

INTRODUCTION

State law changes in Nebraska impact many provisions in the ordinance codes of Nebraska cities. This publication is intended to assist municipal attorneys in the identification of provisions in ordinance codes that may require revision in light of state law. The information in this publication is based upon the experience of the legal staff of Municipal Code Corporation in working with the ordinance codes of Nebraska municipal codes.

This publication is current through the end of the First Regular Session of the 106th Legislature (2019).

Not all provisions of this publication will apply to your Code, nor does this publication purport to include all state laws that may somehow affect the language of your Code.

The provisions of this publication are intended to assist city attorneys and are not intended to be a substitute for the advice of counsel.

It is not the intent of Municipal Code Corporation in publishing this publication to provide legal advice. An attorney admitted to practice in Nebraska must be consulted as to the applicability of a given statute or case to a particular situation.

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ADMINISTRATION

1. *Public meetings.* Closed sessions of meetings are allowed under certain circumstances. See R.R.S. 1943, § 84-1410.

ANIMALS

1. *Service animals.* Service animals cannot be prohibited in public places. See R.R.S. 1943, § 20-127.

BUILDINGS AND BUILDING REGULATIONS

1. *Local building codes.* Local building codes are restricted. See R.R.S. 1943, § 71-6406. See also R.R.S. 1943, § 19-929(1).

2. *Short-term rentals.* A municipality shall not adopt or enforce an ordinance or other regulation that expressly or effectively prohibits the use of a property as a short-term rental. Regulation of short-term rentals are restricted. See R.R.S. 1943, § 18-1758.

BUSINESSES AND PROFESSIONS

1. *Private detectives.* Local regulation of private detectives is restricted. See R.R.S. 1943, § 71-3203.

ENVIRONMENT AND AGRICULTURE

1. *Pesticides*. Subject to certain exceptions, the subjects of registration, labeling, distribution, sale, handling, use, application, and disposal of pesticides is preempted to the state. See R.R.S. 1943, § 2-2625.
2. *Seeds*. The Nebraska Seed Law and any rules and regulations adopted and promulgated thereunder supersede and preempt any ordinance regarding the regulation of seeds. See R.R.S. 1943, § 81-2,147.12.

FIRE PREVENTION AND PROTECTION

1. *Cigarette ignition*. The Reduced Cigarette Ignition Propensity Act preempts local ordinances. See R.R.S. 1943, § 69-510.

NUISANCES

1. *Right to Farm Act*. The provisions of R.R.S. 1943, § 2-4401 et seq., restrict declaring certain agricultural operations to be a nuisance.

OFFENSES AND MISCELLANEOUS PROVISIONS

1. *Concealed handguns*. The power to regulate the ownership, possession, or transportation of a concealed handgun is preempted to the state. See R.R.S. 1943, § 18-1703.
2. *Shooting ranges*. Local regulation of shooting ranges is restricted. See R.R.S. 1943, § 37-1301 et seq.
3. *Sex offender residency*. Local ordinances restricting the residency of sex offenders are restricted. See R.R.S. 1943, § 29-4017.
4. *Public intoxication*. No municipality may adopt or enforce a local law, ordinance, resolution, or rule having the force of law that includes drinking, being a common drunkard, or being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty or sanction. See R.R.S. 1943, § 53-1,119.
5. *Obscenity*. Regulation of obscenity is effectively preempted to the state. See R.R.S. 1943, § 28-829.

TELECOMMUNICATIONS

1. *Local regulation and taxation*. Local regulation and taxation of telecommunication companies is restricted. See R.R.S. 1943, §§ 86-123 and 86-704.

TRAFFIC AND VEHICLES

1. *Solicitation on highways*. Ordinances regulating solicitation on highways are restricted. See R.R.S. 1943, § 60-6,157.
2. *Automated-driving-system-equipped vehicles*. Local regulation and taxation of automated-driving-system-equipped vehicles, automated driving systems, or on-demand driverless-capable vehicle networks are restricted. See R.R.S. 1943, § 60-3308.