

LEGISLATIVE BILL 196

Approved by the Governor March 07, 2019

Introduced by Urban Affairs Committee: Wayne, 13, Chairperson; Arch, 14; Brieese, 41; Crawford, 45; Hansen, M., 26; Hunt, 8; Lowe, 37.

A BILL FOR AN ACT relating to cities; to amend sections 14-407, 14-420, and 19-4029.01, Revised Statutes Cumulative Supplement, 2018; to change provisions relating to notice of certain zoning matters in cities of the metropolitan class and for certain hearings under the Business Improvement District Act; and to repeal the original sections.

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

Section 1. Section 14-407, Revised Statutes Cumulative Supplement, 2018, is amended to read:

14-407 (1) A city of the metropolitan class shall exercise the powers conferred by sections 14-401 to 14-418 through such appropriate planning board or official as exists in such city.

(2) When the city is considering the adoption or amendment of a zoning ordinance or the approval of the platting or replatting of any development of real estate, the city shall notify any military installation which is located within the corporate boundary limits or the extraterritorial zoning jurisdiction of the city if the city has received a written request for such notification from the military installation. The planning board shall deliver the notification to the military installation at least ten days prior to the meeting of the planning board at which the proposal is to be considered.

(3) When the city is considering the adoption or amendment of a zoning ordinance, except for an amendment that serves only to correct a misspelling or other typographical error, the city shall notify any registered neighborhood association whose area of representation concern is located in whole or in part within the area that will be included in such zoning ordinance. Each neighborhood association desiring to receive such notice shall register with the city the area of representation concern of such association and provide the name of and contact information for the individual designated who is to receive notice on behalf of such association and the requested manner of service, whether by email or first-class or regular, ~~certified, or registered~~ mail. The registration shall be in accordance with any rules and regulations adopted and promulgated by the city. The planning board shall deliver the notification to the neighborhood association (a) in the manner requested by the neighborhood association and (b) at least ten days prior to the meeting of the planning board at which the proposal is to be considered.

Sec. 2. Section 14-420, Revised Statutes Cumulative Supplement, 2018, is amended to read:

14-420 (1) A city of the metropolitan class shall provide written notice of any properly filed request for a change in the zoning classification of a subject property to the owners of adjacent property in the manner set out in this section.

(2) Initial notice of the proposed zoning change on the subject property shall be sent to the owners of adjacent property by regular United States mail, postage prepaid, to the owner's address as it appears in the records of the office of the register of deeds, postmarked at least ten working days prior to the planning board public hearing on the proposed change. The initial notice shall also be provided at least ten working days prior to the hearing to any registered neighborhood association when the subject property is located within the boundary of the area of representation concern of such association in the manner requested by the association. Each neighborhood association desiring to receive such notice shall register with the city the area of representation concern of such association and provide the name of and contact information for the individual designated who is to receive notice on behalf of such association and the requested manner of service, whether by email or first-class or regular, ~~certified, or registered~~ mail. The registration shall be in accordance with any rules and regulations adopted and promulgated by the city. Such notice shall describe the subject property or give its address, describe the nature of the zoning change requested, and contain the date, time, and location of the planning board hearing.

(3) A second notice of the proposed zoning change on the subject property shall be sent to the same owners of adjacent property who were provided with notice under subsection (2) of this section. Such notice shall be sent by regular United States mail, postage prepaid, to the owner's address as it appears in the records of the office of the register of deeds, postmarked at least ten working days prior to the city council public hearing on the proposed change. Such notice shall describe the subject property or give its address, describe the nature of the zoning change requested, and contain the date, time, and location of the city council public hearing.

(4) No additional or further notice beyond that required by subsections (2) and (3) of this section shall be necessary in the event that the scheduled planning board or city council public hearing on the proposed zoning change is adjourned, continued, or postponed until a later date.

(5) The requirements of this section shall not apply to proposed changes in the text of the zoning code itself or any proposed changes in the zoning code affecting whole classes or classifications of property throughout the jurisdiction of the city.

(6) Except for a willful or deliberate failure to cause notice to be given, no zoning decision made by a city of the metropolitan class either to accept or reject a proposed zoning change with regard to a subject property shall be void, invalidated, or affected in any way because of any irregularity, defect, error, or failure on the part of the city or its employees to cause notice to be given as required by this section if a reasonable attempt to comply with this section was made. No action to challenge the validity of the acceptance or rejection of a proposed zoning change on the basis of this section shall be filed more than one year following the date of the formal acceptance or rejection of the zoning change by the city council.

(7) Except for a willful or deliberate failure to cause notice to be given, the city and its employees shall not be liable for any damage to any person resulting from any failure to cause notice to be given as required by this section when a reasonable attempt was made to provide such notice. No action for damages resulting from the failure to cause notice to be provided as required by this section shall be filed more than one year following the date of the formal acceptance or rejection of the proposed zoning change by the city council.

(8) For purposes of this section:

(a) Adjacent property shall mean any piece of real property any portion of which is located within three hundred feet of the nearest boundary line of the subject property or within one thousand feet of the nearest boundary line of the subject property if the proposed zoning change involves a heavy industrial district classification;

(b) Owner shall mean the owner of a piece of adjacent property as indicated on the records of the office of the register of deeds as provided to or made available to the city no earlier than the last business day before the twenty-fifth day preceding the planning board public hearing on the zoning change proposed for the subject property; and

(c) Subject property shall mean any tract of real property located within the boundaries of a city of the metropolitan class or within the zoning jurisdiction of a city of the metropolitan class which is the subject of a properly filed request for a change of its zoning classification.

Sec. 3. Section 19-4029.01, Revised Statutes Cumulative Supplement, 2018, is amended to read:

19-4029.01 (1) At least ten days prior to the date of any hearing under sections 19-4029, 19-4029.02, and 19-4029.03, notice of such hearing shall be given by:

(a) One publication of the notice of hearing in a legal newspaper in or of general circulation in the city;

(b) Mailing a copy of the notice of hearing to each owner of taxable property as shown on the latest tax rolls of the county treasurer for such county;

(c) Providing a copy of the notice of hearing to any neighborhood association registered pursuant to subsection (2) of this section in the manner requested by such neighborhood association; and

(d) If an occupation tax is to be imposed, mailing a copy of the notice of hearing to each user of space in the proposed business improvement district.

(2) The notice required by subdivision (1)(c) of this section shall be provided to any neighborhood association which is registered pursuant to this subsection and whose area of representation concern is located, in whole or in part, within a one-mile radius of the existing or proposed boundaries of the business improvement district. Each neighborhood association desiring to receive such notice shall register with the city the area of representation concern of such association and provide the name of and contact information for the individual designated who—is to receive notice on behalf of such association and the requested manner of service, whether by email or first-class or regular, certified, ~~or registered~~ mail. The registration shall be in accordance with any rules and regulations adopted and promulgated by the city.

(3) Any notice of hearing for any hearing required by section 19-4029 shall contain the following information:

(a) A description of the boundaries of the proposed business improvement district;

(b) The time and place of a hearing to be held by the city council to consider establishment of the business improvement district;

(c) The proposed public facilities and improvements to be made or maintained within any such business improvement district; and

(d) The proposed or estimated costs for improvements and facilities within the proposed business improvement district and the method by which the revenue shall be raised. If a special assessment is proposed, the notice shall also state the proposed method of assessment.

(4) Any notice of hearing for any hearing required by sections 19-4029.02 and 19-4029.03 shall contain the following information:

(a) A description of the boundaries of the area to be added to the existing business improvement district and a description of the new boundaries of the modified business improvement district;

(b) The time and place of a hearing to be held by the city council to consider establishment of the modified business improvement district;

(c) The new public facilities and improvements, if any, to be made or

maintained within any such business improvement district; and

(d) The proposed or estimated costs for new and existing improvements and facilities within the proposed modified business improvement district and the method by which the revenue shall be raised. If a special assessment is proposed, the notice shall also state the proposed method of assessment.

Sec. 4. Original sections 14-407, 14-420, and 19-4029.01, Revised Statutes Cumulative Supplement, 2018, are repealed.