

# Nebraska

## **Introduction:**

Nebraskan counties derive their authority from the Constitution of the State of Nebraska and Chapter 23 of Nebraska Revised Statutes. Though subordinate to the state government, counties do have alternative forms of government from which to choose. The commission, composed of three or five members, serves as the sole legislative authority for a county, empowered to exercise any authority granted it by law. These governments, designated bodies politic and corporate by the Nebraska code, are established within political boundaries delineated by the state. Nebraska is a Dillon's Rule state.

## **County Finance:**

The county board has the sole authority over county funds and business unless specifically granted to some other agency or officer by state law or local ordinance. Boards may establish a petty cash fund for small reimbursements and for general operations and expenditures. The board, being the sole authority over the budget, is also the sole authority for examining and settling accounts and claims raised against the county. When the county seeks to settle a claim it holds against an individual or corporation, it may agree to settle for less than the face value of the claim if no money has been collected after a period of five years. Counties may invest legally in government bonds and securities, but may not invest in any privately held company by purchasing stock.

County boards, in formulating the county development plan, must consider the future of the tax base and ways in which to limit government expenditure before they approve the plan. This is to ensure adequate government resources to execute the plan in the future.

The county has the power to establish and levy a property tax for use by the county government. The government may not exceed a levy of fifty cents per one hundred dollars of taxable property in the county, although it may levy an additional five cents per one hundred dollars of taxable property to pay for interlocal cooperative agreements. Should the board wish to levy a greater tax, they may put the issue to a vote before the electors of the county. If the

electors vote in the affirmative, the county may levy additional taxes for specific purposes. Taxes made pursuant to executing the county duty to establish and operate a courthouse, jail, and other county buildings may not exceed a levy of seventeen and a half cents per hundred dollars of taxable property in the county. Alternately, counties may put to a vote a tax of 3.5 mills to provide for public building funds. Excess funds may be transferred to the general fund.

If the board decides to levy taxes greater than 50 cents per one hundred dollars of taxable property in the county, the tax must be put to a vote before the electors of the county with a substantive reason for the need for such a levy and the duration of the excessive levy. A special tax levied to pay off a debt must be kept in a separate fund in the county treasury, to be spent only for the specific purpose of paying off the debt. Any excess money in such a special fund may be transferred to the general fund.

When collecting claims the county has against other people, the county board may require that the individual pay off the debt within five days of service of the notice. In the event the individual fails to repay the debt, the county may sue the individual for the money owed in a court of law.

When making appropriations in anticipation of taxes levied by the county, the board may not issue warrants nor contracted indebtedness over 50% of the expected value of the fund following collection of the tax. For counties with a population greater than 150,000 people, the board must hire a purchasing agent who is not a county officer to make purchases with appropriated funds.

## **Contracts:**

County boards may enter into contracts with other boards of counties in the state of Nebraska to exercise powers attributed to them separately subject the requirements of the Interlocal Cooperation Act. The agreement, to be made in writing, must specifically outline all powers to be exercised jointly, the method for such exercise, and the distribution of the cost of joint exercise. The board may additionally enter into contracts with private entities or public corporations as may be necessary to carry out the county's corporate powers. If the cost for the lease

of equipment or property exceeds one tenth of the total taxable value of taxable property in the county, the board may not enter into another contract. Equipment and property owned by the county may alternately be leased for a period not to exceed one year to any individual, private entity, or public corporation.

When in the course of executing a development plan the county sees fit to establish some program or erect some structure, the county may contract with any individual, private entity, or public corporation to carry out its plan. The county may additionally, by resolution, approve payment of the contract prior to receipt of the services. In the construction of public buildings, however, counties may not pay the contracted debt out of a special fund unless at least 70% of the tax levy has been collected.

### **Zoning and Land Use:**

County territory is fixed by the legislature and may not be altered without majority approval of the electors of both counties in question. In cases of doubt, the legislature reserves authority to set the boundaries of counties, though no county may shrink below four hundred square miles in area.

County boards may purchase and hold real and personal estate necessary to the function of the county government. Purchase incorporates means of acquisition ranging from leasing and leasing with option to buy. This includes land made available as a result of judicial hearings and land ceded or deeded to the county as a gift. If acting in the best interest of the county, the board may sell or lease the county's real and personal estate. The county may exercise its power to take and to have care and custody of county real and personal estate. Counties are required to provide a courthouse and suitable jail, in addition to any other county buildings as may be necessary to the operation of the government or the wellbeing of the residents of the county. Such buildings may include offices for county enterprises and buildings vital to community activity of social, athletic, or recreational purpose. The board may enter contracts and charge reasonable fees for the use of these buildings.

The county board may sell any county property it chooses to sell so long as such an action is taken in the best interest of the county. The county board may, if it so desires, sell county property on credit provided the credit extended does not exceed two-

thirds of the total sale price. Counties must sell property at a price comparable to the fair market value of the property, unless selling land for a veteran's home to the state for purposes of providing domiciles to veterans.

On petition of two-thirds of the owners of a plat in the unincorporated areas of the county, the board may authorize the vacation of the land. A petition of the same number of owners is sufficient for the county to change the name of the plat.

Counties may establish planning commissions to create and advise the board about the proposed expansion of the county. The plans include the future of the county agriculture and industry, creating a solid infrastructure for future development, and ensuring prosperity, safety, and health for the citizens of the county. The board may adopt this development plan and implement it by dividing the county into such zones as may be necessary for the expedient operation of the county government, though they may not take these actions or appropriate funds to execute these actions until having received the advice of the planning commission. The board may regulate the type of building allowed in each zone, the density of buildings, the height of buildings, the uses of land for agriculture, industry, commerce, and the height, bulk, and size of buildings and other structures. The board must give due consideration to soil and water conservation in the unincorporated areas of the county.

The county development plan must also include provisions concerning the preservation of public health, including security from fire and other dangers, and lessening the hazard of runoff and storm waters. To mitigate the damaging effects of flooding, counties may establish special districts or zones subject to periodic floods. In said zone, the county may require a higher standard of building or ban building altogether in order to preserve public safety in time of flood emergencies.

In regulating conservation and agriculture, counties may institute distance requirements from the nearest residence; however, counties may not implement a moratorium on livestock waste facilities nor impact existing facilities. County boards may acquire sites to construct, purchase, remodel, or repair new or existing facilities including grandstands, pavilions, exhibition halls, barns, racetracks, and other such facilities related to the promotion of the horse-breeding and livestock industry in Nebraska. The

board of supervisors may issue general obligation bonds and contract indebtedness to do so. Counties may additionally contract out the operation of these facilities to nonprofit corporations.

In the unincorporated areas of the county, the board may restrict the construction and operation of dance halls, roadhouses, and other places of public amusement without licensure from the county. Neither may any individual operate any pool or billiard hall in the unincorporated areas of the county without a license.

Counties may make requirements about the size, bulk, and number of stories of residential buildings as well. However, they may not exclude a home simply on the basis of it being a non-permanent or manufactured home, though the county may stipulate the size of the manufactured home, ban wheels or axles attached to the mobile home, and demand a certain aesthetic standard.

To enforce the rules the board approves with respect to zoning, the planning commission may issue permits prior to the construction or major renovation of new buildings. Planning commissions may grant exceptions to the rules they promulgate concerning zoning and building code to individuals, private entities, or public corporations seeking to execute some policy prohibited by the rules. The county board of commissioners may either reserve this power to board or may delegate it to the planning commission.

### **Public Health, Sanitation, and Safety:**

To preserve public safety for the county, the board may establish rural and suburban fire protection districts to be managed by a board of directors for the district. The board shall levy a tax on the service district such that the district may maintain facilities and equipment necessary to the abatement of fires. Counties may employ firefighters or operate volunteer fire departments.

The county board may serve as board of corrections in counties with less than 150,000 people; however, in counties with a population in excess of 150,000 the board of supervisors must establish a board of corrections. This power charges the board to operate the jail according to Nebraskan standards and shall have charge of all inmates in said jail. The same board may enter into contracts for the operation and maintenance of the jail and health and wellbeing of the inmates.

Counties are empowered to acquire land for, design, and institute programs, including the provision of buildings and equipment necessary to implement the program, to protect, treat, rehabilitate, educate, and provide care to the aged, the blind, the disabled, the ill or infirm, and the mentally disabled or ill. Counties may exercise this power alone or in tandem with other governmental subdivision of Nebraska.

The board may cooperate with the Nebraska Department of Agriculture or any parallel federal agency to abate insect pests and disease for agricultural and horticultural plants in Nebraska. To protect the economic interests of county agriculture, the board may expend money from the general fund to accomplish this.

Counties may create hospital authorities as bodies corporate and politic to administer to the hospitals the board may place under its jurisdiction. This includes hiring and firing staff, maintaining and expanding services, leasing and purchasing equipment, and to enter into contracts with public and private entities to execute all of its duties. The board may establish a district to serve as the foundation of the hospital's tax base. Hospital authorities may levy a three and a half cent tax on every one hundred dollars of taxable property in the service district to fund the hospital and may additionally charge reasonable fees for services rendered.

County boards may acquire and operate sewer disposal facilities to treat, purify, or dispose of liquid and solid waste. The board may additionally levy a three and a half cent tax on every hundred dollars of taxable property in the county to pay for the system; said tax is exempt from all regulations on property tax ceilings. In addition, the county may subsidize the system by levying user fees on the sewer and issuing general obligation bonds. In addition to this power, the county may provide water and solid waste disposal services.

### **Roads, Bridges, and Transportation:**

Counties have the sole right to establish, lay out, construct, alter, and discontinue any road running through the unincorporated area of the county. Counties may exercise their right to purchase land, or acquire titles by gift, or to seize land by eminent domain to acquire the property to provide a sound infrastructure. Boards may move to abandon roads that provide a similar service as state or federal

highways or any abandoned or unused road; however, the board may not discontinue roads lying within the zoning territory of an incorporated city without prior approval of the legislative body of the city. The county may establish the present state of roads and lay out plans for future road or bridge service in the county development plan.

The supervision of public roads is vested in the county board, which has authority over maintenance and improvement over existing roads. Moreover, the board may establish traffic laws and administer local, state, and federal highway regulations on the roads.

County commissions may establish airport authorities, either alone or in tandem with another county, to administer and regulate airports within the county's territory. To fund the outlay associated with establishing an airport, counties may issue bonds.

### **Recreation, Leisure, and Culture:**

Counties may operate parks and recreational facilities. This includes the power to acquire and develop land with any facilities or fields which may be necessary to the successful execution of a recreation plan. The county may issue bonds to fund these endeavors.

The county development plan allows counties to regulate zones so as to preserve and protect historic buildings and sites. Counties containing a city of the primary class, i.e. a city of 100,000-300,000 people, may make aesthetic improvements to the county, including planting ornamental and shade trees and shrubs and erecting monuments. To erect and maintain these monuments, the county may levy a tax of 3.5 mills.