

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 302

Introduced by Friend, 10

Read first time January 11, 2007

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to property; to amend sections 14-406,
2 19-904.01, 39-212, and 69-1701, Reissue Revised
3 Statutes of Nebraska, and section 15-902, Revised
4 Statutes Cumulative Supplement, 2006; to change
5 provisions relating to buildings, structures, and outdoor
6 advertising signs, displays, and devices as prescribed;
7 and to repeal the original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 14-406, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 14-406 The lawful use of land, buildings, or structures
4 existing on April 1, 1925, prior to any authorized change in zoning
5 regulations, although such use does not conform to the provisions
6 ~~hereof,~~ thereof, may be continued, but if such nonconforming use
7 is abandoned, any future use of ~~said~~ the premises shall be in
8 conformity with the provisions of sections 14-401 to 14-418 and
9 any applicable zoning regulations. The lawful use of a building
10 ~~existing on April 1, 1925,~~ prior to any authorized change in
11 zoning regulations may be continued, although such use does not
12 conform with the provisions hereof, and such use may be extended
13 throughout the building, ~~provided~~ if no structural alterations,
14 except those required by law or ordinance, are made therein.
15 If no structural alterations are made, a nonconforming use of
16 a building may be changed to another nonconforming use of the
17 same or a higher classification. Whenever a use district ~~shall be~~
18 is changed, any then existing nonconforming use in such changed
19 district may be continued or changed to a use permitted in that
20 district, ~~provided~~ if all other regulations governing the new use
21 are complied with. Whenever a nonconforming use of a building has
22 been changed to a more restricted use or to a conforming use,
23 such use shall not thereafter be changed to a less restricted use.
24 The municipal governing body may provide in any zoning regulation
25 for the restoration, reconstruction, extension, or substitution

1 of nonconforming uses by the owner or assignee of such use upon
2 the terms and conditions set forth in the zoning regulations.
3 Such zoning regulations may include reasonable provisions regarding
4 nonconforming uses of buildings and structures and their gradual
5 elimination, except that in the case of a legally erected outdoor
6 advertising sign, display, or device, no amortization schedule
7 shall be used.

8 Sec. 2. Section 15-902, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 15-902 (1) Every city of the primary class shall have
11 power in the area which is within the city or within three miles
12 of the corporate limits of the city and outside of any organized
13 city or village to regulate and restrict: (a) The location,
14 height, bulk, and size of buildings and other structures; (b) the
15 percentage of a lot that may be occupied; (c) the size of yards,
16 courts, and other open spaces; (d) the density of population; and
17 (e) the locations and uses of buildings, structures, and land for
18 trade, industry, business, residences, and other purposes. Such
19 city shall have power to divide the area zoned into districts
20 of such number, shape, and area as may be best suited to carry
21 out the purposes of this section and to regulate, restrict, or
22 prohibit the erection, construction, reconstruction, alteration,
23 or use of buildings, structures, or land within the total area
24 zoned or within districts. All such regulations shall be uniform
25 for each class or kind of buildings throughout each district,

1 but regulations applicable to one district may differ from those
2 applicable to other districts. Such zoning regulations shall be
3 designed to secure safety from fire, flood, and other dangers and
4 to promote the public health, safety, and general welfare and shall
5 be made with consideration having been given to the character of
6 the various parts of the area zoned and their peculiar suitability
7 for particular uses and types of development and with a view to
8 conserving property values and encouraging the most appropriate
9 use of land throughout the area zoned, in accordance with a
10 comprehensive plan. The municipal governing body may provide in any
11 zoning regulation for the restoration, reconstruction, extension,
12 or substitution of nonconforming uses by the owner or assignee
13 of such use upon the terms and conditions set forth in the
14 zoning regulations. Such zoning regulations may include reasonable
15 provisions regarding nonconforming uses of buildings and structures
16 and their gradual elimination, except that in the case of a
17 legally erected outdoor advertising sign, display, or device, no
18 amortization schedule shall be used.

19 (2)(a) The city shall not adopt or enforce any zoning
20 ordinance or regulation which prohibits the use of land for
21 a proposed residential structure for the sole reason that the
22 proposed structure is a manufactured home if such manufactured home
23 bears an appropriate seal which indicates that it was constructed
24 in accordance with the standards of the Uniform Standard Code
25 for Manufactured Homes and Recreational Vehicles, the Nebraska

1 Uniform Standards for Modular Housing Units Act, or the United
2 States Department of Housing and Urban Development. The city may
3 require that a manufactured home be located and installed according
4 to the same standards for foundation system, permanent utility
5 connections, setback, and minimum square footage which would apply
6 to a site-built, single-family dwelling on the same lot. The
7 city may also require that manufactured homes meet the following
8 standards:

9 (i) The home shall have no less than nine hundred square
10 feet of floor area;

11 (ii) The home shall have no less than an eighteen-foot
12 exterior width;

13 (iii) The roof shall be pitched with a minimum vertical
14 rise of two and one-half inches for each twelve inches of
15 horizontal run;

16 (iv) The exterior material shall be of a color, material,
17 and scale comparable with those existing in residential site-built,
18 single-family construction;

19 (v) The home shall have a nonreflective roof material
20 which is or simulates asphalt or wood shingles, tile, or rock; and

21 (vi) The home shall have wheels, axles, transporting
22 lights, and removable towing apparatus removed.

23 (b) The city may not require additional standards unless
24 such standards are uniformly applied to all single-family dwellings
25 in the zoning district.

1 (c) Nothing in this subsection shall be deemed to
2 supersede any valid restrictive covenants of record.

3 (3) For purposes of this section, manufactured home shall
4 mean (a) a factory-built structure which is to be used as a place
5 for human habitation, which is not constructed or equipped with
6 a permanent hitch or other device allowing it to be moved other
7 than to a permanent site, which does not have permanently attached
8 to its body or frame any wheels or axles, and which bears a
9 label certifying that it was built in compliance with National
10 Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280
11 et seq., promulgated by the United States Department of Housing
12 and Urban Development, or (b) a modular housing unit as defined
13 in section 71-1557 bearing a seal in accordance with the Nebraska
14 Uniform Standards for Modular Housing Units Act.

15 Sec. 3. Section 19-904.01, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 19-904.01 The use of a building, structure, or land,
18 existing and lawful at the time of the adoption of a zoning
19 regulation, or at the time of an amendment of a regulation, may,
20 except as provided in this section, be continued, although such use
21 does not conform with provisions of such regulation or amendment;
22 and such use may be extended throughout the same building if no
23 structural alteration of such building is proposed or made for
24 the purpose of such extension. If such nonconforming use is in
25 fact discontinued for a period of twelve months, such right to

1 the nonconforming use shall be forfeited and any future use of
2 the building and premises shall conform to the regulation. The
3 municipal legislative body may provide in any zoning regulation
4 for the restoration, reconstruction, extension, or substitution
5 of nonconforming uses by the owner or assignee of such use upon
6 such terms and conditions as may be set forth in the zoning
7 regulations. The municipal legislative body may, in any zoning
8 regulation, provide for the termination of nonconforming uses,
9 either by specifying the period or periods in which nonconforming
10 uses shall be required to cease, or by providing a formula whereby
11 the compulsory termination of a nonconforming use may be so fixed
12 as to allow for the recovery of amortization of the investment in
13 the nonconformance, except that in the case of a legally erected
14 outdoor advertising sign, display, or device, no amortization
15 schedule shall be used.

16 Sec. 4. Section 39-212, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 39-212 (1) The Department of Roads may acquire the
19 interest in real or personal property necessary to exercise the
20 power authorized by subdivision (2)(m) of section 39-1320 and ~~to~~
21 shall pay just compensation upon removal of the following outdoor
22 advertising signs, displays, and devices, for such acquisition
23 and any severance damages to any remainder, as well as just
24 compensation for the disconnection and removal of electrical
25 service to the same, and for acquisition of the following outdoor

1 advertising signs, displays, and devices:

2 (a) Those lawfully erected or in existence prior to March
3 27, 1972, and not conforming to the provisions of sections 39-212
4 to 39-222 except as otherwise authorized by such sections; and

5 (b) Those lawfully erected after March 27, 1972, which
6 become nonconforming after being erected.

7 (2) Such compensation for removal of such signs,
8 displays, and devices is authorized to be paid only for the
9 following:

10 (a) The taking from the owner of such sign, display,
11 or device or of all right, title, leasehold, and interest in
12 connection with such sign, display, or device, or both which shall
13 be paid as a whole economic unit, and not as separate interests,
14 based on the fair market value of such interest; and

15 (b) The taking from the owner of the real property on
16 which the sign, display, or device is located of the right to erect
17 and maintain such signs, displays, and devices thereon.

18 (3) In all instances where signs, displays, or devices
19 which are served electrically are taken under subdivision (2)(a)
20 of this section, the department shall pay just compensation to the
21 supplier of electricity for supportable costs of disconnection and
22 removal of such service to the nearest distribution line or, in the
23 event such sign, display, or device is relocated, just compensation
24 for removal of such service to the point of relocation.

25 Except for expenditures for the removal of nonconforming

1 signs erected between April 16, 1982, and May 27, 1983, the
2 department shall not be required to expend any funds under sections
3 39-212 to 39-222 and 39-1320 unless and until federal-aid matching
4 funds are made available for this purpose.

5 Sec. 5. Section 69-1701, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 69-1701 (1) Before an outdoor advertising sign, display,
8 or device is removed, taken, or appropriated through the use of
9 zoning or any other power or authority possessed by the state, a
10 state agency, or a political subdivision of the state:

11 (a) The value of the sign, display, or device including
12 all right, title, leasehold, and interest in connection with such
13 sign, display, or device shall be determined as a whole economic
14 unit, and not as separate interests, based on the fair market value
15 of such interest, by the taking entity without the use of any
16 amortization schedule; and

17 (b) The owners of the sign, display, or device shall be
18 paid the fair and reasonable market value for such removal, taking,
19 or appropriation, ~~which fair and reasonable market value shall be~~
20 ~~based upon the depreciated reproduction cost of such sign, display,~~
21 ~~or device using as a guideline the Nebraska Sign Schedule developed~~
22 ~~and used by the Department of Roads, except that, when feasible,~~
23 or the taking entity may elect to relocate such sign, display,
24 or device if relocation to a substantially comparable location on
25 substantially comparable terms is available, in which event the

1 owners of the sign, display, or device shall be paid the actual and
2 necessary relocation cost therefor.

3 (2) Subsection (1) of this section shall not apply to:

4 (a) Actions taken by the Department of Roads pursuant to
5 sections 39-212 to 39-226 and 39-1320; and

6 (b) The removal, taking, or appropriation of a sign,
7 display, or device which (i) is insecurely fixed or inadequately
8 maintained such that the sign, display, or device constitutes a
9 danger to the public health or safety, or (ii) has been abandoned
10 or no longer used by the owners for at least six months.

11 Sec. 6. Original sections 14-406, 19-904.01, 39-212, and
12 69-1701, Reissue Revised Statutes of Nebraska, and section 15-902,
13 Revised Statutes Cumulative Supplement, 2006, are repealed.