

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1099

Introduced by Mello, 5; Haar, 21.

Read first time January 21, 2010

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to cities of the metropolitan class; to amend
2 section 13-2020, Reissue Revised Statutes of Nebraska,
3 and section 14-102, Revised Statutes Supplement, 2009; to
4 provide for the establishment of a recycling program as
5 prescribed; to harmonize provisions; and to repeal the
6 original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 13-2020, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 13-2020 (1) Effective October 1, 1993, each county and
4 municipality shall provide or contract for facilities and systems
5 as necessary for the safe and sanitary disposal of solid waste
6 generated within its solid waste jurisdiction area. Such disposal
7 shall comply with rules and regulations adopted and promulgated by
8 the council for integrated solid waste management programs.

9 (2) A county, municipality, or agency may jointly own,
10 operate, or own and operate with any person any facility or
11 system and may enter into cooperative agreements as necessary
12 and appropriate for the ownership, operation, or ownership and
13 operation of any facility or system.

14 (3) A county, municipality, or agency may, either alone
15 or in combination with any other county, municipality, or agency,
16 contract with any person to provide any service, facility, or
17 system required by the Integrated Solid Waste Management Act.

18 (4) The governing body of a county, municipality, or
19 agency may make all necessary rules and regulations governing the
20 use, operation, and control of a facility or system. Such governing
21 body may establish just and equitable rates or charges to be paid
22 to it for the use of such facility or system by each person
23 whose premises are served by the facility or system, including
24 charges for late payments, except that no city of the metropolitan
25 class shall impose any rate or charge upon individual residences

1 unless a majority of those voting in a regular or special election
2 vote affirmatively to approve or authorize establishment of such
3 a rate or charge. For purposes of the charges authorized by this
4 section, the premises are served if solid waste collection service
5 is available to the premises or if a community solid waste drop-off
6 location is provided, unless the person who would otherwise be
7 subject to such rates or charges proves to the governing body of
8 the county, municipality, or agency that his or her solid waste
9 was lawfully collected and hauled to a permitted facility. Such
10 proof shall be provided by a receipt from a permitted facility, a
11 statement from a licensed hauler, or other documentation acceptable
12 to the governing body of the county, municipality, or agency.
13 If the service charge so established is not paid when due, such
14 sum may be recovered by the county, municipality, or agency in a
15 civil action or, following notice by regular United States mail
16 to the last-known address of the property owner of record and an
17 opportunity for a hearing, may be certified by the governing body
18 of the county, municipality, or agency to the county treasurer and
19 assessed against the premises served and collected or returned in
20 the same manner as other taxes are certified, assessed, collected,
21 and returned.

22 (5) If the county, municipality, or agency enters into
23 a contract with a person to provide a facility or system,
24 such contract may authorize the person to charge the owners of
25 premises served such a service rate therefor as the governing body

1 determines to be just and reasonable or the county, municipality,
2 or agency may pay therefor out of its general fund or the proceeds
3 of any tax levy applicable to the purposes of such contract or
4 assess the owners of the premises served a reasonable charge
5 therefor to be collected as provided in this section and paid into
6 a fund to be used to defray such contract charges.

7 (6) Notwithstanding this section, the governing body of
8 a city of the metropolitan class may establish, by ordinance, a
9 voluntary, fee-for-service recycling program that is paid for by
10 each participant in the program.

11 Sec. 2. Section 14-102, Revised Statutes Supplement,
12 2009, is amended to read:

13 14-102 In addition to the powers granted in section
14 14-101, cities of the metropolitan class shall have power by
15 ordinance:

16 Taxes, special assessments.

17 (1) To levy any tax or special assessment authorized by
18 law;

19 Corporate seal.

20 (2) To provide a corporate seal for the use of the city,
21 and also any official seal for the use of any officer, board,
22 or agent of the city, whose duties under this act or under any
23 ordinance require an official seal to be used. Such corporate
24 seal shall be used in the execution of municipal bonds, warrants,
25 conveyances, and other instruments and proceedings as this act or

1 the ordinances of the city require;

2 Regulation of public health.

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

8 Appropriations for debts and expenses.

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

11 Protection of strangers and travelers.

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

15 Concealed weapons, firearms, fireworks, explosives.

16 (6) To punish and prevent the carrying of concealed
17 weapons, except the carrying of a concealed handgun in compliance
18 with the Concealed Handgun Permit Act, and the discharge of
19 firearms, fireworks, or explosives of any description within the
20 city, other than the discharge of firearms at a shooting range
21 pursuant to the Nebraska Shooting Range Protection Act;

22 Sale of foodstuffs.

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

1 Official bonds.

2 (8) To require all officers or servants elected or
3 appointed in pursuance of this act to give bond and security for
4 the faithful performance of their duties; but no officer shall
5 become security upon the official bond of another or upon any bond
6 executed to the city;

7 Official reports of city officers.

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

11 Cruelty to children and animals.

12 (10) To provide for the prevention of cruelty to children
13 and animals;

14 Dogs; taxes and restrictions.

15 (11) To regulate, license, or prohibit the running at
16 large of dogs and other animals within the city as well as in areas
17 within three miles of the corporate limits of the city, to guard
18 against injuries or annoyance from such dogs and other animals, and
19 to authorize the destruction of the dogs and other animals when
20 running at large contrary to the provisions of any ordinance. Any
21 licensing provision shall comply with subsection (2) of section
22 54-603 for service animals;

23 Cleaning sidewalks.

24 (12) To provide for keeping sidewalks clean and free
25 from obstructions and accumulations, to provide for the assessment

1 and collection of taxes on real estate and for the sale and
2 conveyance thereof, and to pay the expenses of keeping the sidewalk
3 adjacent to such real estate clean and free from obstructions and
4 accumulations as herein provided;

5 Planting and trimming of trees; protection of birds.

6 (13) To provide for the planting and protection of shade
7 or ornamental and useful trees upon the streets or boulevards,
8 to assess the cost thereof to the extent of benefits upon the
9 abutting property as a special assessment, and to provide for the
10 protection of birds and animals and their nests; to provide for
11 the trimming of trees located upon the streets and boulevards or
12 when the branches of trees overhang the streets and boulevards when
13 in the judgment of the mayor and council such trimming is made
14 necessary to properly light such street or boulevard or to furnish
15 proper police protection and to assess the cost thereof upon the
16 abutting property as a special assessment;

17 Naming and numbering streets and houses.

18 (14) To provide for, regulate, and require the numbering
19 or renumbering of houses along public streets or avenues; to care
20 for and control and to name and rename streets, avenues, parks, and
21 squares within the city;

22 Weeds.

23 (15) To require weeds and worthless vegetation growing
24 upon any lot or piece of ground within the city to be cut and
25 destroyed so as to abate any nuisance occasioned thereby, to

1 prohibit and control the throwing, depositing, or accumulation of
2 litter on any lot or piece of ground within the city and to require
3 the removal thereof so as to abate any nuisance occasioned thereby,
4 and if the owner fails to cut and destroy weeds and worthless
5 vegetation or remove litter, or both, after notice as required
6 by ordinance, to assess the cost thereof upon the lots or lands
7 as a special assessment. The notice required to be given may be
8 by publication in the official newspaper of the city and may be
9 directed in general terms to the owners of lots and lands affected
10 without naming such owners;

11 Animals running at large.

12 (16) To prohibit and regulate the running at large or
13 the herding or driving of domestic animals, such as hogs, cattle,
14 horses, sheep, goats, fowls, or animals of any kind or description
15 within the corporate limits and provide for the impounding of
16 all animals running at large, herded, or driven contrary to such
17 prohibition; and to provide for the forfeiture and sale of animals
18 impounded to pay the expense of taking up, caring for, and selling
19 such impounded animals, including the cost of advertising and fees
20 of officers;

21 Use of streets.

22 (17) To regulate the transportation of articles through
23 the streets, to prevent injuries to the streets from overloaded
24 vehicles, and to regulate the width of wagon tires and tires of
25 other vehicles;

1 Playing on streets and sidewalks.

2 (18) To prevent or regulate the rolling of hoops, playing
3 of ball, flying of kites, the riding of bicycles or tricycles, or
4 any other amusement or practice having a tendency to annoy persons
5 passing in the streets or on the sidewalks or to frighten teams or
6 horses; to regulate the use of vehicles propelled by steam, gas,
7 electricity, or other motive power, operated on the streets of the
8 city;

9 Combustibles and explosives.

10 (19) To regulate or prohibit the transportation and
11 keeping of gunpowder, oils, and other combustible and explosive
12 articles;

13 Public sale of chattels on streets.

14 (20) To regulate, license, or prohibit the sale of
15 domestic animals or of goods, wares, and merchandise at public
16 auction on the streets, alleys, highways, or any public ground
17 within the city;

18 Signs and obstruction in streets.

19 (21) To regulate and prevent the use of streets,
20 sidewalks, and public grounds for signs, posts, awnings, awning
21 posts, scales, or other like purposes; to regulate and prohibit
22 the exhibition or carrying or conveying of banners, placards,
23 advertisements, or the distribution or posting of advertisements or
24 handbills in the streets or public grounds or upon the sidewalks;

25 Disorderly conduct.

1 (22) To provide for the punishment of persons disturbing
2 the peace and good order of the city by clamor and noise,
3 intoxication, drunkenness, fighting, or using obscene or profane
4 language in the streets or other public places or otherwise
5 violating the public peace by indecent or disorderly conduct or by
6 lewd and lascivious behavior;

7 Vagrants and tramps.

8 (23) To provide for the punishment of vagrants, tramps,
9 common street beggars, common prostitutes, habitual disturbers of
10 the peace, pickpockets, gamblers, burglars, thieves, or persons who
11 practice any game, trick, or device with intent to swindle, persons
12 who abuse their families, and suspicious persons who can give no
13 reasonable account of themselves; and to punish trespassers upon
14 private property;

15 Disorderly houses, gambling, offenses against public
16 morals.

17 (24) To prohibit, restrain, and suppress tippling shops,
18 houses of prostitution, opium joints, gambling houses, prize
19 fighting, dog fighting, cock fighting, and other disorderly houses
20 and practices, all games and gambling and desecration of the
21 Sabbath, commonly called Sunday, and all kinds of indecencies; to
22 regulate and license or prohibit the keeping and use of billiard
23 tables, ten pins or ball alleys, shooting galleries except as
24 provided in the Nebraska Shooting Range Protection Act, and other
25 similar places of amusement; and to prohibit and suppress all

1 lotteries and gift enterprises of all kinds under whatsoever name
2 carried on, except that nothing in this subdivision shall be
3 construed to apply to bingo, lotteries, lotteries by the sale of
4 pickle cards, or raffles conducted in accordance with the Nebraska
5 Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle
6 Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the
7 State Lottery Act;

8 Police regulation in general.

9 (25) To make and enforce all police regulations for the
10 good government, general welfare, health, safety, and security
11 of the city and the citizens thereof in addition to the police
12 powers expressly granted herein; and in the exercise of the police
13 power, to pass all needful and proper ordinances and impose fines,
14 forfeitures, penalties, and imprisonment at hard labor for the
15 violation of any ordinance, and to provide for the recovery,
16 collection, and enforcement thereof; and in default of payment to
17 provide for confinement in the city or county prison, workhouse,
18 or other place of confinement with or without hard labor as may be
19 provided by ordinance;

20 Fast driving on streets.

21 (26) To prevent horseracing and immoderate driving or
22 riding on the street and to compel persons to fasten their horses
23 or other animals attached to vehicles while standing in the
24 streets;

25 Libraries, art galleries, and museums.

1 (27) To establish and maintain public libraries, reading
2 rooms, art galleries, and museums and to provide the necessary
3 grounds or buildings therefor; to purchase books, papers, maps,
4 manuscripts, works of art, and objects of natural or of scientific
5 curiosity, and instruction therefor; to receive donations and
6 bequests of money or property for the same in trust or otherwise
7 and to pass necessary bylaws and regulations for the protection and
8 government of the same;

9 Hospitals, workhouses, jails, firehouses, etc.; garbage
10 disposal.

11 (28) To erect, designate, establish, maintain, and
12 regulate hospitals or workhouses, houses of correction, jails,
13 station houses, fire engine houses, asphalt repair plants, and
14 other necessary buildings; and to erect, designate, establish,
15 maintain, and regulate plants for the removal, disposal, or
16 recycling of garbage and refuse or to make contracts for garbage
17 and refuse removal, disposal, or recycling, or all of the same, and
18 to charge equitable fees for such removal, disposal, or recycling,
19 or all of the same, except as hereinafter provided. The fees
20 collected pursuant to this subdivision shall be credited to a
21 single fund to be used exclusively by the city for the removal,
22 disposal, or recycling of garbage and refuse, or all of the same,
23 including any costs incurred for collecting the fee. Before any
24 contract for such removal, disposal, or recycling is let, the
25 city council shall make specifications therefor, bids shall be

1 advertised for as now provided by law, and the contract shall be
2 let to the lowest and best bidder, who shall furnish bond to the
3 city conditioned upon his or her carrying out the terms of the
4 contract, the bond to be approved by the city council. Nothing
5 in this act, and no contract or regulation made by the city
6 council, shall be so construed as to prohibit any person, firm,
7 or corporation engaged in any business in which garbage or refuse
8 accumulates as a byproduct from selling, recycling, or otherwise
9 disposing of his, her, or its garbage or refuse or hauling such
10 garbage or refuse through the streets and alleys under such uniform
11 and reasonable regulations as the city council may by ordinance
12 prescribe for the removal and hauling of garbage or refuse;

13 Market places.

14 (29) To erect and establish market houses and market
15 places and to provide for the erection of all other useful and
16 necessary buildings for the use of the city and for the protection
17 and safety of all property owned by the city; and such market
18 houses and market places and buildings aforesaid may be located on
19 any street, alley, or public ground or on land purchased for such
20 purpose;

21 Cemeteries, registers of births and deaths.

22 (30) To prohibit the establishment of additional
23 cemeteries within the limits of the city, to regulate the
24 registration of births and deaths, to direct the keeping and
25 returning of bills of mortality, and to impose penalties on

1 physicians, sextons, and others for any default in the premises;

2 Plumbing, etc., inspection.

3 (31) To provide for the inspection of steam boilers,
4 electric light appliances, pipefittings, and plumbings, to regulate
5 their erection and construction, to appoint inspectors, and to
6 declare their powers and duties, except as herein otherwise
7 provided;

8 Fire limits and fire protection.

9 (32) To prescribe fire limits and regulate the erection
10 of all buildings and other structures within the corporate limits;
11 to provide for the removal of any buildings or structures or
12 additions thereto erected contrary to such regulations, to provide
13 for the removal of dangerous buildings, and to provide that wooden
14 buildings shall not be erected or placed or repaired in the fire
15 limits; but such ordinance shall not be suspended or modified by
16 resolution nor shall exceptions be made by ordinance or resolution
17 in favor of any person, firm, or corporation or concerning any
18 particular lot or building; to direct that all and any building
19 within such fire limits, when the same shall have been damaged by
20 fire, decay, or otherwise, to the extent of fifty percent of the
21 value of a similar new building above the foundation, shall be torn
22 down or removed; and to prescribe the manner of ascertaining such
23 damages and to assess the cost of removal of any building erected
24 or existing contrary to such regulations or provisions, against the
25 lot or real estate upon which such building or structure is located

1 or shall be erected, or to collect such costs from the owner of
2 any such building or structure and enforce such collection by civil
3 action in any court of competent jurisdiction;

4 Building regulations.

5 (33) To regulate the construction, use, and maintenance
6 of party walls, to prescribe and regulate the thickness, strength,
7 and manner of constructing stone, brick, wood, or other buildings
8 and the size and shape of brick and other material placed therein,
9 to prescribe and regulate the construction and arrangement of fire
10 escapes and the placing of iron and metallic shutters and doors
11 therein and thereon, and to provide for the inspection of elevators
12 and hoist-way openings to avoid accidents; to prescribe, regulate,
13 and provide for the inspection of all plumbing, pipefitting, or
14 sewer connections in all houses or buildings now or hereafter
15 erected; to regulate the size, number, and manner of construction
16 of halls, doors, stairways, seats, aisles, and passageways of
17 theaters, tenement houses, audience rooms, and all buildings of
18 a public character, whether now built or hereafter to be built,
19 so that there may be convenient, safe, and speedy exit in case
20 of fire; to prevent the dangerous construction and condition of
21 chimneys, fireplaces, hearths, stoves, stovepipes, ovens, boilers,
22 and heating appliances used in or about any building or a
23 manufactory and to cause the same to be removed or placed in
24 safe condition when they are considered dangerous; to regulate and
25 prevent the carrying on of manufactures dangerous in causing and

1 promoting fires; to prevent the deposit of ashes in unsafe places
2 and to cause such buildings and enclosures as may be in a dangerous
3 state to be put in a safe condition; to prevent the disposing of
4 and delivery or use in any building or other structure, of soft,
5 shelly, or imperfectly burned brick or other unsuitable building
6 material within the city limits and provide for the inspection of
7 the same; to provide for the abatement of dense volumes of smoke;
8 to regulate the construction of areaways, stairways, and vaults
9 and to regulate partition fences; to enforce proper heating and
10 ventilation of buildings used for schools, workhouses, or shops of
11 every class in which labor is employed or large numbers of persons
12 are liable to congregate;

13 Warehouses and street railways.

14 (34) To regulate levees, depots and depot grounds, and
15 places for storing freight and goods and to provide for and
16 regulate the laying of tracks and the passage of steam or other
17 railways through the streets, alleys, and public grounds of the
18 city;

19 Lighting railroad property.

20 (35) To require the lighting of any railway within the
21 city, the cars of which are propelled by steam, and to fix and
22 determine the number, size, and style of lampposts, burners, lamps,
23 and all other fixtures and apparatus necessary for such lighting
24 and the points of location for such lampposts; and in case any
25 company owning or operating such railways shall fail to comply with

1 such requirements, the council may cause the same to be done and
2 may assess the expense thereof against such company, and the same
3 shall constitute a lien upon any real estate belonging to such
4 company and lying within such city and may be collected in the same
5 manner as taxes for general purposes;

6 City publicity.

7 (36) To provide for necessary publicity and to
8 appropriate money for the purpose of advertising the resources and
9 advantages of the city;

10 Offstreet parking.

11 (37) To erect, establish, and maintain offstreet parking
12 areas on publicly owned property located beneath any elevated
13 segment of the National System of Interstate and Defense Highways
14 or portion thereof, or public property title to which is in the
15 city on May 12, 1971, or property owned by the city and used in
16 conjunction with and incidental to city-operated facilities, and to
17 regulate parking thereon by time limitation devises or by lease;

18 Public passenger transportation systems.

19 (38) To acquire, by the exercise of the power of eminent
20 domain or otherwise, lease, purchase, construct, own, maintain,
21 operate, or contract for the operation of public passenger
22 transportation systems, excluding taxicabs and railroad systems,
23 including all property and facilities required therefor, within and
24 without the limits of the city, to redeem such property from prior
25 encumbrance in order to protect or preserve the interest of the

1 city therein, to exercise all powers granted by the Constitution
2 of Nebraska and laws of the State of Nebraska or exercised by or
3 pursuant to a home rule charter adopted pursuant thereto, including
4 but not limited to receiving and accepting from the government of
5 the United States or any agency thereof, from the State of Nebraska
6 or any subdivision thereof, and from any person or corporation
7 donations, devises, gifts, bequests, loans, or grants for or in
8 aid of the acquisition, operation, and maintenance of such public
9 passenger transportation systems and to administer, hold, use, and
10 apply the same for the purposes for which such donations, devises,
11 gifts, bequests, loans, or grants may have been made, to negotiate
12 with employees and enter into contracts of employment, to employ
13 by contract or otherwise individuals singularly or collectively, to
14 enter into agreements authorized under the Interlocal Cooperation
15 Act or the Joint Public Agency Act, to contract with an operating
16 and management company for the purpose of operating, servicing, and
17 maintaining any public passenger transportation systems any city
18 of the metropolitan class shall acquire under the provisions of
19 this act, and to exercise such other and further powers as may be
20 necessary, incident, or appropriate to the powers of such city; and
21 Regulation of air quality.

22 (39) In addition to powers conferred elsewhere in the
23 laws of the state and notwithstanding any other law of the state,
24 to implement and enforce an air pollution control program within
25 the corporate limits of the city under subdivision (23) of section

1 81-1504 or subsection (1) of section 81-1528, which program shall
2 be consistent with the federal Clean Air Act, as amended, 42 U.S.C.
3 7401 et seq. Such powers shall include without limitation those
4 involving injunctive relief, civil penalties, criminal fines, and
5 burden of proof. Nothing in this section shall preclude the control
6 of air pollution by resolution, ordinance, or regulation not in
7 actual conflict with the state air pollution control regulations;
8 and-

9 Recycling programs.

10 (40) To establish a voluntary, fee-for-service recycling
11 program pursuant to section 13-2020.

12 Sec. 3. Original section 13-2020, Reissue Revised
13 Statutes of Nebraska, and section 14-102, Revised Statutes
14 Supplement, 2009, are repealed.