

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1094

Introduced by Ballard, 21.

Read first time January 15, 2026

Committee:

- 1 A BILL FOR AN ACT relating to government; to adopt the By-Right Housing
- 2 Development Act and the Permitting Approval Timeliness Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Sections 1 to 6 of this act shall be known and may be
2 cited as the By-Right Housing Development Act.

3 **Sec. 2.** For purposes of the By-Right Housing Development Act:

4 (1) Accessory dwelling unit means a secondary housing unit that is
5 subordinate to the primary dwelling unit on the same lot and may include
6 a separate kitchen, bathroom, and entrance;

7 (2) Multifamily housing unit means a residential building containing
8 two or more housing units, such as apartment buildings, condominiums, or
9 townhouses;

10 (3) Permitting authority means the governmental entity responsible
11 for issuing permits for housing developments within such governmental
12 entity's jurisdiction; and

13 (4) Single-family home means a dwelling, either detached or semi-
14 detached, that is arranged, intended, or designed to be occupied by a
15 single family.

16 **Sec. 3.** All proposed housing developments, including single-family
17 homes, accessory dwelling units, and multifamily housing units, that meet
18 the criteria outlined in applicable zoning codes and land use regulations
19 shall be approved by right, without the need for discretionary review or
20 approval by any planning commission, zoning board, or other regulatory
21 authority.

22 **Sec. 4.** (1) Regulatory authorities shall monitor housing
23 developments that were approved by right pursuant to section 3 of this
24 act to ensure compliance with applicable regulations and standards.

25 (2) A housing development's noncompliance with applicable
26 regulations and standards may result in enforcement actions, such as
27 fines, penalties, or project modifications to bring the development into
28 compliance.

29 **Sec. 5.** Nothing in the By-Right Housing Development Act shall be
30 construed to invalidate or limit the legality, enforceability, or effect
31 of any restrictive covenants or any regulations of a condominium

1 association or homeowners' association. Courts shall recognize and
2 enforce such covenants and regulations in accordance with applicable
3 laws.

4 **Sec. 6.** (1) If a permitting authority denies a permit for a housing
5 development, the applicant whose permit was denied may appeal the
6 decision to the district court. On appeal, the court shall review the
7 decision of the permitting authority de novo. The inquiry in such a case
8 shall extend to the questions of (a) whether the permitting authority
9 proceeded without jurisdiction or in excess of its jurisdiction, (b)
10 whether there was a fair process, and (c) whether there was any abuse of
11 discretion.

12 (2) Abuse of discretion is established if the court determines that
13 the permitting authority's findings are not supported by clear and
14 convincing evidence in light of the whole record.

15 (3) If the court overturns the denial, the court may remand the case
16 to the permitting authority or may direct the permitting authority to
17 grant the permit.

18 (4) The court retains authority to grant equitable relief where
19 appropriate and shall award the successful applicant attorney's fees and
20 expenses. In no case shall attorney's fees or expenses be awarded to the
21 permitting authority or any third party challenging a permit.

22 **Sec. 7.** Sections 7 to 11 of this act shall be known and may be
23 cited as the Permitting Approval Timeliness Act.

24 **Sec. 8.** For purposes of the Permitting Approval Timeliness Act:

25 (1) Applicant means any individual, organization, or entity
26 submitting a permit application for review and approval;

27 (2) Permit application means an application for a permit that is
28 required to develop real property or to make improvements to real
29 property; and

30 (3) Permitting authority means the state or local governmental
31 entity responsible for reviewing permit applications and issuing permits

1 within such governmental entity's jurisdiction.

2 **Sec. 9.** (1) A permitting authority shall process permit
3 applications in a timely manner and shall issue a decision on a complete
4 permit application within seventy-five days after its submission.

5 (2) If a permitting authority fails to issue a decision within
6 seventy-five days after submission of a complete permit application, the
7 permit shall be automatically granted to the applicant.

8 **Sec. 10.** (1) If a permitting authority denies a permit application
9 or approves a permit application with conditions, the permitting
10 authority shall provide the applicant with specific reasons for the
11 denial or conditional approval. The permitting authority need not give a
12 reason for its approval of a permit application.

13 (2) The reasons for denial or conditional approval shall be based on
14 applicable laws and regulations clearly established for the issuance of
15 the relevant permit.

16 **Sec. 11.** (1) An applicant may appeal a decision of the permitting
17 authority to the district court. Other parties shall not have standing to
18 appeal the decision. On appeal, the court shall review the decision of
19 the permitting authority de novo. The inquiry in such a case shall extend
20 to the questions of (a) whether the permitting authority proceeded
21 without jurisdiction or in excess of its jurisdiction, (b) whether there
22 was a fair process, and (c) whether there was any abuse of discretion.

23 (2) Abuse of discretion is established if the court determines that
24 the permitting authority's findings are not supported by clear and
25 convincing evidence in light of the whole record.

26 (3) If the court overturns the denial or rejects the conditions of
27 approval, the court shall direct the permitting authority to grant the
28 permit.

29 (4) The court retains authority to grant equitable relief where
30 appropriate and shall award the successful applicant attorney's fees and
31 expenses. In no case shall attorney's fees or expenses be awarded to the

1 permitting authority.