

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 6

Introduced by Blood, 3.

Read first time January 05, 2023

Committee:

1 A BILL FOR AN ACT relating to political subdivisions; to amend sections
2 18-2119, 19-929, and 23-114.01, Reissue Revised Statutes of
3 Nebraska; to prohibit granting conditional use permits to persons
4 delinquent in the payment of real property taxes and provide a
5 waiver as prescribed; to provide a duty, a contracting requirement,
6 and a waiver under the Community Development Law; to harmonize
7 provisions; to provide a duty for the Revisor of Statutes; and to
8 repeal the original sections.
9 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 to any person applying for such permit who is more than one
5 hundred eighty days delinquent in the payment of real property taxes owed
6 to such city on any parcel included in such application until such
7 delinquent taxes are paid in full. The city, planning board, or city
8 official may waive this requirement if the delinquent taxes owed are in
9 dispute, on appeal, or the result of an administrative error.

10 Sec. 2. A city of the primary class or any city planning commission
11 or city planning director of such city shall not grant a conditional use
12 permit to any person applying for such permit who is more than one
13 hundred eighty days delinquent in the payment of real property taxes owed
14 to such city on any parcel included in such application until such
15 delinquent taxes are paid in full. The city, planning commission, or
16 planning director may waive this requirement if the delinquent taxes owed
17 are in dispute, on appeal, or the result of an administrative error.

18 Sec. 3. Section 18-2119, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 18-2119 (1)(a) (1) An authority shall, by public notice by
21 publication once each week for two consecutive weeks in a legal newspaper
22 having a general circulation in the city, prior to the consideration of
23 any redevelopment contract proposal relating to real estate owned or to
24 be owned by the authority, invite proposals from, and make available all
25 pertinent information to, private redevelopers or any persons interested
26 in undertaking the redevelopment of an area, or any part of such area
27 ~~thereof~~, which the governing body has declared to be in need of
28 redevelopment. Such notice shall identify the area, and shall state that
29 such further information as is available may be obtained at the office of
30 the authority. The authority shall consider all redevelopment proposals
31 and the financial and legal ability of the prospective redevelopers to

1 carry out their proposals. The authority shall state in any request for
2 proposals issued pursuant to this section that no contract will be
3 entered into with any redeveloper who is more than one hundred eighty
4 days delinquent in the payment of real property taxes owed to the city on
5 any parcel included in such contract. The authority may waive this
6 requirement if the delinquent taxes owed are in dispute, on appeal, or
7 the result of an administrative error. and

8 (b) The authority may negotiate with any redevelopers for proposals
9 for the purchase or lease of any real property in the redevelopment
10 project area. The authority may accept such redevelopment contract
11 proposal as it deems to be in the public interest and in furtherance of
12 the purposes of the Community Development Law if the authority has, not
13 less than thirty days prior thereto, notified the governing body in
14 writing of its intention to accept such redevelopment contract proposal.
15 Thereafter, the authority may execute such redevelopment contract in
16 accordance with the provisions of section 18-2118 and deliver deeds,
17 leases, and other instruments and take all steps necessary to effectuate
18 such redevelopment contract. In its discretion, the authority may,
19 without regard to the ~~foregoing~~ provisions of this subdivision section,
20 dispose of real property in a redevelopment project area to private
21 redevelopers for redevelopment under such reasonable competitive bidding
22 procedures as it shall prescribe, subject to the provisions of section
23 18-2118.

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

1 estate.

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

6 (i) Whether the redeveloper has filed or intends to file an
7 application to receive tax incentives under the Nebraska Advantage Act or
8 the Imagine Nebraska Act for a project located or to be located within
9 the redevelopment project area;

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

13 (iii) Whether such application has been approved under the Nebraska
14 Advantage Act or the Imagine Nebraska Act; and -

15 (iv) That the redeveloper is not more than one hundred eighty days
16 delinquent in the payment of real property taxes owed to the city on any
17 parcel included in such redevelopment contract. The authority may waive
18 this requirement if the delinquent taxes owed are in dispute, on appeal,
19 or the result of an administrative error.

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

23 (4) A redevelopment contract for a redevelopment plan or
24 redevelopment project that includes the division of taxes as provided in
25 section 18-2147 shall include a provision requiring that the redeveloper
26 retain copies of all supporting documents that are associated with the
27 redevelopment plan or redevelopment project and that are received or
28 generated by the redeveloper for three years following the end of the
29 last fiscal year in which ad valorem taxes are divided and provide such
30 copies to the city as needed to comply with the city's retention
31 requirements under section 18-2117.04. For purposes of this subsection,

1 supporting document includes any cost-benefit analysis conducted pursuant
2 to section 18-2113 and any invoice, receipt, claim, or contract received
3 or generated by the redeveloper that provides support for receipts or
4 payments associated with the division of taxes.

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

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

18 (7) No city or authority shall enter into a redevelopment contract
19 with any redeveloper who is more than one hundred eighty days delinquent
20 in the payment of real property taxes owed to the city on any parcel
21 included in such redevelopment contract until such delinquent taxes are
22 paid in full. The city or authority may waive this requirement if the
23 delinquent taxes owed are in dispute, on appeal, or the result of an
24 administrative error.

25 Sec. 4. Section 19-929, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 19-929 (1) Except as provided in sections 19-930 to 19-933, the
28 planning commission of a city of the first class, city of the second
29 class, or village shall (a) make and adopt plans for the physical
30 development of the city or village, including any areas outside its
31 boundaries which in the commission's judgment bear relation to the

1 planning of such city or village and including a comprehensive
2 development plan as defined by section 19-903, (b) prepare and adopt such
3 implemental means as a capital improvement program, subdivision
4 regulations, building codes, and a zoning ordinance in cooperation with
5 other interested municipal departments, and (c) consult with and advise
6 public officials and agencies, public utilities, civic organizations,
7 educational institutions, and citizens with relation to the promulgation
8 and implementation of the comprehensive development plan and its
9 implemental programs. The commission may delegate authority to any such
10 group to conduct studies and make surveys for the commission, make
11 preliminary reports on its findings, and hold public hearings before
12 submitting its final reports. The city council or village board of
13 trustees shall not take final action on matters relating to the
14 comprehensive development plan, capital improvements, building codes,
15 subdivision development, annexation of territory, or zoning until it has
16 received the recommendation of the planning commission if such commission
17 in fact has been created and is existent. The city council or village
18 board of trustees shall by ordinance set a reasonable time within which
19 the recommendation from the planning commission is to be received. A
20 recommendation from the planning commission shall not be required for
21 subdivision of existing lots and blocks whenever all required public
22 improvements have been installed, no new dedication of public rights-of-
23 way or easements is involved, and such subdivision complies with the
24 ordinance requirements concerning minimum areas and dimensions of such
25 lots and blocks, if the city council or village board of trustees has
26 designated, by ordinance, an agent pursuant to section 19-916.

27 (2) The planning commission may, with the consent of the city
28 council or village board of trustees, in its own name (a) make and enter
29 into contracts with public or private bodies, (b) receive contributions,
30 bequests, gifts, or grant funds from public or private sources, (c)
31 expend the funds appropriated to it by the city or village, (d) employ

1 agents and employees, and (e) acquire, hold, and dispose of property.

2 The planning commission may on its own authority make arrangements
3 consistent with its program, conduct or sponsor special studies or
4 planning work for any public body or appropriate agency, receive grants,
5 remuneration, or reimbursement for such studies or work, and at its
6 public hearings, summon witnesses, administer oaths, and compel the
7 giving of testimony.

8 (3)(a) ~~(3)~~ The planning commission may grant conditional uses or
9 special exceptions to property owners for the use of their property if
10 the city council or village board of trustees has, through a zoning
11 ordinance or special ordinance, generally authorized the commission to
12 exercise such powers and has approved the standards and procedures
13 adopted by the commission for equitably and judiciously granting such
14 conditional uses or special exceptions. The granting of a conditional use
15 permit or special exception shall only allow property owners to put their
16 property to a special use if it is among those uses specifically
17 identified in the zoning ordinance as classifications of uses which may
18 require special conditions or requirements to be met by the owners before
19 a use permit or building permit is authorized. The power to grant
20 conditional uses or special exceptions shall be the exclusive authority
21 of the commission, except that the city council or village board of
22 trustees may choose to retain for itself the power to grant conditional
23 uses or special exceptions for those classifications of uses specified in
24 the zoning ordinance. The city council or village board of trustees may
25 exercise such power if it has formally adopted standards and procedures
26 for granting such conditional uses or special exceptions in a manner that
27 is equitable and will promote the public interest. An appeal of a
28 decision by the commission or the city council or village board of
29 trustees regarding a conditional use or special exception shall be made
30 to the district court.

31 (b) No city of the first class, city of the second class, or

1 village, or planning commission of such city or village, shall grant a
2 conditional use permit under subdivision (a) of this subsection to any
3 person who is more than one hundred eighty days delinquent in the payment
4 of real property taxes owed to such city or village on any parcel
5 included in such application until such delinquent taxes are paid in
6 full. The city, village, or planning commission may waive this
7 requirement if the delinquent taxes owed are in dispute, on appeal, or
8 the result of an administrative error.

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

11 23-114.01 (1) In order to avail itself of the powers conferred by
12 section 23-114, the county board shall appoint a planning commission to
13 be known as the county planning commission. The members of the commission
14 shall be residents of the county to be planned and shall be appointed
15 with due consideration to geographical and population factors. Since the
16 primary focus of concern and control in county planning and land-use
17 regulatory programs is the unincorporated area, a majority of the members
18 of the commission shall be residents of unincorporated areas, except that
19 this requirement shall not apply to joint planning commissions. Members
20 of the commission shall hold no county or municipal office, except that a
21 member may also be a member of a city, village, or other type of planning
22 commission. The term of each member shall be three years, except that
23 approximately one-third of the members of the first commission shall
24 serve for terms of one year, one-third for terms of two years, and one-
25 third for terms of three years. All members shall hold office until their
26 successors are appointed. Members of the commission may be removed by a
27 majority vote of the county board for inefficiency, neglect of duty, or
28 malfeasance in office or other good and sufficient cause upon written
29 charges being filed with the county board and after a public hearing has
30 been held regarding such charges. Vacancies occurring otherwise than
31 through the expiration of terms shall be filled for the unexpired terms

1 by individuals appointed by the county board. Members of the commission
2 shall be compensated for their actual and necessary expenses incurred in
3 connection with their duties in an amount to be fixed by the county
4 board. Reimbursement for mileage shall be made at the rate provided in
5 section 81-1176. Each county board may provide a per diem payment for
6 members of the commission of not to exceed fifteen dollars for each day
7 that each such member attends meetings of the commission or is engaged in
8 matters concerning the commission, but no member shall receive more than
9 one thousand dollars in any one year. Such per diem payments shall be in
10 addition to and separate from compensation for expenses.

11 (2) The commission: (a) Shall prepare and adopt as its policy
12 statement a comprehensive development plan and such implemental means as
13 a capital improvement program, subdivision regulations, building codes,
14 and a zoning resolution; (b) shall consult with and advise public
15 officials and agencies, public utilities, civic organizations,
16 educational institutions, and citizens relating to the promulgation of
17 implemental programs; (c) may delegate authority to any of the groups
18 named in subdivision (b) of this subsection to conduct studies and make
19 surveys for the commission; and (d) shall make preliminary reports on its
20 findings and hold public hearings before submitting its final reports.
21 The county board shall not hold its public meetings or take action on
22 matters relating to the comprehensive development plan, capital
23 improvements, building codes, subdivision development, or zoning until it
24 has received the recommendations of the commission.

25 ~~(3)(a)~~ (3) The commission may, with the consent of the governing
26 body, in its own name: (i) Make and enter into contracts with public or
27 private bodies; (ii) receive contributions, bequests, gifts, or grants of
28 funds from public or private sources; (iii) expend the funds appropriated
29 to it by the county board; (iv) employ agents and employees; and (v)
30 acquire, hold, and dispose of property.

31 (b) The commission may, on its own authority: (i) Make arrangements

1 consistent with its program; (ii) conduct or sponsor special studies or
2 planning work for any public body or appropriate agency; (iii) receive
3 grants, remuneration, or reimbursement for such studies or work; and (iv)
4 at its public hearings, summon witnesses, administer oaths, and compel
5 the giving of testimony.

6 (4) In all counties in the state, the county planning commission may
7 grant conditional uses or special exceptions to property owners for the
8 use of their property if the county board of commissioners or supervisors
9 has officially and generally authorized the commission to exercise such
10 powers and has approved the standards and procedures the commission
11 adopted for equitably and judiciously granting such conditional uses or
12 special exceptions. The granting of a conditional use permit or special
13 exception shall only allow property owners to put their property to a
14 special use if it is among those uses specifically identified in the
15 county zoning regulations as classifications of uses which may require
16 special conditions or requirements to be met by the owners before a use
17 permit or building permit is authorized. The applicant for a conditional
18 use permit or special exception for a livestock operation specifically
19 identified in the county zoning regulations as a classification of use
20 which may require special conditions or requirements to be met within an
21 area of a county zoned for agricultural use may request a determination
22 of the special conditions or requirements to be imposed by the county
23 planning commission or by the county board of commissioners or
24 supervisors if the board has not authorized the commission to exercise
25 such authority. Upon request the commission or board shall issue such
26 determination of the special conditions or requirements to be imposed in
27 a timely manner. Such special conditions or requirements to be imposed
28 may include, but are not limited to, the submission of information that
29 may be separately provided to state or federal agencies in applying to
30 obtain the applicable state and federal permits. The commission or the
31 board may request and review, prior to making a determination of the

1 special conditions or requirements to be imposed, reasonable information
2 relevant to the conditional use or special exception. If a determination
3 of the special conditions or requirements to be imposed has been made,
4 final permit approval may be withheld subject only to a final review by
5 the commission or county board to determine whether there is a
6 substantial change in the applicant's proposed use of the property upon
7 which the determination was based and that the applicant has met, or will
8 meet, the special conditions or requirements imposed in the
9 determination. For purposes of this section, substantial change shall
10 include any significant alteration in the original application including
11 a significant change in the design or location of buildings or
12 facilities, in waste disposal methods or facilities, or in capacity.

13 (5) The power to grant conditional uses or special exceptions as set
14 forth in subsection (4) of this section shall be the exclusive authority
15 of the commission, except that the county board of commissioners or
16 supervisors may choose to retain for itself the power to grant
17 conditional uses or special exceptions for those classifications of uses
18 specified in the county zoning regulations. The county board of
19 commissioners or supervisors may exercise such power if it has formally
20 adopted standards and procedures for granting such conditional uses or
21 special exceptions in a manner that is equitable and which will promote
22 the public interest. In any county other than a county in which is
23 located a city of the primary class, an appeal of a decision by the
24 county planning commission or county board of commissioners or
25 supervisors regarding a conditional use or special exception shall be
26 made to the district court. In any county in which is located a city of
27 the primary class, an appeal of a decision by the county planning
28 commission regarding a conditional use or special exception shall be made
29 to the county board of commissioners or supervisors, and an appeal of a
30 decision by the county board of commissioners or supervisors regarding a
31 conditional use or special exception shall be made to the district court.

1 (6) Whenever a county planning commission or county board is
2 authorized to grant conditional uses or special exceptions pursuant to
3 subsection (4) or (5) of this section, the planning commission or county
4 board shall, with its decision to grant or deny a conditional use permit
5 or special exception, issue a statement of factual findings arising from
6 the record of proceedings that support the granting or denial of the
7 conditional use permit or special exception. If a county planning
8 commission's role is advisory to the county board, the county planning
9 commission shall submit such statement with its recommendation to the
10 county board as to whether to approve or deny a conditional use permit or
11 special exception.

12 (7) No county planning commission or county board shall grant a
13 conditional use permit under this section to any person applying for such
14 permit who is more than one hundred eighty days delinquent in the payment
15 of real property taxes owed to such county on any parcel included in such
16 application until such delinquent taxes are paid in full. The planning
17 commission or county board may waive this requirement if the delinquent
18 taxes owed are in dispute, on appeal, or the result of an administrative
19 error.

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

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

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

23 Sec. 7. Original sections 18-2119, 19-929, and 23-114.01, Reissue
24 Revised Statutes of Nebraska, are repealed.