

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 695**

Introduced by Blood, 3.

Read first time January 05, 2022

Committee:

1 A BILL FOR AN ACT relating to political subdivisions; to amend section  
2 23-114.01, Reissue Revised Statutes of Nebraska, section 19-929,  
3 Revised Statutes Cumulative Supplement, 2020, and section 18-2119,  
4 Revised Statutes Supplement, 2021; to prohibit granting conditional  
5 use permits or zoning exceptions to persons delinquent in the  
6 payment of real property taxes; to provide a duty and a contracting  
7 requirement under the Community Development Law; to harmonize  
8 provisions; to provide a duty for the Revisor of Statutes; and to  
9 repeal the original sections.  
10 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 or zoning change or exception to any person applying for such  
5 permit, change, or exception who is delinquent in the payment of any real  
6 property taxes owed to such city until such delinquent taxes are paid and  
7 collected in full.

8           Sec. 2. A city of the primary class or any city planning commission  
9 or city planning director of such city shall not grant a conditional use  
10 permit or zoning change or exception to any person applying for such  
11 permit, change, or exception who is delinquent in the payment of any real  
12 property taxes owed to such city until such delinquent taxes are paid and  
13 collected in full.

14           Sec. 3. Section 18-2119, Revised Statutes Supplement, 2021, is  
15 amended to read:

16           18-2119   (1)(a) (1) An authority shall, by public notice by  
17 publication once each week for two consecutive weeks in a legal newspaper  
18 having a general circulation in the city, prior to the consideration of  
19 any redevelopment contract proposal relating to real estate owned or to  
20 be owned by the authority, invite proposals from, and make available all  
21 pertinent information to, private redevelopers or any persons interested  
22 in undertaking the redevelopment of an area, or any part thereof, which  
23 the governing body has declared to be in need of redevelopment. Such  
24 notice shall identify the area, and shall state that such further  
25 information as is available may be obtained at the office of the  
26 authority. The authority shall consider all redevelopment proposals and  
27 the financial and legal ability of the prospective redevelopers to carry  
28 out their proposals. The authority shall state in any request for  
29 proposals issued pursuant to this section that no contract will be  
30 entered into with any redeveloper who is delinquent in the payment of any  
31 real property taxes owed to the city.

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

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

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

30           (i) Whether the redeveloper has filed or intends to file an  
31 application to receive tax incentives under the Nebraska Advantage Act or

1 the ImagiNE Nebraska Act for a project located or to be located within  
2 the redevelopment project area;

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

6 (iii) Whether such application has been approved under the Nebraska  
7 Advantage Act or the ImagiNE Nebraska Act; and -

8 (iv) That the redeveloper is current on the payment of all real  
9 property taxes owed to the city.

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

13 (4) A redevelopment contract for a redevelopment plan or  
14 redevelopment project that includes the division of taxes as provided in  
15 section 18-2147 shall include a provision requiring that the redeveloper  
16 retain copies of all supporting documents that are associated with the  
17 redevelopment plan or redevelopment project and that are received or  
18 generated by the redeveloper for three years following the end of the  
19 last fiscal year in which ad valorem taxes are divided and provide such  
20 copies to the city as needed to comply with the city's retention  
21 requirements under section 18-2117.04. For purposes of this subsection,  
22 supporting document includes any cost-benefit analysis conducted pursuant  
23 to section 18-2113 and any invoice, receipt, claim, or contract received  
24 or generated by the redeveloper that provides support for receipts or  
25 payments associated with the division of taxes.

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

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

8           Sec. 4. Section 19-929, Revised Statutes Cumulative Supplement,  
9 2020, is amended to read:

10           19-929 (1) Except as provided in sections 19-930 to 19-933, the  
11 planning commission of a city of the first class, city of the second  
12 class, or village shall (a) make and adopt plans for the physical  
13 development of the city or village, including any areas outside its  
14 boundaries which in the commission's judgment bear relation to the  
15 planning of such city or village and including a comprehensive  
16 development plan as defined by section 19-903, (b) prepare and adopt such  
17 implemental means as a capital improvement program, subdivision  
18 regulations, building codes, and a zoning ordinance in cooperation with  
19 other interested municipal departments, and (c) consult with and advise  
20 public officials and agencies, public utilities, civic organizations,  
21 educational institutions, and citizens with relation to the promulgation  
22 and implementation of the comprehensive development plan and its  
23 implemental programs. The commission may delegate authority to any such  
24 group to conduct studies and make surveys for the commission, make  
25 preliminary reports on its findings, and hold public hearings before  
26 submitting its final reports. The city council or village board of  
27 trustees shall not take final action on matters relating to the  
28 comprehensive development plan, capital improvements, building codes,  
29 subdivision development, annexation of territory, or zoning until it has  
30 received the recommendation of the planning commission if such commission  
31 in fact has been created and is existent. The city council or village

1 board of trustees shall by ordinance set a reasonable time within which  
2 the recommendation from the planning commission is to be received. A  
3 recommendation from the planning commission shall not be required for  
4 subdivision of existing lots and blocks whenever all required public  
5 improvements have been installed, no new dedication of public rights-of-  
6 way or easements is involved, and such subdivision complies with the  
7 ordinance requirements concerning minimum areas and dimensions of such  
8 lots and blocks, if the city council or village board of trustees has  
9 designated, by ordinance, an agent pursuant to section 19-916.

10 (2) The planning commission may, with the consent of the city  
11 council or village board of trustees, in its own name (a) make and enter  
12 into contracts with public or private bodies, (b) receive contributions,  
13 bequests, gifts, or grant funds from public or private sources, (c)  
14 expend the funds appropriated to it by the city or village, (d) employ  
15 agents and employees, and (e) acquire, hold, and dispose of property.

16 The planning commission may on its own authority make arrangements  
17 consistent with its program, conduct or sponsor special studies or  
18 planning work for any public body or appropriate agency, receive grants,  
19 remuneration, or reimbursement for such studies or work, and at its  
20 public hearings, summon witnesses, administer oaths, and compel the  
21 giving of testimony.

22 (3)(a) ~~(3)~~ The planning commission may grant conditional uses or  
23 special exceptions to property owners for the use of their property if  
24 the city council or village board of trustees has, through a zoning  
25 ordinance or special ordinance, generally authorized the commission to  
26 exercise such powers and has approved the standards and procedures  
27 adopted by the commission for equitably and judiciously granting such  
28 conditional uses or special exceptions. The granting of a conditional use  
29 permit or special exception shall only allow property owners to put their  
30 property to a special use if it is among those uses specifically  
31 identified in the zoning ordinance as classifications of uses which may

1 require special conditions or requirements to be met by the owners before  
2 a use permit or building permit is authorized. The power to grant  
3 conditional uses or special exceptions shall be the exclusive authority  
4 of the commission, except that the city council or village board of  
5 trustees may choose to retain for itself the power to grant conditional  
6 uses or special exceptions for those classifications of uses specified in  
7 the zoning ordinance. The city council or village board of trustees may  
8 exercise such power if it has formally adopted standards and procedures  
9 for granting such conditional uses or special exceptions in a manner that  
10 is equitable and will promote the public interest. An appeal of a  
11 decision by the commission or the city council or village board of  
12 trustees regarding a conditional use or special exception shall be made  
13 to the district court.

14 (b) No city of the first class, city of the second class, or  
15 village, or planning commission of such city or village, shall grant a  
16 conditional use permit or special exception under subdivision (a) of this  
17 subsection to any property owner who is delinquent in the payment of any  
18 real property taxes owed to such city or village until such delinquent  
19 taxes are paid and collected in full.

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

22 23-114.01 (1) In order to avail itself of the powers conferred by  
23 section 23-114, the county board shall appoint a planning commission to  
24 be known as the county planning commission. The members of the commission  
25 shall be residents of the county to be planned and shall be appointed  
26 with due consideration to geographical and population factors. Since the  
27 primary focus of concern and control in county planning and land-use  
28 regulatory programs is the unincorporated area, a majority of the members  
29 of the commission shall be residents of unincorporated areas, except that  
30 this requirement shall not apply to joint planning commissions. Members  
31 of the commission shall hold no county or municipal office, except that a

1 member may also be a member of a city, village, or other type of planning  
2 commission. The term of each member shall be three years, except that  
3 approximately one-third of the members of the first commission shall  
4 serve for terms of one year, one-third for terms of two years, and one-  
5 third for terms of three years. All members shall hold office until their  
6 successors are appointed. Members of the commission may be removed by a  
7 majority vote of the county board for inefficiency, neglect of duty, or  
8 malfeasance in office or other good and sufficient cause upon written  
9 charges being filed with the county board and after a public hearing has  
10 been held regarding such charges. Vacancies occurring otherwise than  
11 through the expiration of terms shall be filled for the unexpired terms  
12 by individuals appointed by the county board. Members of the commission  
13 shall be compensated for their actual and necessary expenses incurred in  
14 connection with their duties in an amount to be fixed by the county  
15 board. Reimbursement for mileage shall be made at the rate provided in  
16 section 81-1176. Each county board may provide a per diem payment for  
17 members of the commission of not to exceed fifteen dollars for each day  
18 that each such member attends meetings of the commission or is engaged in  
19 matters concerning the commission, but no member shall receive more than  
20 one thousand dollars in any one year. Such per diem payments shall be in  
21 addition to and separate from compensation for expenses.

22 (2) The commission: (a) Shall prepare and adopt as its policy  
23 statement a comprehensive development plan and such implemental means as  
24 a capital improvement program, subdivision regulations, building codes,  
25 and a zoning resolution; (b) shall consult with and advise public  
26 officials and agencies, public utilities, civic organizations,  
27 educational institutions, and citizens relating to the promulgation of  
28 implemental programs; (c) may delegate authority to any of the groups  
29 named in subdivision (b) of this subsection to conduct studies and make  
30 surveys for the commission; and (d) shall make preliminary reports on its  
31 findings and hold public hearings before submitting its final reports.



1 The county board shall not hold its public meetings or take action on  
2 matters relating to the comprehensive development plan, capital  
3 improvements, building codes, subdivision development, or zoning until it  
4 has received the recommendations of the commission.

5 (3) The commission may, with the consent of the governing body, in  
6 its own name: Make and enter into contracts with public or private  
7 bodies; receive contributions, bequests, gifts, or grants of funds from  
8 public or private sources; expend the funds appropriated to it by the  
9 county board; employ agents and employees; and acquire, hold, and dispose  
10 of property. The commission may, on its own authority: Make arrangements  
11 consistent with its program; conduct or sponsor special studies or  
12 planning work for any public body or appropriate agency; receive grants,  
13 remuneration, or reimbursement for such studies or work; and at its  
14 public hearings, summon witnesses, administer oaths, and compel the  
15 giving of testimony.

16 (4) In all counties in the state, the county planning commission may  
17 grant conditional uses or special exceptions to property owners for the  
18 use of their property if the county board of commissioners or supervisors  
19 has officially and generally authorized the commission to exercise such  
20 powers and has approved the standards and procedures the commission  
21 adopted for equitably and judiciously granting such conditional uses or  
22 special exceptions. The granting of a conditional use permit or special  
23 exception shall only allow property owners to put their property to a  
24 special use if it is among those uses specifically identified in the  
25 county zoning regulations as classifications of uses which may require  
26 special conditions or requirements to be met by the owners before a use  
27 permit or building permit is authorized. The applicant for a conditional  
28 use permit or special exception for a livestock operation specifically  
29 identified in the county zoning regulations as a classification of use  
30 which may require special conditions or requirements to be met within an  
31 area of a county zoned for agricultural use may request a determination

1 of the special conditions or requirements to be imposed by the county  
2 planning commission or by the county board of commissioners or  
3 supervisors if the board has not authorized the commission to exercise  
4 such authority. Upon request the commission or board shall issue such  
5 determination of the special conditions or requirements to be imposed in  
6 a timely manner. Such special conditions or requirements to be imposed  
7 may include, but are not limited to, the submission of information that  
8 may be separately provided to state or federal agencies in applying to  
9 obtain the applicable state and federal permits. The commission or the  
10 board may request and review, prior to making a determination of the  
11 special conditions or requirements to be imposed, reasonable information  
12 relevant to the conditional use or special exception. If a determination  
13 of the special conditions or requirements to be imposed has been made,  
14 final permit approval may be withheld subject only to a final review by  
15 the commission or county board to determine whether there is a  
16 substantial change in the applicant's proposed use of the property upon  
17 which the determination was based and that the applicant has met, or will  
18 meet, the special conditions or requirements imposed in the  
19 determination. For purposes of this section, substantial change shall  
20 include any significant alteration in the original application including  
21 a significant change in the design or location of buildings or  
22 facilities, in waste disposal methods or facilities, or in capacity.

23 (5) The power to grant conditional uses or special exceptions as set  
24 forth in subsection (4) of this section shall be the exclusive authority  
25 of the commission, except that the county board of commissioners or  
26 supervisors may choose to retain for itself the power to grant  
27 conditional uses or special exceptions for those classifications of uses  
28 specified in the county zoning regulations. The county board of  
29 commissioners or supervisors may exercise such power if it has formally  
30 adopted standards and procedures for granting such conditional uses or  
31 special exceptions in a manner that is equitable and which will promote

1 the public interest. In any county other than a county in which is  
2 located a city of the primary class, an appeal of a decision by the  
3 county planning commission or county board of commissioners or  
4 supervisors regarding a conditional use or special exception shall be  
5 made to the district court. In any county in which is located a city of  
6 the primary class, an appeal of a decision by the county planning  
7 commission regarding a conditional use or special exception shall be made  
8 to the county board of commissioners or supervisors, and an appeal of a  
9 decision by the county board of commissioners or supervisors regarding a  
10 conditional use or special exception shall be made to the district court.

11 (6) Whenever a county planning commission or county board is  
12 authorized to grant conditional uses or special exceptions pursuant to  
13 subsection (4) or (5) of this section, the planning commission or county  
14 board shall, with its decision to grant or deny a conditional use permit  
15 or special exception, issue a statement of factual findings arising from  
16 the record of proceedings that support the granting or denial of the  
17 conditional use permit or special exception. If a county planning  
18 commission's role is advisory to the county board, the county planning  
19 commission shall submit such statement with its recommendation to the  
20 county board as to whether to approve or deny a conditional use permit or  
21 special exception.

22 (7) No county planning commission or county board shall grant a  
23 conditional use permit or special exception under this section to any  
24 property owner who is delinquent in the payment of any real property  
25 taxes owed to the county until such delinquent taxes are paid and  
26 collected in full.

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

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

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

30 Sec. 7. Original section 23-114.01, Reissue Revised Statutes of  
31 Nebraska, section 19-929, Revised Statutes Cumulative Supplement, 2020,

1 and section 18-2119, Revised Statutes Supplement, 2021, are repealed.