

LEGISLATIVE BILL 532

Approved by the Governor May 22, 2009

Introduced by Price, 3; McCoy, 39; Mello, 5; Campbell, 25; Gay, 14.

FOR AN ACT relating to counties; to provide for the adoption of ordinances as prescribed.

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

Section 1. (1) In addition to the powers granted by section 23-104, a county may, in the manner specified by sections 1 to 7 of this act, regulate the following subjects by ordinance:

(a) Parking of motor vehicles on public roads, highways, and rights-of-way as it pertains to snow removal for and access by emergency vehicles to areas within the county;

(b) Motor vehicles as defined in section 60-339 that are abandoned on public or private property;

(c) Graffiti on public or private property;

(d) False alarms from electronic security systems that result in requests for emergency response from law enforcement or other emergency responders; and

(e) Violation of the public peace and good order of the county by disorderly conduct, lewd or lascivious behavior, or public nudity.

(2) For the enforcement of any ordinance authorized by this section, a county may impose fines, forfeitures, or penalties and provide for the recovery, collection, and enforcement of such fines, forfeitures, or penalties. A county may also authorize such other measures for the enforcement of ordinances as may be necessary and proper. A fine enacted pursuant to this section shall not exceed five hundred dollars for each offense.

Sec. 2. A county board shall provide notice of the time when any county ordinance is set for consideration before the board. Such notice shall appear at least once a week for two weeks in a newspaper published or of general circulation in the county. The notice shall contain the entire wording of the ordinance and the time and place of the public hearing. The last publication of the notice shall be not less than five days nor more than two weeks prior to the time set for the public hearing on the adoption of the ordinance. A county board shall not take final action on the proposed ordinance until after at least one public hearing has been held thereon by the county board at which public comment regarding the proposed ordinance was permitted.

Sec. 3. A county ordinance may be proved by the certificate of the county clerk under the seal of the county. The adoption and publication of the ordinance shall be sufficiently proved by a certificate under the seal of the county, from the county clerk, showing (1) that such ordinance was adopted and (2) when and in what paper the ordinance was published or when, by whom, and where the ordinance was posted.

Sec. 4. (1) A county ordinance shall be read by title on three different days unless three-fourths of the county board members, following the public hearing on the ordinance, vote to suspend this requirement. If such requirement is suspended, the ordinance shall be read by title or number and then moved for final adoption. Three-fourths of the county board members may require a reading of any such ordinance in full before adoption under either procedure set out in this section. The votes of each member shall be called aloud and recorded. To adopt any ordinance, the concurrence of a majority of the whole number of the members of the county board shall be required.

(2) A county ordinance shall contain no subject which is not clearly expressed in the title, and no ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section that is amended is repealed.

Sec. 5. The style of county ordinances shall be: "Be it ordained by the county board of the county of, " and all county ordinances shall, within fifteen days after they are adopted, be published in some newspaper published or of general circulation within the county.

Sec. 6. (1) No ordinance adopted pursuant to sections 1 to 7 of this act shall be effective within the corporate boundaries of any incorporated city or village located in whole or in part within the county. No ordinance adopted pursuant to sections 1 to 7 of this act shall be effective within the area outside of the corporate boundaries of any city or village in which such city or village has been granted and is exercising powers by ordinance on a similar subject matter. Every county ordinance adopted pursuant to sections 1

to 7 of this act shall include one section defining the area of the county within which the county ordinance is effective. The ordinance shall be amended to reflect any changes in the area of the county's jurisdiction resulting from (a) annexation by a city or village, (b) action by a city or village to adopt an ordinance regarding similar subject matter to that of the county ordinance if the city or village ordinance is to be effective in areas beyond its corporate boundary, or (c) any changes in the area of jurisdiction of the city or village regarding such city or village ordinance.

(2) Before a county adopts an ordinance under sections 1 to 7 of this act, the county clerk shall provide a copy of the text of the ordinance to the clerk of each city and village within the county no later than seven days after the first reading of the ordinance or the public hearing on the ordinance, whichever occurs first. Within seven days after receiving a copy of the ordinance, the city or village shall respond to the county and provide a copy of any ordinance specifying where the city or village is enforcing an ordinance on similar subject matter outside its corporate boundaries. Any ordinance adopted by the county shall not be effective in the area in which the city or village is exercising jurisdiction. Prior to the adoption of the county ordinance, the section of the ordinance that defines the area of county jurisdiction shall be amended to show the removal of the area of the jurisdiction of such city or village as indicated in the city or village ordinance provided to the county from the description of the area within which the county ordinance will be effective. An ordinance adopted under sections 1 to 7 of this act shall not be effective until fifteen days after its adoption.

(3) Any city or village located in whole or in part within a county that has adopted an ordinance pursuant to sections 1 to 7 of this act which (a) annexes any territory, (b) adopts an ordinance on similar subject matter to that of the county ordinance and extends the jurisdiction of the city or village under such ordinance to areas beyond its corporate boundaries, or (c) changes the area beyond the corporate boundaries of the city or village within which the city or village exercises jurisdiction by ordinance on similar subject matter to that of the county ordinance shall provide to the county clerk a copy of the ordinance establishing and delineating its jurisdiction or any change to that jurisdiction within seven days after the adoption of the relevant city or village ordinance. Upon the effective date of the city or village ordinance, the county ordinance shall cease to be effective within the area in which the city or village has assumed jurisdiction. The county board shall promptly amend its ordinance to reflect the change in the area within which the county ordinance is effective.

Sec. 7. A county attorney may sign and prosecute a complaint in the county court for a violation of an ordinance of the county in which he or she serves as county attorney. No county may prosecute a complaint for a violation of an ordinance unless such county has on file with the court a current copy of the ordinances of such county. Subject to guidelines provided by the State Court Administrator, the court shall prescribe the form in which such ordinances shall be filed.