

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 695

Introduced by Christensen, 44; Burling, 33; Erdman, 47; Friend, 10;
Langemeier, 23; Pedersen, 39; Wallman, 30

Read first time January 17, 2007

Committee: Judiciary

A BILL

1 FOR AN ACT relating to cities; to amend sections 15-255, 16-227,
2 and 17-556, Reissue Revised Statutes of Nebraska, and
3 section 14-102, Revised Statutes Cumulative Supplement
4 2006; to limit the power of cities to regulate the
5 carrying of concealed handguns as prescribed; and to
6 repeal the original sections.

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

1 Section 1. Section 14-102, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 14-102 In addition to the powers granted in section
4 14-101, cities of the metropolitan class shall have power by
5 ordinance:

6 Taxes, special assessments.

7 (1) To levy any tax or special assessment authorized by
8 law;

9 Corporate seal.

10 (2) To provide a corporate seal for the use of the city,
11 and also any official seal for the use of any officer, board,
12 or agent of the city, whose duties under this act or under any
13 ordinance require an official seal to be used. Such corporate
14 seal shall be used in the execution of municipal bonds, warrants,
15 conveyances, and other instruments and proceedings as this act or
16 the ordinances of the city require;

17 Regulation of public health.

18 (3) To provide all needful rules and regulations for the
19 protection and preservation of health within the city; and for this
20 purpose they may provide for the enforcement of the use of water
21 from public water supplies when the use of water from other sources
22 shall be deemed unsafe;

23 Appropriations for debts and expenses.

24 (4) To appropriate money and provide for the payment of
25 debts and expenses of the city;

1 Protection of strangers and travelers.

2 (5) To adopt all such measures as they may deem necessary
3 for the accommodation and protection of strangers and the traveling
4 public in person and property;

5 Concealed weapons, firearms, fireworks, explosives.

6 (6) To punish and prevent the carrying of concealed
7 weapons, except the carrying of a concealed handgun in compliance
8 with the Concealed Handgun Permit Act, and the discharge of
9 firearms, fireworks, or explosives of any description within the
10 city;

11 Sale of foodstuffs.

12 (7) To regulate the inspection and sale of meats, flour,
13 poultry, fish, milk, vegetables, and all other provisions or
14 articles of food exposed or offered for sale in the city;

15 Official bonds.

16 (8) To require all officers or servants elected or
17 appointed in pursuance of this act to give bond and security for
18 the faithful performance of their duties; but no officer shall
19 become security upon the official bond of another or upon any bond
20 executed to the city;

21 Official reports of city officers.

22 (9) To require from any officer of the city at any time a
23 report, in detail, of the transactions of his or her office or any
24 matter connected therewith;

25 Cruelty to children and animals.

1 (10) To provide for the prevention of cruelty to children
2 and animals;

3 Dogs; taxes and restrictions.

4 (11) To regulate, license, or prohibit the running at
5 large of dogs and other animals within the city as well as in areas
6 within three miles of the corporate limits of the city, to guard
7 against injuries or annoyance from such dogs and other animals, and
8 to authorize the destruction of the dogs and other animals when
9 running at large contrary to the provisions of any ordinance. Any
10 licensing provision shall comply with subsection (2) of section
11 54-603 for dog guides, hearing aid dogs, and service dogs;

12 Cleaning sidewalks.

13 (12) To provide for keeping sidewalks clean and free
14 from obstructions and accumulations, to provide for the assessment
15 and collection of taxes on real estate and for the sale and
16 conveyance thereof, and to pay the expenses of keeping the sidewalk
17 adjacent to such real estate clean and free from obstructions and
18 accumulations as herein provided;

19 Planting and trimming of trees; protection of birds.

20 (13) To provide for the planting and protection of shade
21 or ornamental and useful trees upon the streets or boulevards,
22 to assess the cost thereof to the extent of benefits upon the
23 abutting property as a special assessment, and to provide for the
24 protection of birds and animals and their nests; to provide for
25 the trimming of trees located upon the streets and boulevards or

1 when the branches of trees overhang the streets and boulevards when
2 in the judgment of the mayor and council such trimming is made
3 necessary to properly light such street or boulevard or to furnish
4 proper police protection and to assess the cost thereof upon the
5 abutting property as a special assessment;

6 Naming and numbering streets and houses.

7 (14) To provide for, regulate, and require the numbering
8 or renumbering of houses along public streets or avenues; to care
9 for and control and to name and rename streets, avenues, parks, and
10 squares within the city;

11 Weeds.

12 (15) To require weeds and worthless vegetation growing
13 upon any lot or piece of ground within the city to be cut and
14 destroyed so as to abate any nuisance occasioned thereby, to
15 prohibit and control the throwing, depositing, or accumulation of
16 litter on any lot or piece of ground within the city and to require
17 the removal thereof so as to abate any nuisance occasioned thereby,
18 and if the owner fails to cut and destroy weeds and worthless
19 vegetation or remove litter, or both, after notice as required
20 by ordinance, to assess the cost thereof upon the lots or lands
21 as a special assessment. The notice required to be given may be
22 by publication in the official newspaper of the city and may be
23 directed in general terms to the owners of lots and lands affected
24 without naming such owners;

25 Animals running at large.

1 (16) To prohibit and regulate the running at large or
2 the herding or driving of domestic animals, such as hogs, cattle,
3 horses, sheep, goats, fowls, or animals of any kind or description
4 within the corporate limits and provide for the impounding of
5 all animals running at large, herded, or driven contrary to such
6 prohibition; and to provide for the forfeiture and sale of animals
7 impounded to pay the expense of taking up, caring for, and selling
8 such impounded animals, including the cost of advertising and fees
9 of officers;

10 Use of streets.

11 (17) To regulate the transportation of articles through
12 the streets, to prevent injuries to the streets from overloaded
13 vehicles, and to regulate the width of wagon tires and tires of
14 other vehicles;

15 Playing on streets and sidewalks.

16 (18) To prevent or regulate the rolling of hoops, playing
17 of ball, flying of kites, the riding of bicycles or tricycles, or
18 any other amusement or practice having a tendency to annoy persons
19 passing in the streets or on the sidewalks or to frighten teams or
20 horses; to regulate the use of vehicles propelled by steam, gas,
21 electricity, or other motive power, operated on the streets of the
22 city;

23 Combustibles and explosives.

24 (19) To regulate or prohibit the transportation and
25 keeping of gunpowder, oils, and other combustible and explosive

1 articles;

2 Public sale of chattels on streets.

3 (20) To regulate, license, or prohibit the sale of
4 domestic animals or of goods, wares, and merchandise at public
5 auction on the streets, alleys, highways, or any public ground
6 within the city;

7 Signs and obstruction in streets.

8 (21) To regulate and prevent the use of streets,
9 sidewalks, and public grounds for signs, posts, awnings, awning
10 posts, scales, or other like purposes; to regulate and prohibit
11 the exhibition or carrying or conveying of banners, placards,
12 advertisements, or the distribution or posting of advertisements or
13 handbills in the streets or public grounds or upon the sidewalks;

14 Disorderly conduct.

15 (22) To provide for the punishment of persons disturbing
16 the peace and good order of the city by clamor and noise,
17 intoxication, drunkenness, fighting, or using obscene or profane
18 language in the streets or other public places or otherwise
19 violating the public peace by indecent or disorderly conduct or by
20 lewd and lascivious behavior;

21 Vagrants and tramps.

22 (23) To provide for the punishment of vagrants, tramps,
23 common street beggars, common prostitutes, habitual disturbers of
24 the peace, pickpockets, gamblers, burglars, thieves, or persons who
25 practice any game, trick, or device with intent to swindle, persons

1 who abuse their families, and suspicious persons who can give no
2 reasonable account of themselves; and to punish trespassers upon
3 private property;

4 Disorderly houses, gambling, offenses against public
5 morals.

6 (24) To prohibit, restrain, and suppress tippling shops,
7 houses of prostitution, opium joints, gambling houses, prize
8 fighting, dog fighting, cock fighting, and other disorderly houses
9 and practices, all games and gambling and desecration of the
10 Sabbath, commonly called Sunday, and all kinds of indecencies; to
11 regulate and license or prohibit the keeping and use of billiard
12 tables, ten pins or ball alleys, shooting galleries, and other
13 similar places of amusement; and to prohibit and suppress all
14 lotteries and gift enterprises of all kinds under whatsoever name
15 carried on, except that nothing in this subdivision shall be
16 construed to apply to bingo, lotteries, lotteries by the sale of
17 pickle cards, or raffles conducted in accordance with the Nebraska
18 Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
19 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the
20 State Lottery Act;

21 Police regulation in general.

22 (25) To make and enforce all police regulations for the
23 good government, general welfare, health, safety, and security
24 of the city and the citizens thereof in addition to the police
25 powers expressly granted herein; and in the exercise of the police

1 power, to pass all needful and proper ordinances and impose fines,
2 forfeitures, penalties, and imprisonment at hard labor for the
3 violation of any ordinance, and to provide for the recovery,
4 collection, and enforcement thereof; and in default of payment to
5 provide for confinement in the city or county prison, workhouse,
6 or other place of confinement with or without hard labor as may be
7 provided by ordinance;

8 Fast driving on streets.

9 (26) To prevent horseracing and immoderate driving or
10 riding on the street and to compel persons to fasten their horses
11 or other animals attached to vehicles while standing in the
12 streets;

13 Libraries, art galleries, and museums.

14 (27) To establish and maintain public libraries, reading
15 rooms, art galleries, and museums and to provide the necessary
16 grounds or buildings therefor; to purchase books, papers, maps,
17 manuscripts, works of art, and objects of natural or of scientific
18 curiosity, and instruction therefor; to receive donations and
19 bequests of money or property for the same in trust or otherwise
20 and to pass necessary bylaws and regulations for the protection and
21 government of the same;

22 Hospitals, workhouses, jails, firehouses, etc.; garbage
23 disposal.

24 (28) To erect, designate, establish, maintain, and
25 regulate hospitals or workhouses, houses of correction, jails,

1 station houses, fire engine houses, asphalt repair plants, and
2 other necessary buildings; and to erect, designate, establish,
3 maintain, and regulate plants for the removal, disposal, or
4 recycling of garbage and refuse or to make contracts for garbage
5 and refuse removal, disposal, or recycling, or all of the same, and
6 to charge equitable fees for such removal, disposal, or recycling,
7 or all of the same, except as hereinafter provided. The fees
8 collected pursuant to this subdivision shall be credited to a
9 single fund to be used exclusively by the city for the removal,
10 disposal, or recycling of garbage and refuse, or all of the same,
11 including any costs incurred for collecting the fee. Before any
12 contract for such removal, disposal, or recycling is let, the
13 city council shall make specifications therefor, bids shall be
14 advertised for as now provided by law, and the contract shall be
15 let to the lowest and best bidder, who shall furnish bond to the
16 city conditioned upon his or her carrying out the terms of the
17 contract, the bond to be approved by the city council. Nothing
18 in this act, and no contract or regulation made by the city
19 council, shall be so construed as to prohibit any person, firm,
20 or corporation engaged in any business in which garbage or refuse
21 accumulates as a byproduct from selling, recycling, or otherwise
22 disposing of his, her, or its garbage or refuse or hauling such
23 garbage or refuse through the streets and alleys under such uniform
24 and reasonable regulations as the city council may by ordinance
25 prescribe for the removal and hauling of garbage or refuse;

1 Market places.

2 (29) To erect and establish market houses and market
3 places and to provide for the erection of all other useful and
4 necessary buildings for the use of the city and for the protection
5 and safety of all property owned by the city; and such market
6 houses and market places and buildings aforesaid may be located on
7 any street, alley, or public ground or on land purchased for such
8 purpose;

9 Cemeteries, registers of births and deaths.

10 (30) To prohibit the establishment of additional
11 cemeteries within the limits of the city, to regulate the
12 registration of births and deaths, to direct the keeping and
13 returning of bills of mortality, and to impose penalties on
14 physicians, sextons, and others for any default in the premises;

15 Plumbing, etc., inspection.

16 (31) To provide for the inspection of steam boilers,
17 electric light appliances, pipefittings, and plumbings, to regulate
18 their erection and construction, to appoint inspectors, and to
19 declare their powers and duties, except as herein otherwise
20 provided;

21 Fire limits and fire protection.

22 (32) To prescribe fire limits and regulate the erection
23 of all buildings and other structures within the corporate limits;
24 to provide for the removal of any buildings or structures or
25 additions thereto erected contrary to such regulations, to provide

1 for the removal of dangerous buildings, and to provide that wooden
2 buildings shall not be erected or placed or repaired in the fire
3 limits; but such ordinance shall not be suspended or modified by
4 resolution nor shall exceptions be made by ordinance or resolution
5 in favor of any person, firm, or corporation or concerning any
6 particular lot or building; to direct that all and any building
7 within such fire limits, when the same shall have been damaged by
8 fire, decay, or otherwise, to the extent of fifty percent of the
9 value of a similar new building above the foundation, shall be torn
10 down or removed; and to prescribe the manner of ascertaining such
11 damages and to assess the cost of removal of any building erected
12 or existing contrary to such regulations or provisions, against the
13 lot or real estate upon which such building or structure is located
14 or shall be erected, or to collect such costs from the owner of
15 any such building or structure and enforce such collection by civil
16 action in any court of competent jurisdiction;

17 Building regulations.

18 (33) To regulate the construction, use, and maintenance
19 of party walls, to prescribe and regulate the thickness, strength,
20 and manner of constructing stone, brick, wood, or other buildings
21 and the size and shape of brick and other material placed therein,
22 to prescribe and regulate the construction and arrangement of fire
23 escapes and the placing of iron and metallic shutters and doors
24 therein and thereon, and to provide for the inspection of elevators
25 and hoist-way openings to avoid accidents; to prescribe, regulate,

1 and provide for the inspection of all plumbing, pipefitting, or
2 sewer connections in all houses or buildings now or hereafter
3 erected; to regulate the size, number, and manner of construction
4 of halls, doors, stairways, seats, aisles, and passageways of
5 theaters, tenement houses, audience rooms, and all buildings of
6 a public character, whether now built or hereafter to be built,
7 so that there may be convenient, safe, and speedy exit in case
8 of fire; to prevent the dangerous construction and condition of
9 chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers,
10 and heating appliances used in or about any building or a
11 manufactory and to cause the same to be removed or placed in
12 safe condition when they are considered dangerous; to regulate and
13 prevent the carrying on of manufactures dangerous in causing and
14 promoting fires; to prevent the deposit of ashes in unsafe places
15 and to cause such buildings and enclosures as may be in a dangerous
16 state to be put in a safe condition; to prevent the disposing of
17 and delivery or use in any building or other structure, of soft,
18 shelly, or imperfectly burned brick or other unsuitable building
19 material within the city limits and provide for the inspection of
20 the same; to provide for the abatement of dense volumes of smoke;
21 to regulate the construction of areaways, stairways, and vaults
22 and to regulate partition fences; to enforce proper heating and
23 ventilation of buildings used for schools, workhouses, or shops of
24 every class in which labor is employed or large numbers of persons
25 are liable to congregate;

1 Warehouses and street railways.

2 (34) To regulate levees, depots and depot grounds, and
3 places for storing freight and goods and to provide for and
4 regulate the laying of tracks and the passage of steam or other
5 railways through the streets, alleys, and public grounds of the
6 city;

7 Lighting railroad property.

8 (35) To require the lighting of any railway within the
9 city, the cars of which are propelled by steam, and to fix and
10 determine the number, size, and style of lampposts, burners, lamps,
11 and all other fixtures and apparatus necessary for such lighting
12 and the points of location for such lampposts; and in case any
13 company owning or operating such railways shall fail to comply with
14 such requirements, the council may cause the same to be done and
15 may assess the expense thereof against such company, and the same
16 shall constitute a lien upon any real estate belonging to such
17 company and lying within such city and may be collected in the same
18 manner as taxes for general purposes;

19 City publicity.

20 (36) To provide for necessary publicity and to
21 appropriate money for the purpose of advertising the resources and
22 advantages of the city;

23 Offstreet parking.

24 (37) To erect, establish, and maintain offstreet parking
25 areas on publicly owned property located beneath any elevated

1 segment of the National System of Interstate and Defense Highways
2 or portion thereof, or public property title to which is in the
3 city on May 12, 1971, or property owned by the city and used in
4 conjunction with and incidental to city-operated facilities, and to
5 regulate parking thereon by time limitation devises or by lease;

6 Public passenger transportation systems.

7 (38) To acquire, by the exercise of the power of eminent
8 domain or otherwise, lease, purchase, construct, own, maintain,
9 operate, or contract for the operation of public passenger
10 transportation systems, excluding taxicabs and railroad systems,
11 including all property and facilities required therefor, within and
12 without the limits of the city, to redeem such property from prior
13 encumbrance in order to protect or preserve the interest of the
14 city therein, to exercise all powers granted by the Constitution
15 of Nebraska and laws of the State of Nebraska or exercised by or
16 pursuant to a home rule charter adopted pursuant thereto, including
17 but not limited to receiving and accepting from the government of
18 the United States or any agency thereof, from the State of Nebraska
19 or any subdivision thereof, and from any person or corporation
20 donations, devises, gifts, bequests, loans, or grants for or in
21 aid of the acquisition, operation, and maintenance of such public
22 passenger transportation systems and to administer, hold, use, and
23 apply the same for the purposes for which such donations, devises,
24 gifts, bequests, loans, or grants may have been made, to negotiate
25 with employees and enter into contracts of employment, to employ

1 by contract or otherwise individuals singularly or collectively, to
2 enter into agreements authorized under the Interlocal Cooperation
3 Act or the Joint Public Agency Act, to contract with an operating
4 and management company for the purpose of operating, servicing, and
5 maintaining any public passenger transportation systems any city
6 of the metropolitan class shall acquire under the provisions of
7 this act, and to exercise such other and further powers as may be
8 necessary, incident, or appropriate to the powers of such city; and

9 Regulation of air quality.

10 (39) In addition to powers conferred elsewhere in the
11 laws of the state and notwithstanding any other law of the state,
12 to implement and enforce an air pollution control program within
13 the corporate limits of the city under subdivision (23) of section
14 81-1504 or subsection (1) of section 81-1528, which program shall
15 be consistent with the federal Clean Air Act, as amended, 42 U.S.C.
16 7401 et seq. Such powers shall include without limitation those
17 involving injunctive relief, civil penalties, criminal fines, and
18 burden of proof. Nothing in this section shall preclude the control
19 of air pollution by resolution, ordinance, or regulation not in
20 actual conflict with the state air pollution control regulations.

21 Sec. 2. Section 15-255, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 15-255 A ~~primary~~ city of the primary class may prohibit
24 riots, routs, noise, or disorderly assemblies; prevent use of
25 firearms, rockets, powder, fireworks, or other dangerous and

1 combustible material; prohibit carrying of concealed weapons,
2 except the carrying of a concealed handgun in compliance with
3 the Concealed Handgun Permit Act; arrest, punish, fine, or set at
4 work on streets or elsewhere vagrants and persons found without
5 visible means of support or legitimate business; regulate and
6 prevent the transportation of gunpowder or combustible articles,
7 tar, pitch, ~~resin~~, resin, coal, oil, benzine, turpentine, hemp,
8 cotton, nitroglycerine, dynamite, petroleum or its products, or
9 other explosives or inflammables; regulate use of lights in
10 stables, shops, or other places, and building of bonfires; and
11 regulate and prohibit the piling of building material or any
12 excavation or obstruction of the streets.

13 Sec. 3. Section 16-227, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 16-227 A city of the first class may prevent and restrain
16 riots, routs, noises, disturbances, breach of the peace, or
17 disorderly assemblies in any street, house, or place in the city;
18 regulate, punish, and prevent the discharge of firearms, rockets,
19 powder, fireworks, or any other dangerous combustible material in
20 the streets, lots, grounds, and alleys or about or in the vicinity
21 of any buildings; regulate, prevent, and punish the carrying of
22 concealed weapons, except the carrying of a concealed handgun in
23 compliance with the Concealed Handgun Permit Act; arrest, regulate,
24 punish, fine, or set at work on the streets, or elsewhere, all
25 vagabonds and persons found in ~~said~~ the city without visible

1 means of support or some legitimate business; regulate and prevent
2 the transportation or storage of gunpowder or other explosive
3 or combustible articles, tar, pitch, resin, coal oil, benzine,
4 turpentine, hemp, cotton, nitroglycerine, dynamite, petroleum, or
5 any other productions thereof, and other materials of like nature,
6 the use of lights in stables, shops, or other places, and the
7 building of bonfires; and regulate and prohibit the piling of
8 building material or any excavation or obstruction in the street.

9 Sec. 4. Section 17-556, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 17-556 ~~Second-class cities~~ Cities of the second class and
12 villages shall have power to prevent and restrain riots, routs,
13 noises, disturbances, or disorderly assemblages; to regulate,
14 prevent, restrain, or remove nuisances in residential parts of
15 municipalities and to designate what shall be considered a
16 nuisance; to regulate, punish, and prevent the discharge of
17 firearms, rockets, powder, fireworks, or any other dangerous
18 combustible material in the streets, lots, grounds, alleys, or
19 about or in the vicinity of any buildings; to regulate, prevent,
20 and punish the carrying of concealed weapons, except the carrying
21 of a concealed handgun in compliance with the Concealed Handgun
22 Permit Act; and to arrest, regulate, punish, fine, or set at
23 work on the streets, or elsewhere, all vagrants and persons found
24 without means of support or some legitimate business.

25 Sec. 5. Cities and villages shall not have the power to

1 regulate the ownership, possession, or transportation of firearms,
2 except as expressly provided by state law, and any existing
3 ordinances, permits, or regulations regulating the ownership,
4 possession, or transportation of firearms are declared null and
5 void.

6 Sec. 6. Original sections 15-255, 16-227, and 17-556,
7 Reissue Revised Statutes of Nebraska, and section 14-102, Revised
8 Statutes Cumulative Supplement 2006, are repealed.