

CHAPTER 8: PUBLIC WAYS AND PROPERTY

Article

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ARTICLE 1: MUNICIPAL PROPERTY

§ 8-101 MUNICIPAL PROPERTY; MAINTENANCE AND CONTROL.

The Governing Body shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the Municipality, and shall cause the same to be kept open and in repair, and free from nuisances. (*Ref. 17-567 RS Neb.*)

§ 8-102 MUNICIPAL PROPERTY; SALE AND CONVEYANCE OF REAL PROPERTY.

(A) Except as provided in division (G) of this section, the power of the City to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of such property and the manner and terms thereof, except that such property shall not be sold at public auction or by sealed bid when:

- (1) Such property is being sold in compliance with the requirements of federal or state grants or programs;
- (2) Such property is being conveyed to another public agency; or
- (3) Such property consists of streets and alleys.

(B) The City Council may establish a minimum price for real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

(C) After the passage of the resolution directing the sale, notice of all proposed sales of property described in division (A) of this section and the terms thereof shall be published once each week for three (3) consecutive weeks in a legal newspaper published in or of general circulation in the City.

(D) (1) If within thirty (30) days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the City equal in number to thirty percent (30%) of the registered voters of the City voting at the last regular municipal election held therein and is filed with the City Council, such property shall not then, nor within one (1) year thereafter, be sold. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be collected within the 30-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.

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(2) Upon the receipt of the remonstrance, the City Council, with the aid and assistance of the Election Commissioner or County Clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The City Council shall deliver the remonstrance to the Election Commissioner or County Clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested.

(3) Upon receipt of the remonstrance, the Election Commissioner or County Clerk shall issue to the City Council a written receipt that the remonstrance is in the custody of the Election Commissioner or County Clerk. The Election Commissioner or County Clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the City Council. The Election Commissioner or County Clerk shall also compare the signer's printed name, street and number or voting precinct, and city or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the Election Commissioner or County Clerk determines that the printed name, street and number or voting precinct, and city or post office address matches the registration records and that the registration was received on or before the date on which the remonstrance was filed with the City Council. The determinations of the Election Commissioner or County Clerk may be rebutted by any credible evidence which the City Council finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance process.

(4) Upon completion of the comparison of names and addresses with the voter registration records, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the non-registration of the signer, the Election Commissioner or County Clerk shall set forth the reason for the invalidity of the signature. If the Election Commissioner or County Clerk determines that a signer has affixed his or her signature more than once to the remonstrance and that only one (1) person is registered by that name, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature.

(5) The Election Commissioner or County Clerk shall certify to the City Council the number of valid signatures necessary to constitute a valid remonstrance. The Election Commissioner or County Clerk shall deliver the remonstrance and the certifications to the City Council within forty (40) days after the receipt of the remonstrance from the City Council. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than twenty (20) signatures on one signature page shall be counted.

(6) The City Council shall, within thirty (30) days after the receipt of the remonstrance and certifications from the Election Commissioner or County Clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The City Council shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

(E) Real estate now owned or hereafter owned by the City may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of section 18-1001 to 18-1006 RS Neb.

(F) (1) Following:

(a) Passage of the resolution directing a sale,

(b) Publishing of the notice of the proposed sale, and

(c) Passing of the thirty (30)-day right-of-remonstrance period, the property shall then be sold.

(2) Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale. (*Ref. 17-503 RS Neb.*)

(G) Divisions (A) through (F) of this section shall not apply to the sale of real property if the authorizing resolution directs the sale of real property, the total fair market value of which is less than five thousand dollars (\$5,000.00). Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three (3) prominent places within the City for a period of not less than seven (7) days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required. (*Ref. 17-503.01 RS Neb.*) (*Amended by Ord. Nos. 389, 8/10/82; 653, 9/27/94; 705, 1/23/96; 784, 9/22/98; 907, 1/27/04*)

§ 8-102.01 MUNICIPAL PROPERTY; SALE AND CONVEYANCE OF PERSONAL PROPERTY.

(A) The power of the City to convey any personal property owned by it shall be exercised by resolution directing the sale and the manner and terms of the sale. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three (3) prominent places within the city for a period of not less than seven (7) days prior to the sale of the property. If the fair market value of the property is greater than five thousand dollars (\$5000.00), notice of the sale shall also be published once in a legal newspaper published in or of general circulation in the City at least seven (7) days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale.

(B) Personal property may be conveyed notwithstanding the procedure in division (A) of this section when:

(1) Such property is being sold in compliance with the requirements of federal of state grants or programs; or

(2) Such property is being conveyed to another public agency. (*Ref. 17-503.02 RS Neb.*) (*Ord. No. 907, 1/27/04*)

§ 8-103 MUNICIPAL PROPERTY; OBSTRUCTIONS.

Trees and shrubs, growing upon, or near, the lot line, or upon public ground and interfering with the use, or construction of any public improvements shall be deemed an obstruction under this Article. Said trees, shrubs and their roots may be removed by the Municipality at the expense of the owner of the property upon which the tree or shrub is located should the owner fail, or neglect, after notice, to do so. It shall be unlawful for any person, persons, firm, or corporation to obstruct, or encumber, by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks. (*Ref. 17-557.01 RS Neb.*)

§ 8-104 MUNICIPAL PROPERTY; PERMITTED OBSTRUCTIONS.

Persons engaged in the erection, construction, reconstruction, wrecking, or repairing of any building, or the construction, or repair, of a sidewalk along any street, may occupy the public street space with such building material and equipment as long as is necessary if such persons shall make application to and receive a permit in writing from the Municipal Police to do so; provided, no permit for the occupancy of the sidewalk space, and more than one-third (1/3) of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked, or repaired shall be granted; and provided further, a suitable passageway for pedestrians shall be maintained within the public space included in the permit which shall be protected and lighted in the manner required by the Municipal Police.

§ 8-105 MUNICIPAL PROPERTY; SIGNS AND CANOPIES.

No person, firm, or corporation shall erect, or maintain, any sign, signboard, poster, or rigid canopy over any street, sidewalk, alley, or on other public property without having first obtained a permit therefor. Permits for signs, canopies, posters, and signboards shall be issued by the Municipal Clerk, subject to the approval of the Street Commissioner, upon the payment of a fee set by resolution of the Governing Body. All signs and canopies extending over any public sidewalk, street, alley, or other public place must be securely fastened and constructed so that there will be no danger of the same

being dislodged by ordinary winds, or falling from other causes. No sign or canopy shall be erected or maintained which extends over any public sidewalk, street, alley, or other public place in such a location as to obstruct the view of any traffic light, sign, or signal. Upon the written order of the Governing Body, any person owning or occupying the premise where such a sign, canopy, poster, or signboard is located, shall cause the same to be removed within the time limit specified on such notice.

§ 8-106 MUNICIPAL PROPERTY; ACQUISITION OF PROPERTY; CONSTRUCTION, ELECTIONS WHEN REQUIRED.

(A) The Municipality is authorized and empowered to:

- (1) Purchase,
- (2) Accept by gift or devise,
- (3) Purchase real estate upon which to erect, and

(4) Erect a building or buildings for an auditorium, fire station, Municipal building, or community house for housing Municipal enterprises and social and recreation purposes, and other public buildings, and maintain, manage, and operate the same for the benefit of the inhabitants of the Municipality.

(B) Except as provided in subsection (C) of this section, before any such purchase can be made or building erected, the question shall be submitted to the electors of the Municipality at a general Municipal election or at an election duly called for that purpose, or as set forth in section 17-954 RS Neb., and be adopted by a majority of the electors voting on such question.

(C) If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue, then either:

(1) Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the Municipality and no election shall be required to approve the purchase or construction unless within thirty (30) days after the publication of the notice, a remonstrance against the purchase or construction is signed by registered voters of the Municipality equal in number to fifteen percent (15%) of the registered voters of the Municipality voting at the last regular Municipal election held therein and is filed with the Governing Body. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the Municipality at a general Municipal election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within one (1) year following the election, be purchased or constructed; or

(2) The Governing Body may proceed without providing the notice and right of remonstrance required in subdivision (A) of this subsection if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than twenty-five thousand dollars (\$25,000.00). The purchase shall be approved by the Governing Body after notice and public hearing as provided in section 18-1755 RS Neb. (*Ref. 17-953, 17-953.01 RS Neb.*) (*Ord. No. 371, 10/13/81*) (*Amended by Ord. No. 706, 1/23/96*)

§ 8-107 MUNICIPAL PROPERTY; SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCEDURE.

(A) The Municipality's Governing Body may, by ordinance, create a special improvement district for the purpose of replacing, reconstructing, or repairing an existing water line, sewer line, or any other such improvement.

(B) Except as provided in sections 19-2428 to 19-2431 RS Neb., the Governing Body shall have power to assess, to the extent of such benefits, the costs of such improvements upon the properties found especially benefited thereby, whether or not such properties were previously assessed for the same general purpose. In creating such special improvement district, the Governing Body shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law. (*Ref. 18-1751 RS Neb.*) (*Ord. No. 477, 10/13/87*)

§ 8-108 MUNICIPAL PROPERTY; IMPROVEMENT DISTRICT; LAND ADJACENT.

Supplemental to any existing law on the subject, a Municipality may include land adjacent to such Municipality when creating an improvement as a sewer, water, water extension, or sanitary sewer extension district. The Governing Body shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby, except as provided in section 8-319. (*Ref. 19-2427 RS Neb.*) (*Ord. No. 478, 10/13/87*)

§ 8-109 MUNICIPAL PROPERTY; ACQUISITION OF REAL PROPERTY; PUBLIC MEETING; ACCESS FOR RECREATIONAL USE.

(A) The City shall acquire an interest in real property by purchase or eminent domain only after the Governing Body has authorized the acquisition by action taken in a public meeting after notice and public hearing.

(B) The City shall provide to the public a right of access for recreational use to real property acquired for public recreational purposes. Such access shall be at designated access points and shall be equal to the right of access for recreational use held by adjacent landowners. The right of access granted to the public for recreational use shall meet or exceed such right held by a private landowner adjacent to the real property. (*Ref. 18-1755 RS Neb.*) (*Ord. No. 673, 3/14/95*)

§ 8-110 MUNICIPAL PROPERTY; ACQUISITION OF PROPERTY; APPRAISAL.

Notwithstanding any other provision of law, the Municipality shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of one hundred thousand dollars (\$100,000.00) or more unless an appraisal of such property has been performed by a certified real property appraiser. *(Ref. 13-403 RS Neb.) (Ord. No. 674, 3/14/95)*

§ 8-111 MUNICIPAL PROPERTY; PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS.

(A) (1) Except as otherwise provided in this section and sections 81-3449 and 81-3453 RS Neb., the municipality shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer.

(2) This division (A) shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed one hundred thousand dollars (\$100,000.00) or the adjusted dollar amount set by the Board of Engineers and Architects. *(Ref. 81-3445 RS Neb.)*

(B) The provisions of division (A) of this section regulating the practice of architecture do not apply to the following activities or the other activities specified in section 81-3449 RS Neb.:

(1) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(2) A public service provider who employs a design professional performing professional services for itself;

(3) The practice of any other certified trade or legally recognized profession;

(4) Earthmoving and related work associated with soil and water conservation practices performed any land owned by the municipality that is not subject to a permit from the Department of Natural Resources; and

(5) The work of employees and agents of the municipality performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance. *(Ref. 81-3449 RS Neb.)*

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(C) The provisions of division (A) of this section regulating the practice of engineering do not apply to the following activities, the activities specified in division (B) of this section, or the other activities specified in section 81-3453 RS Neb.:

(1) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant; and

(2) The construction of water wells as defined in section 46-1212 RS Neb., the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the municipality to be designed or supervised by an engineer or unless legal requirements are imposed upon the municipality as a part of a public water supply; (*Ref. 81-3453 RS Neb.*)

(D) For the purpose of this section, the municipality is considered a public service provider if it employs or appoints an architect or a professional engineer to be in responsible charge of the municipality's architectural or engineering work. (*Ref. 81-3423 RS Neb.*) (*Ord. No. 785, 9/22/98*) (*Amended by Ord. Nos. 816, 6/13/00; 931, 1/11/05; 1146, 5/22/17*)

§ 8-112 MUNICIPAL PROPERTY; TREES; OBSTRUCTION, PRUNING, REMOVAL.

(A) All trees and shrubs within the City shall be pruned or removed when such trees or shrubs obstruct the light from any street light, obstruct the visibility of any traffic control device or sign, obstruct the path of pedestrians on sidewalks, or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging portions thereof shall be twelve (12) feet over all streets, except those streets designated as truck routes which shall be sixteen (16) feet and seven and one half (7½) feet over sidewalks.

(B) All shrubs and hedges shall be kept trimmed by the abutting property owner at least two (2) feet back from all curbs, sidewalks, driveways or alleys, and the same shall be at all times kept trimmed to a height of not greater than thirty (30) inches above the top of the curb unless the City Council, for other than corner lots, determines that a greater height would not constitute a hazard to pedestrian or vehicular traffic.

(C) The City Council shall have the power and authority to prune or remove, or order to be pruned or removed, any such trees or shrubs on private property or located on street right-of-way between the curb and the abutting property owner's lot line. (*Ord. No. 808, 11/9/99*) (*Amended by Ord. No. 968, 4/11/06*)

§ 8-113 USE OF METAL DETECTORS ON MUNICIPAL PROPERTY FOR ANY OTHER PURPOSE TO ASSIST IN THE LOCATING OF ITEMS ON THE SURFACE OF THE GROUND IS PROHIBITED.

It shall be unlawful for any person to dig, damage the ground or otherwise disturb the ground surface of any municipal property to find, locate or retrieve any object or thing with the assistance of a metal detecting device. This prohibition shall not apply where the metal detecting device is used as an aid to locate an object that is lying on the surface of the ground and retrieval of the item will not cause any damage to the ground surface. (*Ord. No. 1120, 5/23/16*)

ARTICLE 2: SIDEWALKS

§ 8-201 SIDEWALK SPACE; DEFINED.

The term "sidewalk space," as used herein, shall mean that portion of a street between curb lines and adjacent property lines.

§ 8-202 SIDEWALKS; BENEATH.

No person shall be allowed to keep or use the space beneath the sidewalk lying between lot line and curb line unless a permit therefor shall have been obtained from the Governing Body. Before any permit shall be granted, the applicant for said permit shall submit plans and specifications of any present or proposed construction to the Municipal Engineer. Should such plans or specifications be disapproved by him, no permit shall be granted therefor. All permits hereafter granted shall continue only upon the condition that the party receiving the same shall build, maintain, and keep in repair a sidewalk over such space used or constructed to be used and pay all damages that may be sustained by any person by reason of such use or by reason of said sidewalk being defective or in a dangerous condition. As a condition precedent to the issuance or continuance of any permit for the use of any space underneath the Municipal sidewalks as herein contemplated, the Governing Body may require applicant to furnish a bond to the Municipality as obligee for the benefit of any person or persons who may suffer any damage or damages by reason of such use. The bond shall be in such sum as the Governing Body, in its discretion, may designate.

§ 8-203 SIDEWALKS; DANGEROUS STAIRWAY.

It shall be unlawful for any person to construct or maintain any stairway, open cellarway, open basement way, or open entrance thereto in or adjacent to any sidewalk, pavement, or street, and any such entrance is hereby declared to be a public nuisance; provided, all existing stairways, open cellarways, open basement ways, or open entrances thereto in said sidewalks, pavements, or streets may be permitted to remain from and after the passage, approval, and publication of this Code if said person owning or using said opening in the sidewalk, or street, shall satisfy the Street Commissioner that the same is properly protected by a balustrade, or coping of durable material, and shall furnish the Municipality with a bond in such amount as the Governing Body may set, for the benefit of any person who might suffer an injury or damage by reason of the use of said stairway, cellarway, or open basement way. (*Ref. 17-555 RS Neb.*)

§ 8-203.01 REGULATION OF OBSTRUCTIONS.

(A) The City may remove all obstructions from the sidewalks, curbstones, gutters, and crosswalks at the expense of the person placing them there or at the expense of the City and require and regulate the planting and protection of shade trees in and along the streets and the trimming and removing of such trees.

(B) The City may regulate the building of bulkheads, cellar and basement ways, stairways, railways, windows, doorways, awnings, hitching posts and rails, lampposts, awning posts, all other structures projection upon or over and adjoining, and all other excavations through and under the sidewalks in the City. (*Ref. 17-555 RS Neb.*) (*Ord. No. 1170, 6/12/17*)

§ 8-204 SIDEWALKS; KEPT CLEAN.

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. All sidewalks within the business district shall be cleaned within five (5) hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before eight-thirty (8:30) o'clock A.M. the following day. (*Ref. 17-557 RS Neb.*)

§ 8-205 SIDEWALKS; MAINTENANCE.

(Repealed by Ord. No. 932, 1/11/05)

§ 8-206 SIDEWALKS; CONSTRUCTION BY OWNER.

Any person desiring to construct, or cause to be constructed, any sidewalk shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.

Said owner shall make application in writing for a permit and file such application in the office of the Municipal Clerk along with the survey fee of five (\$5.00) dollars which shall be paid to the Municipal official in charge of making sidewalk surveys. The permit shall give a description of the lot, or piece of land along which the sidewalk is to be constructed. The official in charge of sidewalks shall issue the desired permit unless good cause shall appear why said permit should be denied; provided, if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, or elevation, the Municipal official in charge of sidewalks shall submit the application to the Governing Body who shall determine whether the permit should be granted or denied. When a permit is issued for

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the construction of a sidewalk, the Municipal official in charge of sidewalks shall make a survey and set stakes indicating the location, grade, and elevation of the sidewalk. It shall be unlawful for any person to construct, or cause to be constructed said sidewalk at any other location, grade, or elevation than so designated. All sidewalks shall be built and constructed on the established grade, or elevation, and if there is no established grade, then on the grade or elevation indicated by the Municipal official in charge of sidewalks. Such survey shall be made within ten (10) days after said permit has been issued.

§ 8-208 SIDEWALKS; DEFECTS.

It shall be the duty of all policemen to take note of all defects in sidewalks, and when in disrepair, report the same to the Street Commissioner for appropriate action by him according to law.

§ 8-209 SIDEWALKS; REPAIR.

(A) The Mayor and City Council may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as the Mayor and City Council deems necessary and assess the expense thereof on the property in front of which the construction or repairs are made, after having given notice of its intention to do so:

(1) By publication in one (1) issue of a legal newspaper of general circulation in the Municipality; and

(2) By either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon such premises ten (10) days prior to the commencement of such repair or construction. (*Ref. 17-522 RS Neb.*)

(B) The notice shall:

(1) State that the Governing Body has ordered repair of the sidewalk;

(2) Contain the Municipality's estimate of the cost of the repair;

(3) Notify the property owner that he or she may, within ten (10) days after the date of publication of the notice, notify the Municipality that he or she will repair the sidewalk within thirty (30) days after such date of publication;

(4) Notify the property owner that if he or she fails to so notify the Municipality within the ten (10) days or, having so notified the Municipality, fails to repair the sidewalk within the thirty (30) days, the Municipality will cause the sidewalk to be repaired and the expense thereof to be assessed against the property.

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(C) (1) Before the Municipality imposes any special assessments for sidewalk repair, a copy of the notice that is required to be published shall be mailed to the last-known address of all nonresident property owners as shown on the current tax rolls at the time such notice is first published. (*Ref. 13-310 RS Neb.*)

(2) The Municipal Clerk shall mail the notice by certified mail with return receipt requested. (*Ref. 13-312 RS Neb.*)

(3) For purposes of this division, nonresident property owner means any person or corporation whose residence and mailing address as shown on the current tax rolls is outside the boundaries of the county in which the property subject to assessment is located and who is a record owner of the property. (*Ref. 13-314 RS Neb.*)

(D) All sidewalks shall be repaired in conformity with such plans and specifications as may be approved by the Governing Body.

(E) Assessments made under this section shall be made and assessed in the manner provided in section 17-524 RS Neb. (*Amended by Ord. No. 932, 1/11/05*)

§ 8-210 SIDEWALKS; MUNICIPAL CONSTRUCTION.

(Repealed by Ord. No. 932, 1/11/05)

§ 8-211 SIDEWALKS; CONSTRUCTION BIDS.

Whenever the Municipality shall construct, widen, replace, or reconstruct any sidewalk, notice prepared by the Municipal Attorney, specifying the work to be done and calling for bids for doing such work and supplying the necessary materials and labor shall be published in at least one (1) issue of a legal newspaper of general circulation in the Municipality; provided, bids so invited shall be filed in the office of the Municipal Clerk within ten (10) days after the date of publication. Bids shall be opened at the next regular or special meeting of the Governing Body, and the Governing Body shall then award the work to the lowest responsible bidder. Upon approval of the work, the Governing Body, upon the recommendation of the Street Commissioner, may require the contractor to accept payment in certificates issued to him by the Municipal Clerk entitling him to all assessments or special taxes, against such real estate whenever such assessments or special taxes, shall be collected together with the interest or penalty collected thereon. Each certificate shall give the legal description of the lot, lots, or parcel of ground against which the assessments or special taxes are assessed. Such certificate or certificates may be assigned and transferred, entitling the holder to the same rights as if held by the original contractor. The County Treasurer shall pay over to such contractor or other holder of the certificate or certificates all assessments or special taxes against such real estate, together with the interest and penalty thereon, at any time upon presentation of such certificate or certificates after said assessments or special taxes against such real estate together with interest or penalty thereon shall have been collected.

§ 8-212 SIDEWALKS; UNIFORMITY.

All sidewalks in the "Fire Limits" shall be laid with the inner edges thereof plumb with the lot line and of such width as the Governing Body shall fix, by resolution, from time to time. All other sidewalks within the Municipality shall be at least four (4') feet in width and the inner edge of the walk shall be placed at such distance from the lot line as the Governing Body shall fix, by resolution, from time to time; provided, however, nothing herein shall be construed to apply to walks along public buildings outside the "Fire Limits" which may be ordered by the Governing Body to be constructed of greater width; and provided further, where sidewalks are hereafter constructed outside the "Fire Limits" adjoining sidewalks previously put in place and not in accordance with the requirements of this section, the Municipal Engineer or Street Commissioner in his discretion, may authorize the placing of such new sidewalks so as to conform in so far as possible with previous structures, and the said Municipal Engineer is hereby vested with authority to waive the requirements of this section and to direct the width and location of sidewalks in such manner as he may deem feasible to secure uniformity as to sidewalks in the same block.

§ 8-213 SIDEWALKS; CONSTRUCTION REQUIREMENTS.

All sidewalks and curb and gutter hereafter constructed in the Municipality shall be composed of concrete or artificial stone, and shall be composed and constructed as follows: In the construction of all concrete walks the surface of the ground shall be reduced to the proper grade and solidly tamped so as to give the walk when finished a slope toward the abutting street of one (1") inch, if possible, to every four (4') feet in width. In this a foundation not less than four (4") inches thick shall be laid, composed of one (1) part of Standard Portland Cement, four (4) parts of clean, sharp sand, which shall be evenly and smoothly troweled. All cement walks shall be laid with a cut off in at least every fifty (50') feet of walk by inserting a strip of wood or an asphalt expansion joint, one half of an inch thick extending through to the ground. One-course cement construction in building sidewalks shall only be permitted and allowed.

§ 8-214 REGULATION OF SNOW, ICE, AND OTHER ENCROACHMENTS.

(A) The municipality shall have power to prevent and remove all encroachments, including snow, ice, mud or other obstructions, into and upon all sidewalks, streets, avenues, alleys, and other municipal property. (*Ref. 17-557 RS Neb.*)

(B) If the abutting property owner refuses or neglects, after five (5) days' notice by publication or, in place thereof, personal service of such notice, to remove all encroachments from sidewalks, as provided in division (A), the municipality through the proper officers may cause such encroachments to be removed, and the cost of removal shall be paid out of the street fund. The governing body shall

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assess the cost of the notice and removal of the encroachment against the abutting property as a special assessment. The special assessment shall be known as a special sidewalk assessment and, together with the cost of notice, shall be levied and collected as a special assessment in addition to the general revenue taxes and shall be subject to the same penalties as other special assessments and shall draw interest from the date of the assessment. Upon payment of the assessment, the assessment shall be credited to the street fund. *(Ref. 17-557.01 RS Neb.) (Ord. No. 1145, 5/22/17)*

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ARTICLE 3: STREETS

§ 8-301 CURBS.

All curbs in the corporate limits of the Municipality, until established curb lines shall have been run and adopted by action of the Governing Body, shall be constructed with the inner edges thereof at such distance from the lot line as the Municipal Engineer or Street Commissioner shall fix in the permit for their construction, as herein required; provided, whenever paving districts shall hereafter be created, the curbs on such streets included therein shall be constructed at such distance from the lot line as the plans and specifications for such street improvement indicate. All curbs, combination curbs and gutters and sidewalks hereafter constructed shall be placed on lines established by and at the elevations provided in such official table of grades as may hereafter be provided for and adopted by the Governing Body; provided, that in all cases where curbs on unpaved streets are to be erected adjoining curbs previously put in place, and not in accordance with the requirements of this section, the Municipal Engineer or Street Commissioner, in his discretion, may authorize the placing of such new curbs so as to conform in the best possible manner to previous structures, and said Municipal Engineer or Street Commissioner shall have authority to waive the requirements of this section and to direct the location of curbs in such manner as he may deem feasible.

§ 8-301.01 CURBS; DRIVEWAY APPROACHES.

(A) It shall be unlawful for any person to remove, repair, replace or otherwise alter any existing curb within the corporate limits of the Municipality without the owner of the property adjacent to the curb first securing a permit from the City for such work. The permit shall require a three hundred dollar (\$300.00) deposit which shall be refunded to the owner upon completion of said work provided, however, that the work as completed shall be approved by the Street Superintendent. A permit shall be valid for a period of one hundred eighty (180) days from the issuance and the work shall be completed within that time. In the event that the work is not completed in a manner satisfactory to the Street Superintendent, the City shall complete the work and deduct the cost from the amount deposited and refund the balance, if any. A deposit shall not be required in the event the only work is to grind the curb for a driveway approach provided however that the equipment to be used to perform the grinding has been approved by the Director of Public Works or Street Superintendent.

(B) The existing curbs may be altered to permit additional driveway approaches when, in the opinion of the Street Superintendent, such alteration will not materially affect existing streets, curbs, and adjacent property owners. The cost of such repair or replacement or alteration shall be at the expense of the adjoining property owner. *(Ord. No. 536, 1/23/90) (Amended by Ord. Nos. 877, 2/25/03; 1065, 1/14/13)*

§ 8-302 STREETS; NAMES AND NUMBERS.

The Governing Body may at any time, by ordinance, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers. It shall be the duty of the Street Commissioner, upon the erection of any new building or buildings to assign the proper numbers to said building or buildings and give notice to the owner or owners and occupant or occupants of the same.

§ 8-303 STREETS; CROSSINGS.

The Governing Body may order and cause to be constructed, under the supervision of the Street Commissioner, such street, avenue, and alley crossings and constructed of such materials as the Governing Body shall deem necessary. When a petition for the construction of any such crossings is filed by an interested resident in the office of the Municipal Clerk, said Municipal Clerk shall refer such application Street Commissioner who shall investigate and recommend to the Governing Body allowance or rejection as final action by the Governing Body on such application.

§ 8-304 STREETS; EXCAVATION PROHIBITED.

It shall be unlawful for any person to make an excavation in any street or alley for any purpose whatsoever. Any person desiring a new hook-up to the Municipal water or sewer main which requires an excavation in any street or alley shall first make application for such water or sewer service to the City. The City shall make a determination as to the cost of such excavation and, upon payment thereof by applicant, shall cause the work to be done. The property owner or contractor shall be responsible for contracting with a qualified plumber to do the necessary excavation to connect with the water or sewer main and compact the backfill to the depth of the existing street surface to City standards. The City shall then repair the street surface. (*Ref. 17-567 RS Neb.*) (*Ord. No. 596, 10/27/92*)

§ 8-305 STREETS; DRIVING STAKES.

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the Municipal Street Commissioner.

§ 8-306 STREETS; MIXING CONCRETE.

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever and using said pavement as a mixing board for said material.

§ 8-307 STREETS; HARMFUL LIQUIDS.

It shall be unlawful for any person to place or permit to leak in the gutter of any street, waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon said streets.

§ 8-308 STREETS; EAVE AND GUTTER SPOUTS.

It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the Municipality where the said dwelling or building abuts on any sidewalk

or street without providing proper guttering and eave spouts to receive the waste waters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to drain into the alleys, or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain said eave spouts into the alley.

§ 8-309 STREETS; HEAVY EQUIPMENT.

It shall hereafter be unlawful for any person or person to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk, or crossing. Hereafter, it shall be unlawful to run, drive, move, operate, or convey over or across any paved street a vehicle, machine, or implement with sharp discs or sharp wheels that bear upon said pavement; with wheels having cutting edges; with wheels having lugs, or any protruding parts or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb; provided, where heavy vehicles, structures, and machines move along paved or unpaved streets the Municipal Police are hereby authorized and empowered to choose the route over which the moving of such vehicles, structures, or machines will be permitted and allowed. Nothing in this section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths (5/16) of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than seven sixty-fourths (7/64) of an inch between October 1, and April 15; provided, that school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets; and it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid. (*Ref. 60-6,250 RS Neb.*)

§ 8-310 STREETS AND ALLEYS; OPENING, WIDENING, IMPROVING OR VACATING.

(A) (1) The Municipality shall have power to open, widen, or otherwise improve or vacate any street, avenue, alley, or lane within the limits of the Municipality and also to create, open, and improve any new street, avenue, alley, or lane. All damages sustained by the citizens of the Municipality, or by the owners of the property therein, shall be ascertained in such manner as shall be provided by ordinance.

(2) Whenever any street or alley is vacated, the same shall revert to the owners of the abutting real estate, one-half on each side thereof and become a part of that property, unless the City reserves title in the ordinance vacating such street or alley. If title is retained by the City, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the City.

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(3) When a portion of a street, avenue, alley, or lane is vacated only on one side of the center thereof, the title to such land shall vest in the owner of the abutting property and become a part of that property, unless the City reserves title in the ordinance vacating such street or alley. If title is retained by the City, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the City.

(4) When the Municipality vacates all or any portion of a street, avenue, alley, or lane, the Municipality shall, within thirty (30) days after the effective date of the vacation, file a certified copy of the vacating ordinance with the Register of Deeds for the county in which the vacated property is located to be indexed against all affected lots.

(5) The title to property vacated pursuant to this section shall be subject to the following:

(a) There is reserved to the city the right to maintain, operate, repair and renew public utilities existing at the time title to the property is vacated there; and

(b) There is reserved to the City, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times. (*Ref. 17-558 RS Neb.*)

(B) The Municipality shall have power to create, open, widen, or extend any street, avenue, alley, off-street parking area, or other public way, or annul, vacate, or discontinue the same. (*Ref. 17-559 RS Neb.*) (*Amended by Ord. No. 852, 5/28/02*)

§ 8-311 STREETS; CONSTRUCTION NOTICE.

The Street Commissioner shall notify the owners in fee simple of real estate abutting a street, alley, or a part thereof which is to be put under contract for paving or repaving. Notice shall also be given to all gas, electric service, and telephone companies. Notice shall also be given to all consumers of gas, water, and sewer services which will be discontinued during such construction. Said notice shall be published one (1) time in a legal newspaper at least twenty (20) days prior to the beginning of such construction by the party undertaking such construction and said notice shall state at what date connections must be made and excavation completed. All gas, water, sewer, and underground connections must be made prior to the paving or repaving of the street under construction. After expiration of such time, permits for excavation will not be issued, nor will excavation be allowed, until after the completion of the pavement in said street or alley, and the formal final acceptance thereof by the proper officials of the Municipality.

§ 8-312 STREETS; PIPE LINES AND WIRES.

Poles, wires, gas mains, pipe lines, and other appurtenances of public service companies shall be located, or erected over, upon, or under the streets, alleys, and common grounds after a proper application shall have been made to the Street Commissioner, in writing, and permission, in writing, shall have been given by the Governing Body. Public service companies heretofore, or hereafter, granted right-of-way for the erection and maintenance of poles, conduits, gas mains, pipe lines, and wires for the purpose of transacting their business upon, under, or over the streets, alleys, and public grounds shall at all times, when requested by the Governing Body, erect, locate, or relocate their poles, wires, gas mains, pipe lines, and other appurtenances shall be removed or relocated by said companies at their own expense when requested to do so by the Governing Body. Whenever it becomes necessary for the Governing Body to request such relocation for the public safety and convenience, the Governing Body shall order said relocation by resolution by resolution by resolution and the Street Commissioner shall notify any company or companies affected. Said companies shall, within twenty-four (24) hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipe lines, or other appurtenances to be removed. The Governing Body shall designate another location as close as possible where said poles, wires, gas mains, pipe lines, or other appurtenances, shall be reset or placed, or erected in such a manner that they will not interfere with the water system; sewer system, or poles, wires, and mains of any public utility located on the same street or alley, or with travel, and buildings, constructed, or hereafter to be constructed. Whenever possible, all pole lines, wires, gas mains, pipe lines, or appurtenances shall be confined to the alleys of the Municipality.

§ 8-313 STREETS; SPECIAL ASSESSMENTS.

To defray the costs and expenses of street improvements authorized by law, the Governing Body shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to, abutting upon, the streets, alleys, or sidewalks in whole or in part opened, widened, curbed and guttered, graded, paved, repaired, graveled, macadamized, parked, extended, constructed, or otherwise improved or repaired, or which may be specially benefited by any such improvement. The Governing Body shall review all such special assessments made, and levies herein provided shall be made by the Governing Body at any meeting by resolution fixing the costs of construction, or repair, of such work along the lot, or parcel of land, adjacent thereto as a special assessment thereon which shall be charged against said property by a vote of the Governing Body. Said vote shall be by "yeas" and "nay," and shall be published in a legal newspaper of general circulation in the Municipality at least ten (10) days before the meeting shall be held, or in lieu thereof, personal service may be had upon the persons, owning, or occupying, property to be assessed. Such assessments shall be known as "special assessments for improvements" and with the cost of notice shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in same manner as all other Municipal taxes, but which shall also draw interest

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at the rate specified by the Governing Body at the time of assessment. Any special assessment shall be certified to the County Clerk. The following schedule shall be used by the Governing Body in assessing the special taxes call for herein:

(A) The first one-sixth in each one half block or one hundred fifty (150) feet, whichever is less, next to the street paved shall be deemed to have benefited in the amount of thirty-three and one-third percent (33-1/3%) of the cost on the one half of the street, or alley, on its front.

(B) The second one-sixth shall be deemed to have been benefited in an amount equal to twenty percent (20%) of such cost.

(C) The third one-sixth shall be deemed to have been benefited in an amount equal to sixteen and two-thirds percent (16-2/3%) of such cost.

(D) The fourth, fifth, and sixth, one-sixths shall be deemed to have been benefited in an amount equal to ten percent (10%) of such cost.

(Ref. 17-511, 17-524 RS Neb.) (Amended by Ord. No. 535, 1/9/90)

§ 8-314 STREETS; TREES.

No person or persons shall plant, or allow to grow, any street tree within the sidewalk space without first making a written, or verbal application to, and receiving a written permit from the Street Commissioner. Any tree planted within the sidewalk space after the adoption of this ordinance shall be deemed to be unlawfully planted and growing and shall, at the discretion of the Governing Body, be deemed to be a nuisance. When any such tree is declared to be a nuisance, the Governing Body shall order, with proper notice, the tree removed at the expense of the owner of the property adjacent to the street space upon which tree has been unlawfully planted. If the property owner fails or neglects to remove, or cause to be removed, the said tree, the Governing Body shall order the same removed and assess the expense of such removal against the property adjacent to the sidewalk space wherein the tree is planted and growing. No fee shall be charged for said permit, and nothing in this ordinance shall be construed to apply to any existing trees now growing within the sidewalk space.

§ 8-315 STREETS; IMPROVEMENT OF STREETS ON CORPORATE LIMITS.

The Mayor and Council shall have the power to improve any street or part thereof which divides the Municipal corporate area and the area adjoining the Municipality. When creating an improvement district including land adjacent to the Municipality, the Council shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby. *(Ref. 17-509 RS Neb.) (Ord. No. 330, 9/13/79)*

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§ 8-316 STREETS; PETITION FOR IMPROVEMENTS.

Whenever a petition signed by the owners of record title representing more than sixty percent (60%) of the front footage of the property directly abutting upon the street, streets, alley, alleys, public way, or the public grounds proposed to be improved, shall be presented and filed with the Municipal Clerk, petitioning therefor, the Governing Body shall by ordinance create a paving, graveling, or other improvement district or districts, and shall cause such work to be done or such improvement to be made, and shall contract therefor, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, streets, alley, or alleys, especially benefited thereby in such district in proportion to such benefits, to pay the cost of such improvement. The Governing Body shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the Governing Body should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties. (*Ref. 17-510 RS Neb.*) (*Ord. No. 330, 9/13/79*) (*Amended by Ord. No. 409, 10/11/83*)

§ 8-317 STREETS; IMPROVEMENT DISTRICTS, OBJECTIONS.

Whenever the Governing Body deems it necessary to make any improvements allowed by statute which are to be funded by a levy of special assessment on the property especially benefited, the Governing Body shall by ordinance create a paving, graveling, or other improvement district and, after the passage, approval, and publication or posting of such ordinance, shall publish notice of the creation of any such district for six (6) days in a legal newspaper of the Municipality, if a daily newspaper, or for two (2) consecutive weeks if it is a weekly newspaper. If no legal newspaper is published in the Municipality, the publication shall be in a legal newspaper of general circulation in the Municipality. If the owners of the record title representing more than fifty percent (50%) of the front footage of the property directly abutting on the street or alley to be improved file with the Municipal Clerk within twenty (20) days after the first publication of such notice written objections to the creation of such district, such improvement shall not be made as provided in such ordinance, but such ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the Governing Body shall immediately cause such work to be done or such improvement to be made, shall contract for the work or improvement, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited in such district in proportion to such benefits to pay the cost of such improvement. (*Ref. 17-511 RS Neb.*) (*Ord. No. 330, 9/13/79*) (*Amended by Ord. No. 707, 1/23/96*)

§ 8-318 STREETS; IMPROVEMENT OF MAIN THOROUGHFARES.

The Mayor and City Council shall have the power by a three-fourths ($\frac{3}{4}$) vote of the Governing Body, to create by ordinance a paving, graveling or other improvement district and to order such work

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done upon any federal or state highway in the Municipality or upon a street or route, designated by the Mayor and City Council as a main thoroughfare that connects, on both ends, to either a federal or state highway or a county road. The Governing Body shall contract therefor and shall have the power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby. (*Ref. 17-512 RS Neb.*) (*Ord. No. 350, 8/26/80*)

§ 8-319 STREETS; DEFERRAL FROM SPECIAL ASSESSMENTS.

(A) Whenever the Governing Body of a Municipality creates an improvement district as specified in section 8-108 which includes land adjacent to the Municipality which is within an agricultural use zone and is used exclusively for agricultural use, the owners of record title of such adjacent land may apply for a deferral from special assessments. For purposes of this section, **AGRICULTURAL USE** means the use of land as described in section 77-1357 RS Neb. so that incidental use of the land for nonagricultural or nonhorticultural purposes shall not disqualify the land and **AGRICULTURAL USE ZONE** means designation of any land predominantly for agricultural or horticultural use by any political subdivision pursuant to sections 19-924 to 19-933; Chapter 14, Article 4; Chapter 15, Article 9; Chapter 16, Article 9; Chapter 17, Article 10 or Chapter 23, Article RS Neb. The primary objective of the agricultural use zoning shall be to preserve and protect agricultural activities and the potential for agricultural, horticultural or open use of land. Uses to be allowed on such lands include primarily agricultural-related or horticultural-related uses, and nonagricultural or nonhorticultural industrial, commercial or residential uses allowed on such lands shall be restricted so that they do not conflict with or detract from this objective.

(B) Any owner of record title eligible for the deferral granted by this section shall, to secure such assessment, make application to the Governing Body of the Municipality within ninety (90) days after creation of an improvement district as specified in section 8-107. Any owner of record title who makes application for the deferral provided by this section shall notify the County Register of Deeds of such application in writing prior to approval by the Governing Body. The Governing Body shall approve the application of any owner of record title upon determination that the property:

- (1) Is within an agricultural use zone and is used exclusively for agricultural use, and
- (2) The owner has met the requirements of this section.

(C) The deferral provided for in this section shall be terminated upon any of the following events:

(1) Notification by the owner of record title to the Governing Body to remove such deferral;

(2) Sale or transfer to a new owner who does not make a new application within sixty (60) days of the sale or transfer, except as provided in subdivision (C)(3) of this section.

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(3) Transfer by reason of death of a former owner to a new owner who does not make application within one hundred twenty-five (125) days of the transfer;

(4) The land is no longer being used as agricultural land; or

(5) Change of zoning to other than an agricultural zone.

(D) Whenever property which has received a deferral pursuant to this section becomes disqualified for such deferral, the owner of record title of such property shall pay to the Municipality an amount equal to:

(1) The total amount of special assessments which would have been assessed against such property, to the extent of special benefits, had such deferral not been granted; and

(2) Interest upon the special assessments not paid each year at the rate of six percent (6%) from the dates at which such assessments would have been payable if no deferral had been granted.

(E) In cases where the deferral provided by this section is terminated as a result of a sale or transfer described in subdivision (B) or (C) of this section the lien for assessments and interest shall attach as of the day preceding such sale or transfer. (*Ref. 19-2428 through 19-2431 RS Neb.*) (*Ord. No. 410, 10/11/83*) (*Amended by Ord. No. 479, 10/13/87*)

§ 8-320 STREETS; DRIVEWAY APPROACHES.

(A) The Street Commissioner may require the owner of property served by a driveway approach constructed or maintained upon the street right-of-way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure including pavement or sidewalks.

(B) The Municipal Clerk shall give the property owner notice by registered letter or certified mail, directed to the last-known address of such owner or the agent of such owner, directing the repair or replacement of such driveway approach. If within thirty (30) days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the Street Commissioner may cause such work to be done and assess the cost upon the property served by such approach. (*Ref. 18-1748 RS Neb.*) (*Ord. No. 433, 8/14/84*)

§ 8-321 STREETS; VACATING PUBLIC WAYS.

(A) **SPECIAL DAMAGES** shall mean only those losses or damages or injuries which a property owner suffers that are peculiar or special or unique to his or her property and which result from the City

Council vacating a street, avenue, alley, lane, or similar public way. **SPECIAL DAMAGES** shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the City or public at large, even though those losses or damages or injuries suffered by the property owner are greater in degree than the rest of the City or public at large.

(B) Whenever the City Council decides that it would be in the best interests of the City to vacate a street, avenue, alley, lane, or similar public way, the City Council shall comply with the following procedure:

(1) *Notice*. Notice shall be given to all abutting property owners either by first class mail to their last known address or if there is no known address then by publishing the notice in a newspaper that is of general circulation in the City. The content of the notice shall advise the abutting property owners that the City Council will consider vacating such street, avenue, alley, lane, or similar public way at its next regular meeting or, if a special meeting is scheduled for such discussion, then the date, time, and place of such meeting.

(2) *Consent; waiver*. The City Council may have all the abutting property owners sign a form stating that they consent to the action being taken by the City Council and waive their right of access. The signing of such form shall have no effect on claims for special damages by the abutting property owners but shall create the presumption that the City Council's action was proper. If the abutting property owners do not sign the consent/waiver form, the City Council may still proceed with vacating the street, avenue, alley, lane, or similar public way under the authority granted by sections 17-558 and 17-559 RS Neb.

(3) *Ordinance*. The City Council shall pass an ordinance that includes essentially the following provisions:

(a) A declaration that the action is expedient for the public good or in the best interests of the City.

(b) A statement that the City will have an easement for maintaining all utilities.

(c) A method or procedure for ascertaining special damages to abutting property owners.

(C) The Mayor shall appoint three or five or seven disinterested residents of the City to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the City Council vacating the street, avenue, alley, lane, or similar public way. The appointees of the special commission shall be approved by the City Council. Only special damages shall be awarded to the abutting property owners.

(D) In determining the amount of compensation to award the abutting property owners as special damages, the commission shall use the following rule:

An abutting property owner is entitled to recover as compensation the difference between the value of the property immediately before and immediately after the vacating of such street, avenue, alley, lane, or similar public way. If no difference in value exists, the abutting property owner is entitled to no compensation.

(Ord. No. 458, 12/9/86) (Amended by Ord. Nos. 853, 5/28/02)

§ 8-322 STREETS; VACATING PUBLIC WAYS; PROCEDURE.

(Repealed by Ord. No. 853, 5/28/02)

§ 8-323 STREETS; CHANGE OF DESIGNATION FROM AVENUES TO STREETS.

All streets which have heretofore been specially platted, dedicated for public use and accepted by the City of Stromsburg and so referred to as "avenue" in the official platting thereof shall from the effective date of this section now be referred to as "street". *(Ord. No. 585, 7/14/92)*

§ 8-324 STREET NAMES AND NUMBERS.

The Council may at any time, by resolution, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the Council may require. It shall be the duty of the Planning and Zoning Administrator, upon the execution of any new building or buildings and give notice to the owner or owners and occupant or occupants of the same.

(A) The purpose of this section is to establish a system within the City whereby the addresses of all premises will be identified and to provide rules and guidelines to facilitate enforcement thereof.

(B) *Definitions.* For purposes this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

HOUSE NUMBER and BUSINESS NUMBER. The official number assigned that premise by the Planning and Zoning Administrator.

PREMISE. Any lot or parcel of land owned by any person, firm, or corporation, public or private, improved with buildings, whether occupied or not.

STREET or ROAD NAME. Refers to any official name as recognized by government authority. No such named street or road shall be changed without the approval of the City Council.

(C) *Regulations.* All premises shall bear the distinctive house number or business number assigned to that premise by the Planning and Zoning Administrator.

(1) All premises shall display upon the front of each dwelling or building the distinctive house number or business number assigned to that premise. The number shall be placed in such a position as to be plainly visible to all road traffic coming to the premise from both directions. These numbers shall be no less than four (4) inches in height.

(2) If a house or building is more than fifty (50) feet from the street or is not clearly visible from the road, every owner of a premise shall place or display adjacent to the road on which the property front a sign attached to a fence, post or other structure, the distinctive house number or business number assigned to that premise. These numbers shall be no less than four (4) inches in height. These numbers should be visible from both directions. The sign must be placed at a height to assure it does not become obscured by winter snows or snowplowing.

(3) All house numbers and business numbers shall be in either block or script style letters and shall be in contrasting colors to their backgrounds whether on the dwelling or on a sign a the road.

(D) *Violations and penalties.*

(1) Failure to display house numbers or business numbers within sixty (60) days after the adoption of this section, or in the case of new construction, within thirty (30) days after a letter or certificate of occupancy has been issued, shall be considered a violation of this section and shall subject such violator the penalties hereinafter provided:

(a) The fine for any offense which is a first offense shall be one hundred dollars (\$100.00), plus costs.

(b) The fine for any offense which is a second offense shall be two hundred fifty dollars (\$250.00), plus costs.

(c) The fine for any offense which is a third offense, or any subsequent repeat offense, shall be four hundred dollars (\$400.00) each, plus costs.

(2) Each day on which any violation of this section occurs or continues, constitutes a separate offense subject to separate sanctions. (*Ord. No. 1057, 8/27/12*) (*Amended by Ord. No. 1111, 1/11/16*)

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ARTICLE 4: PENAL PROVISION

§ 8-401 VIOLATION; PENALTY.

(1) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars (\$500.00) A new violation shall be deemed to have been committed every twenty-four (24) hours of failure to comply with the provisions of this chapter.

(2) (a) Whenever a nuisance exists as defined in this chapter, the Municipality may proceed by a suit in equity to enjoin, abate, and remove the same in the manner provided by law.

(b) Whenever, in any action, it is established that a nuisance exists, the court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. *(Ref. 17-505, 18-1720, 18-1722 RS Neb.) (Amended by Ord. No. 817, 6/13/00)*

