiNE Nebraska Act for a project located or to be located within
2 the redevelopment project area;

3 (ii) Whether such application includes or will include, as one of
4 the tax incentives, a refund of the city's local option sales tax
5 revenue;~~and~~

6 (iii) Whether such application has been approved under the Nebraska
7 Advantage Act or the ImagiNE Nebraska Act; and -

8 (iv) That the redeveloper is current on the payment of all real
9 property taxes owed to the city.

10 (b) The authority may consider the information provided under
11 subdivision (3)(a) of this section in determining whether to enter into
12 the redevelopment contract.

13 (4) A redevelopment contract for a redevelopment plan or
14 redevelopment project that includes the division of taxes as provided in
15 section 18-2147 shall include a provision requiring that the redeveloper
16 retain copies of all supporting documents that are associated with the
17 redevelopment plan or redevelopment project and that are received or
18 generated by the redeveloper for three years following the end of the
19 last fiscal year in which ad valorem taxes are divided and provide such
20 copies to the city as needed to comply with the city's retention
21 requirements under section 18-2117.04. For purposes of this subsection,
22 supporting document includes any cost-benefit analysis conducted pursuant
23 to section 18-2113 and any invoice, receipt, claim, or contract received
24 or generated by the redeveloper that provides support for receipts or
25 payments associated with the division of taxes.

26 (5) A redevelopment contract for a redevelopment plan that includes
27 the division of taxes as provided in section 18-2147 shall ~~may~~ include a
28 provision requiring that all ad valorem taxes levied upon real property
29 in a redevelopment project be paid before the taxes become delinquent in
30 order for such redevelopment project to receive funds from such division
31 of taxes.

1 (6) A redevelopment contract for a redevelopment plan or
2 redevelopment project that includes the division of taxes as provided in
3 section 18-2147 may include any additional requirements deemed necessary
4 by the city to ensure that such plan or project complies with the city's
5 comprehensive development plan, the city's affordable housing action plan
6 required under section 19-5505, city zoning regulations, and any other
7 reasonable planning requirements or goals established by the city.

8 Sec. 4. Section 19-929, Revised Statutes Cumulative Supplement,
9 2020, is amended to read:

10 19-929 (1) Except as provided in sections 19-930 to 19-933, the
11 planning commission of a city of the first class, city of the second
12 class, or village shall (a) make and adopt plans for the physical
13 development of the city or village, including any areas outside its
14 boundaries which in the commission's judgment bear relation to the
15 planning of such city or village and including a comprehensive
16 development plan as defined by section 19-903, (b) prepare and adopt such
17 implemental means as a capital improvement program, subdivision
18 regulations, building codes, and a zoning ordinance in cooperation with
19 other interested municipal departments, and (c) consult with and advise
20 public officials and agencies, public utilities, civic organizations,
21 educational institutions, and citizens with relation to the promulgation
22 and implementation of the comprehensive development plan and its
23 implemental programs. The commission may delegate authority to any such
24 group to conduct studies and make surveys for the commission, make
25 preliminary reports on its findings, and hold public hearings before
26 submitting its final reports. The city council or village board of
27 trustees shall not take final action on matters relating to the
28 comprehensive development plan, capital improvements, building codes,
29 subdivision development, annexation of territory, or zoning until it has
30 received the recommendation of the planning commission if such commission
31 in fact has been created and is existent. The city council or village

1 board of trustees shall by ordinance set a reasonable time within which
2 the recommendation from the planning commission is to be received. A
3 recommendation from the planning commission shall not be required for
4 subdivision of existing lots and blocks whenever all required public
5 improvements have been installed, no new dedication of public rights-of-
6 way or easements is involved, and such subdivision complies with the
7 ordinance requirements concerning minimum areas and dimensions of such
8 lots and blocks, if the city council or village board of trustees has
9 designated, by ordinance, an agent pursuant to section 19-916.

10 (2) The planning commission may, with the consent of the city
11 council or village board of trustees, in its own name (a) make and enter
12 into contracts with public or private bodies, (b) receive contributions,
13 bequests, gifts, or grant funds from public or private sources, (c)
14 expend the funds appropriated to it by the city or village, (d) employ
15 agents and employees, and (e) acquire, hold, and dispose of property.

16 The planning commission may on its own authority make arrangements
17 consistent with its program, conduct or sponsor special studies or
18 planning work for any public body or appropriate agency, receive grants,
19 remuneration, or reimbursement for such studies or work, and at its
20 public hearings, summon witnesses, administer oaths, and compel the
21 giving of testimony.

22 (3)(a) ~~(3)~~ The planning commission may grant conditional uses or
23 special exceptions to property owners for the use of their property if
24 the city council or village board of trustees has, through a zoning
25 ordinance or special ordinance, generally authorized the commission to
26 exercise such powers and has approved the standards and procedures
27 adopted by the commission for equitably and judiciously granting such
28 conditional uses or special exceptions. The granting of a conditional use
29 permit or special exception shall only allow property owners to put their
30 property to a special use if it is among those uses specifically
31 identified in the zoning ordinance as classifications of uses which may

1 require special conditions or requirements to be met by the owners before
2 a use permit or building permit is authorized. The power to grant
3 conditional uses or special exceptions shall be the exclusive authority
4 of the commission, except that the city council or village board of
5 trustees may choose to retain for itself the power to grant conditional
6 uses or special exceptions for those classifications of uses specified in
7 the zoning ordinance. The city council or village board of trustees may
8 exercise such power if it has formally adopted standards and procedures
9 for granting such conditional uses or special exceptions in a manner that
10 is equitable and will promote the public interest. An appeal of a
11 decision by the commission or the city council or village board of
12 trustees regarding a conditional use or special exception shall be made
13 to the district court.

14 (b) No city of the first class, city of the second class, or
15 village, or planning commission of such city or village, shall grant a
16 conditional use permit or special exception under subdivision (a) of this
17 subsection to any property owner who is delinquent in the payment of any
18 real property taxes owed to such city or village until such delinquent
19 taxes are paid and collected in full.

20 Sec. 5. Section 23-114.01, Reissue Revised Statutes of Nebraska, is
21 amended to read:

22 23-114.01 (1) In order to avail itself of the powers conferred by
23 section 23-114, the county board shall appoint a planning commission to
24 be known as the county planning commission. The members of the commission
25 shall be residents of the county to be planned and shall be appointed
26 with due consideration to geographical and population factors. Since the
27 primary focus of concern and control in county planning and land-use
28 regulatory programs is the unincorporated area, a majority of the members
29 of the commission shall be residents of unincorporated areas, except that
30 this requirement shall not apply to joint planning commissions. Members
31 of the commission shall hold no county or municipal office, except that a

1 member may also be a member of a city, village, or other type of planning
2 commission. The term of each member shall be three years, except that
3 approximately one-third of the members of the first commission shall
4 serve for terms of one year, one-third for terms of two years, and one-
5 third for terms of three years. All members shall hold office until their
6 successors are appointed. Members of the commission may be removed by a
7 majority vote of the county board for inefficiency, neglect of duty, or
8 malfeasance in office or other good and sufficient cause upon written
9 charges being filed with the county board and after a public hearing has
10 been held regarding such charges. Vacancies occurring otherwise than
11 through the expiration of terms shall be filled for the unexpired terms
12 by individuals appointed by the county board. Members of the commission
13 shall be compensated for their actual and necessary expenses incurred in
14 connection with their duties in an amount to be fixed by the county
15 board. Reimbursement for mileage shall be made at the rate provided in
16 section 81-1176. Each county board may provide a per diem payment for
17 members of the commission of not to exceed fifteen dollars for each day
18 that each such member attends meetings of the commission or is engaged in
19 matters concerning the commission, but no member shall receive more than
20 one thousand dollars in any one year. Such per diem payments shall be in
21 addition to and separate from compensation for expenses.

22 (2) The commission: (a) Shall prepare and adopt as its policy
23 statement a comprehensive development plan and such implemental means as
24 a capital improvement program, subdivision regulations, building codes,
25 and a zoning resolution; (b) shall consult with and advise public
26 officials and agencies, public utilities, civic organizations,
27 educational institutions, and citizens relating to the promulgation of
28 implemental programs; (c) may delegate authority to any of the groups
29 named in subdivision (b) of this subsection to conduct studies and make
30 surveys for the commission; and (d) shall make preliminary reports on its
31 findings and hold public hearings before submitting its final reports.

1 The county board shall not hold its public meetings or take action on
2 matters relating to the comprehensive development plan, capital
3 improvements, building codes, subdivision development, or zoning until it
4 has received the recommendations of the commission.

5 (3) The commission may, with the consent of the governing body, in
6 its own name: Make and enter into contracts with public or private
7 bodies; receive contributions, bequests, gifts, or grants of funds from
8 public or private sources; expend the funds appropriated to it by the
9 county board; employ agents and employees; and acquire, hold, and dispose
10 of property. The commission may, on its own authority: Make arrangements
11 consistent with its program; conduct or sponsor special studies or
12 planning work for any public body or appropriate agency; receive grants,
13 remuneration, or reimbursement for such studies or work; and at its
14 public hearings, summon witnesses, administer oaths, and compel the
15 giving of testimony.

16 (4) In all counties in the state, the county planning commission may
17 grant conditional uses or special exceptions to property owners for the
18 use of their property if the county board of commissioners or supervisors
19 has officially and generally authorized the commission to exercise such
20 powers and has approved the standards and procedures the commission
21 adopted for equitably and judiciously granting such conditional uses or
22 special exceptions. The granting of a conditional use permit or special
23 exception shall only allow property owners to put their property to a
24 special use if it is among those uses specifically identified in the
25 county zoning regulations as classifications of uses which may require
26 special conditions or requirements to be met by the owners before a use
27 permit or building permit is authorized. The applicant for a conditional
28 use permit or special exception for a livestock operation specifically
29 identified in the county zoning regulations as a classification of use
30 which may require special conditions or requirements to be met within an
31 area of a county zoned for agricultural use may request a determination

1 of the special conditions or requirements to be imposed by the county
2 planning commission or by the county board of commissioners or
3 supervisors if the board has not authorized the commission to exercise
4 such authority. Upon request the commission or board shall issue such
5 determination of the special conditions or requirements to be imposed in
6 a timely manner. Such special conditions or requirements to be imposed
7 may include, but are not limited to, the submission of information that
8 may be separately provided to state or federal agencies in applying to
9 obtain the applicable state and federal permits. The commission or the
10 board may request and review, prior to making a determination of the
11 special conditions or requirements to be imposed, reasonable information
12 relevant to the conditional use or special exception. If a determination
13 of the special conditions or requirements to be imposed has been made,
14 final permit approval may be withheld subject only to a final review by
15 the commission or county board to determine whether there is a
16 substantial change in the applicant's proposed use of the property upon
17 which the determination was based and that the applicant has met, or will
18 meet, the special conditions or requirements imposed in the
19 determination. For purposes of this section, substantial change shall
20 include any significant alteration in the original application including
21 a significant change in the design or location of buildings or
22 facilities, in waste disposal methods or facilities, or in capacity.

23 (5) The power to grant conditional uses or special exceptions as set
24 forth in subsection (4) of this section shall be the exclusive authority
25 of the commission, except that the county board of commissioners or
26 supervisors may choose to retain for itself the power to grant
27 conditional uses or special exceptions for those classifications of uses
28 specified in the county zoning regulations. The county board of
29 commissioners or supervisors may exercise such power if it has formally
30 adopted standards and procedures for granting such conditional uses or
31 special exceptions in a manner that is equitable and which will promote

1 the public interest. In any county other than a county in which is
2 located a city of the primary class, an appeal of a decision by the
3 county planning commission or county board of commissioners or
4 supervisors regarding a conditional use or special exception shall be
5 made to the district court. In any county in which is located a city of
6 the primary class, an appeal of a decision by the county planning
7 commission regarding a conditional use or special exception shall be made
8 to the county board of commissioners or supervisors, and an appeal of a
9 decision by the county board of commissioners or supervisors regarding a
10 conditional use or special exception shall be made to the district court.

11 (6) Whenever a county planning commission or county board is
12 authorized to grant conditional uses or special exceptions pursuant to
13 subsection (4) or (5) of this section, the planning commission or county
14 board shall, with its decision to grant or deny a conditional use permit
15 or special exception, issue a statement of factual findings arising from
16 the record of proceedings that support the granting or denial of the
17 conditional use permit or special exception. If a county planning
18 commission's role is advisory to the county board, the county planning
19 commission shall submit such statement with its recommendation to the
20 county board as to whether to approve or deny a conditional use permit or
21 special exception.

22 (7) No county planning commission or county board shall grant a
23 conditional use permit or special exception under this section to any
24 property owner who is delinquent in the payment of any real property
25 taxes owed to the county until such delinquent taxes are paid and
26 collected in full.

27 Sec. 6. The Revisor of Statutes shall assign:

28 (1) Section 1 of this act to Chapter 14, article 4; and

29 (2) Section 2 of this act to Chapter 15, article 9.

30 Sec. 7. Original section 23-114.01, Reissue Revised Statutes of
31 Nebraska, section 19-929, Revised Statutes Cumulative Supplement, 2020,

1 and section 18-2119, Revised Statutes Supplement, 2021, are repealed.