

## **CHAPTER 6 – PUBLIC WAYS AND PROPERTY**

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## **CHAPTER 6 – PUBLIC WAYS AND PROPERTY**

### **Article 1 – Municipal Property**

#### **SECTION 6-101: DEFINITION**

The following definition shall be applied throughout this chapter. When no definition is specified, the normal dictionary usage of the word shall apply:

"Sidewalk space" as used herein shall mean that portion of a street between curb lines and adjacent property lines.

#### **SECTION 6-102: GENERAL AUTHORITY**

A. The City Council shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the City and shall cause the same to be kept open, in repair, and free from nuisances.

B. The City shall have the power to prevent and remove all encroachments, including snow, ice, and other similar obstructions upon all sidewalks and other city property.

C. The City shall have the power to remove all obstructions from the sidewalks, curbs, gutters, and crosswalks at the expense of the person placing them there or at the expense of the City and to require and regulate the planting and protection of shade trees in and along the streets and the trimming and removing of such trees.

D. The City shall have the power to regulate the building of bulkheads, cellar and basement ways, stairways, railways, windows, doorways, awnings, hitching posts and rails, lampposts, awning posts, all other structures projecting upon or over and adjoining and all other excavations through and under the sidewalks.  
(Neb. Rev. Stat. §§17-555, 17-557, 17-557.01, 17-558, 17-567)

#### **SECTION 6-103: REAL PROPERTY; ACQUISITION; AUTHORIZATION**

When acquiring an interest in real property by purchase or eminent domain, the City shall do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing. (Neb. Rev. Stat. §18-1755)

#### **SECTION 6-104: REAL PROPERTY; ACQUISITION; APPRAISAL**

The City shall not purchase, lease-purchase or acquire for consideration real property having an estimated value of \$100,000.00 or more unless an appraisal of such property has been performed by a certified real estate appraiser. (Neb. Rev. Stat. §13-403)

**SECTION 6-105: REAL PROPERTY; ACQUISITION; CONSTRUCTION;  
ELECTIONS, WHEN REQUIRED**

A. The City is authorized and empowered to purchase, accept by gift or devise, purchase real estate upon which to erect, and erect a building or buildings for an auditorium, fire station, city building, or community house for housing city 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 City.

B. Except as provided below, before any such purchase can be made or building erected, the question shall be submitted to the electors of the City at a general election or at an election duly called for that purpose, or as set forth in Neb. Rev. Stat. §17-954, 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 City and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice a remonstrance against the purchase or construction is signed by electors of the City equal in number to 15% of the registered voters of the City voting at the last regular city election held therein and is filed with the City Council. 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 City at a general city 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 year following the election be purchased or constructed; or

2. The City Council may proceed without providing the notice and right of remonstrance required in subdivision (1) 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 \$25,000.00. The purchase shall be approved by the council after notice and public hearing as provided in Neb. Rev. Stat §18-1755.

(Neb. Rev. Stat. §§17-953, 17-953.01) (Ord. No. 1377, 5/8/96)

**SECTION 6-106: REAL PROPERTY; SALE AND CONVEYANCE**

A. Except as provided in Neb. Rev. Stat. §17-503.01, 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 of such real property.

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

C. If within 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 30 percent 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 year thereafter, be sold. The procedure for determining the validity of the said remonstrance shall be as provided in Neb. Rev. Stat. §17-503(3).

D. Real property 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 Neb. Rev. Stat. §§18-1001 to 18-1006.

E. Following (1) passage of the resolution directing a sale, (2) publishing of the notice of the proposed sale, and (3) passing of the 30-day right-of-remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale.

F. Notwithstanding the procedures in subsections (A) through (E) of this section, real property owned by the City may be conveyed when such property:

1. Is sold in compliance with the requirements of federal or state grants or programs;
2. Is conveyed to another public agency; or
3. Consists of streets and alleys.

G. Subsections (A) to (F) of this section shall not apply to the sale of real property if the authorizing resolution directs the sale of an item or items of real property having a total fair market value of less than \$5,000.00. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the City for a period of not less than seven 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.

(Neb. Rev. Stat. §§17-503, 17-503.01) (Am. Ord. Nos. 1128, 1/5/83; 1376, 5/8/96; 1428, 11/10/98)

## **SECTION 6-107: PERSONAL PROPERTY; SALE AND CONVEYANCE**

In order to sell personal property owned by the City, the City Council shall adopt a 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 prominent places within the City for a period of not less than seven days prior to the sale of the property. If the fair market value of the property is greater than \$5,000.00,

notice of the sale shall also be published once in a legal newspaper in or of general circulation in such city at least seven 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. When such personal property is being sold in compliance with the requirements of federal or state grants or programs or conveyed to another public agency, the notice procedure set forth above may be dispensed with. (Neb. Rev. Stat. §17-503.02)

### **SECTION 6-108: PUBLIC WORKS; SPECIAL ASSESSMENTS; NOTICE**

A. Before the City or special taxing district for public works or public improvements shall be formed and before the City or special taxing district may impose any special assessment for public works or public improvements, a copy of any notice required to be published by law shall be mailed to the last known addresses of all non-resident property owners as shown on the current tax rolls at the time such notice is first published.

B. The city clerk or any other person upon whom the duty is imposed by law to publish notice required by law in regard to the formation of a special taxing district for public works or public improvements shall mail by certified mail with return receipt requested a copy of the published notice in regard to the formation of any special taxing district within the City to the last known address as shown on the current tax rolls of each nonresident property owner.

C. The city clerk or any other person upon whom the duty is imposed by law to publish notice required by law in regard to any special assessment by a special taxing district shall mail by certified mail with return receipt requested a copy of such notice to be published to the last known address as shown on the current tax rolls of each non-resident property owner.

D. The failure of the city clerk or any other person upon whom the duty is imposed by law to mail a copy of a published notice as provided in this section shall invalidate the assessment against the property involved while permitting all other assessments and procedures to be lawful.

E. "Nonresident property owner" shall mean any person or corporation whose residence and mailing address as shown on the current tax rolls is outside the boundaries of the County and who is a record owner of property within the boundaries of the City, special assessment district, or taxing district involved.  
(Neb. Rev. Stat. §§13-310 through 13-314)

### **SECTION 6-109: IMPROVEMENT DISTRICT; LAND ADJACENT**

Supplemental to any existing law on the subject, the City may include land adjacent to it when creating an improvement district, such as a sewer, paving, water, water extension or sanitary sewer extension district. The City Council shall have the 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 Neb. Rev. Stat. §§19-2428 to 19-2431.

### **SECTION 6-110: EMINENT DOMAIN**

The City shall have the power:

A. 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; to take private property for public use for the purpose of erecting or establishing market houses; market places; parks; swimming pools; airports; gas systems, including distribution facilities; water systems; power plants, including electrical distribution facilities; sewer systems; or for any other needed public purpose; and to exercise the power of eminent domain within or without the city limits for the purpose of establishing and operating power plants, including electrical distribution facilities, to supply such city with public utility service and for sewerage purposes, water supply systems, or airports.

B. The procedure to condemn property shall be exercised in the manner set forth in Neb. Rev. Stat. §§76-704 to 76-724, except as to property specifically excluded by Neb. Rev. Stat. §76-703 and as to which Neb. Rev. Stat. §§19-701 to 19-707 or the Municipal Natural Gas System Condemnation Act is applicable. For purposes of this section, electrical distribution facilities shall be located within the retail service area of the City as approved by and on file with the Nebraska Power Review Board, pursuant to Neb. Rev. Stat. Chapter 70, Article 10.

(Neb. Rev. Stat. §17-559)

### **SECTION 6-111: PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS**

A. Except as provided in subsection (B) of this section, the City 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.

B. Subsection (A) of this section shall not apply to the following activities:

1. Any public works project with contemplated expenditures for the completed project that do not exceed \$80,000. (Neb. Rev. Stat. §§81-3445, 81-3449[3], and 81-3453[3])
2. 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. (Neb. Rev. Stat. §§81-3449[4] and 81-3453[4])
3. Performance of professional services for itself if the City appoints a

municipal engineer or employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work. (Neb. Rev. Stat. §§81-3423, 81-3449[9], and 81-3453[6])

4. The practice of any other certified trade or legally recognized profession. (Neb. Rev. Stat. §§81-3449[11] and 81-3453[7])
5. Earthmoving and related work associated with soil and water conservation practices performed on any land owned by the City that is not subject to a permit from the Department of Natural Resources. (Neb. Rev. Stat. §§81-3449[13] and 81-3453[12])
6. The work of employees and agents of the City 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. (Neb. Rev. Stat. §§81-3449[14] and 81-3453[13])
7. 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. (Neb. Rev. Stat. §81-3453[10])
8. The construction of municipal water wells as defined in Neb. Rev. Stat. §46-1212, the installation of pumps and pumping equipment into municipal water wells and the decommissioning of municipal water wells, unless such construction, installation or decommissioning is required by the City to be designed or supervised by an engineer or unless legal requirements are imposed upon the City as a part of a public water supply. (Neb. Rev. Stat. §81-3453[15])
9. Any other activities described in Neb. Rev. Stat. §§81-3449 to 81-3453. (Neb. Rev. Stat. §§81-3423, 81-3445, 81-3449, and 81-3453) (Ord. Nos. 1426, 11/10/98; 1481, 11/11/04)

## **SECTION 6-112: CUTTING CURB; DRIVEWAY; PERMIT, DEPOSIT**

A. No person shall (1) cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose or (2) construct a driveway where no curb cutting is required without first obtaining a permit from the street superintendent following the procedures set out herein.

B. All driveway applications shall contain the following information:

1. The addition, block and lot which the driveway is to serve;



2. The location of the proposed driveway with reference to adjacent lot lines;
3. The width of the driveway and type of street surface to which the driveway will connect.

C. Before any permit for curb cutting is issued:

1. The applicant for such permit shall deposit with the street superintendent a sum set by resolution of the City Council for all paving, curb, or sidewalk to be cut. Such sum shall be set on a per-square-foot cost of construction basis by the council by resolution and kept on file in the office of the city clerk for public inspection. The deposit shall be retained by the City for the purpose of replacing the paving, curb, or sidewalk in the event the work is done by the City. In the event the City elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the City until the work is completed to the satisfaction of the street superintendent.
2. The street superintendent is to be informed of the place where such cutting is to be done and it shall be the superintendent's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut.

D. Upon approval of said permit by the City Council, the applicant shall be required to build said driveway and complete said curb cut to the City's specifications, including size and type of materials. When the applicant is ready to close the opening made, he or she shall inform the street superintendent, who shall supervise and inspect the materials used and work done in closing the opening.

E. It shall be discretionary with the City Council to order the street superintendent to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit. The council may consent to the work of cutting and closing the paving to be done by the party holding such permit.

(Neb. Rev. Stat. §17-567)

## **SECTION 6-113: OBSTRUCTIONS**

A. 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.

B. Persons engaged in the erection, construction, reconstruction, wrecking or repair 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 person shall make written application to do so. However, no permit for the occupancy of the sidewalk space or more than one-third 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 a suitable passage-

way 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 City Council.

C. Trees and shrubs growing upon the lot line partially on public ground and partially upon the abutting property or wholly upon the abutting property but so close to the lot line as to interfere with the use or construction of any public improvement or so that the roots thereof interfere with any utility wires or pipe shall be deemed obstructions. It shall be the duty of owners and occupants to keep all such similar growth trimmed and pruned at all times.

D. The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street, sidewalk or intersection:

1. Over which the branches of trees extend shall at all times keep the branches or limbs thereof trimmed to a height of at least 8 feet above the surface of said walk and at least 12 feet above the surface of said street.
2. Shall not permit any tree, shrubbery or hedge closer than 18 inches to the sidewalk or within 2 feet adjacent to the lot line whether or not there is a sidewalk abutting or adjoining such premises.
3. Shall trim or remove any tree, shrubbery or other obstacle which obstructs the view at such intersection for a distance of 10 feet.

E. Whenever any such growth is allowed contrary to this section, the City Council at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove said obstructions. Notice may be given to said owner by publication or personal service. In case such owner or occupant refuses or neglects, after such notice, to remove all encroachments as provided herein, the City through its proper officers may cause such encroachments to be removed and the cost of removal paid out of the street fund. The council shall assess the cost of the notice and removal of the encroachment against such property. Such special assessment shall be known as a special sidewalk assessment and, together with the cost of notice, shall be levied and collected as special taxes in addition to the general revenue taxes and shall be subject to the same penalties and shall draw interest from the date of the assessment. Upon payment of the assessment, the same shall be credited to the street fund.

F. In the event the property owner is a nonresident of the County, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §§17-555, 17-557.01) (Ord. No. 440, 4/21/52)

**SECTION 6-114: BARRICADES AND LIGHTS**

It shall be the duty of an owner or occupant engaged in construction of any building or improvement upon or near the public ways and property to have all excavations or exposures of any kind protected and guarded by suitable guards or barricades by day and by warning lights at night. In the event of failure, neglect, or refusal to comply with the provisions of this section, it shall be the duty of the City to stop all work upon said buildings and improvements until suitable guards are erected and kept in the manner aforesaid. (Neb. Rev. Stat. §17-505)

**SECTION 6-115: EAVE AND GUTTER SPOUTS**

It is hereby declared unlawful for any person to erect or maintain any dwelling or business building within the limits of the City where the said dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the wastewaters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling 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.

**SECTION 6-116: DAMAGE**

It shall be unlawful for any person to willfully, maliciously, or carelessly injure, change, deface, or destroy any street, sidewalk, building, ditch, drain, or grade within the corporate limits. No person shall cause or permit any offensive or corrosive material to be discharged or thrown out upon any street, sidewalk, alley, or public ground.

**SECTION 6-117: HEAVY EQUIPMENT**

A. It shall hereafter be unlawful for any person or persons 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 structure with heavy plank sufficient in strength to warrant against the breakage or damage of the same. Hereafter, it shall be unlawful to 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; or with wheels having lugs, 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.

B. Where heavy vehicles, structures, and machines move along paved or unpaved streets, the City Council is hereby authorized and empowered to choose the route over which such moving will be permitted and allowed.

C. Nothing in this section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding 5/16 inch in diameter, inclusive of the stud-casting, with an average protrusion beyond the tread surface of not more than 7/64

inch between November 1 and April 1; provided, it shall be permissible (1) for school buses and emergency vehicles to use metal or metal-type studs any time of the year; (2) to use farm machinery with tires having protuberances which will not damage the streets; and (3) to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to slide or skid.

(Neb. Rev. Stat. §60-6,250)

## Article 2 – Streets

### SECTION 6-201: DEDICATION TO PUBLIC USE

No street or alley which shall hereafter be dedicated to public use by the proprietor of ground in the City shall be deemed a public street or alley or be under the use or control of the City Council unless the dedication shall be accepted and confirmed by an ordinance especially passed for such purpose. (Neb. Rev. Stat. §17-567)

### SECTION 6-202: NAMES

The several streets in the City shall hereafter be known and designated by the names given thereto on the various original town plats of the City which are filed in the office of the county clerk, except that:

A. Each street running in an easterly and westerly direction located east of Main Street shall have the word "East" added before its name and each such street located west of Main Street shall have the word "West" added before its name;

B. Each street running in a northerly and southerly direction located north of First Street shall have the word "North" added before its name and each such street located south of First Street shall have the word "South" added before its name.

### SECTION 6-203: NUMBERING

A. It shall be the duty of the street superintendent, upon the erection of any new building, to assign the proper number to said building and to give notice to the owner and occupant of same.

B. The owner of each house or building used for business purposes in the City shall, within ten days after the completion of any such building, cause the proper number to be placed at or over the entrance thereof in a place plainly visible from the street in figures of not less than 3 inches in height.

C. If the owner shall refuse or neglect to provide and affix the proper number to the building within the time herein limited, the clerk may order such number to be affixed by the street superintendent and the expense thereof shall be collected by civil action against such property owner. Each five days' failure to comply herewith shall constitute a separate and distinct offense.

D. The numbering of all buildings within the City shall be as follows:

1. The numbering of all east and west streets shall begin at Main Street and shall run consecutively east and west therefrom and the numbering of all north and south streets shall begin at First Street and shall run consecutively north and south therefrom. There are 100 numbers assigned to each

block and the numbers for each block shall begin with even hundreds consecutively north and south or east and west, respectively, from said dividing streets. The numbers in the first block shall be from 100 to 199, in the second block from 200 to 299, and in like manner consecutively to the boundaries of the City.

2. For the purpose of determining the number of each building, the street line of each lot shall be divided into distances of 12½ feet and one number is assigned to each 12½ feet frontage or fractional part thereof remaining, running consecutively from the direction of the dividing street, odd numbers to be on the south and west sides of the street, and even numbers on the north and east sides. Each building shall bear the number assigned to the 12½-foot subdivision upon which the front entrance to such building is located. In the event that such entrance shall be located equally on two such subdivisions, then the building shall carry the smaller number of the two.

### **SECTION 6-203: DRIVEWAY APPROACHES**

The street superintendent 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. The city 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 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the street superintendent may cause such work to be done and assess the cost upon the property served by such approach. (Neb. Rev. Stat. §16-1748) (Ord. No. 1171, 11/7/84)

### **SECTION 6-204: EXCAVATION; PERMIT, BOND**

Any person who desires to dig or make any excavation in the streets or alleys of the City shall first obtain a written permit from the street superintendent for digging or excavation in said streets or alleys. For any excavation or digging in any streets or alleys or any building which would affect any curb, gutter, street pavement or water and sewer tap, the person desiring to dig or make such excavation shall deposit a cash bond with the city clerk as a condition of being granted such permit. The amount of such bond shall be set by the City Council by resolution and kept on file in the office of the city clerk for public inspection. Conditions of the said bond shall be as follows:

A. All earth shall be replaced and air tamped to a density at least equal to the surrounding undisturbed soil.

B. Upon the excavation being filled in this manner, permittee shall pay the costs of resurfacing the area with Saturock or similar material to be approved by the street superintendent and completed to his or her satisfaction. The cost of resurfacing may

be deducted from the bond, in the event that the bond is sufficient; and if not sufficient, the same shall be paid immediately by the permittee to the city clerk. In the event the entire bond is not required, the unused portion shall be returned to the permittee upon completion of the resurfacing.

(Neb. Rev. Stat. §17-567) (Am. Ord. No. 1024, 9/6/78)

#### **SECTION 6-205: SNOW, DEBRIS, ETC.**

It shall be unlawful to place, push, or deposit snow, sleet, ice, mud, or any lawn debris, including leaves, grass, and branches, from private property onto the streets. (Neb. Rev. Stat. §17-557)

#### **SECTION 6-206: 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 street superintendent.

#### **SECTION 6-207: 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. (Neb. Rev. Stat. §17-567)

#### **SECTION 6-208: HARMFUL LIQUIDS**

It shall be unlawful for any person to place or permit to leak in the gutter of any street any waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon said streets. (Neb. Rev. Stat. §17-567)

#### **SECTION 6-209: UTILITY POLES, WIRES, MAINS**

A. Poles, wires, gas mains, pipelines, 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 written application has been made to the city clerk and permission in writing given by the City Council. When requested by the council, public service companies heretofore or hereafter granted right-of-way for the erection and maintenance of appurtenances for the purpose of transacting their business upon, under, or over the streets, alleys, and public grounds shall at all times erect, locate, or relocate their said appurtenances to such places and in such manner as shall be designated by said council.

B. Such poles, wires, gas mains, pipelines, and other appurtenances shall be removed or relocated by said companies at their own expense when requested to do so by the City Council. Whenever it becomes necessary for the council to request such relocation for public safety and convenience, it shall order said relocation by resolution and the city clerk shall notify any companies affected. Said companies shall, within a reasonable period of time after receiving notice, at their own expense cause the said

appurtenances to be removed or relocated. The City Council shall designate another location where said appurtenances may be reset or placed. All appurtenances shall be reset, placed, or erected in such manner that they will not interfere with the water system, sewer system, poles, wires, or mains of any public utility located on the same street or alley or with travel or buildings constructed or hereafter to be constructed. Whenever possible, all said appurtenances shall be confined to the alleys of the City.

#### **SECTION 6-210: POWER TO IMPROVE, VACATE, ETC.; IMPROVEMENT DISTRICTS; SPECIAL ASSESSMENTS; STREETS ON CORPORATE LIMITS**

A. The City Council may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravels, widen or narrow streets or roadways, resurface or relay existing pavement, or otherwise improve any streets, alleys, public grounds, or public ways, entirely or partially, and streets which divide the city corporate area and the area adjoining the City; construct or reconstruct pedestrian walks, plazas, malls, landscaping, outdoor sprinkler systems, fountains, decorative water ponds, lighting systems, and permanent facilities; and construct sidewalks and improve the sidewalk space. These projects may be funded at public cost or by the levy of special assessments on the property especially benefited in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431.

B. The City Council may by ordinance create paving, repaving, grading, curbing, recurbing, resurfacing, graveling, or improvement districts, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys, or public ways, and may include two or more of the improvements in one proceeding. All of the improvements which are to be funded by a levy of special assessment on the property especially benefited shall be ordered as provided in Neb. Rev. Stat. §§17-510 to 17-512 unless the council improves a street which divides the city corporate area and the area adjoining the City.

C. Whenever the City Council improves any street which divides the city corporate area and the area adjoining the City, the council shall determine the sufficiency of petition as set forth in Section 6-211 by the owners of the record title representing more than 60% of the front footage of the property directly abutting upon the street to be improved, rather than 60% of the resident owners.

D. Whenever the council shall deem it necessary to make any of the improvements allowed by statute on a street which divides the city corporate area and the area adjoining the City, the City Council shall by ordinance create the improvement district pursuant to Section 6-212 (Improvement Districts) and the right of remonstrance shall be limited to owners of record title, rather than resident owners.

(Neb. Rev. Stat. §17-509)

#### **SECTION 6-211: PETITION FOR IMPROVEMENTS**

Whenever a petition signed by the owners of record title representing more than 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 city clerk, petitioning therefor, the City Council 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. The council 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, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431, to pay the cost of such improvement. The council 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 council should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties. (Neb. Rev. Stat. §17-510)

### **SECTION 6-212: IMPROVEMENT DISTRICTS; OBJECTIONS**

A. Whenever the City Council deems it necessary to make any improvements as provided in Section 6-210 and allowed by statute which are to be funded by a levy of special assessment on the property especially benefited, the council 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 days in a legal newspaper of the City, if a daily newspaper, or for two consecutive weeks if a weekly newspaper. If no legal newspaper is published in the City, the publication shall be in a legal newspaper of general circulation in the City.

B. If the owners of the record title representing more than 50% of the front footage of the property directly abutting on the street or alley to be improved file with the city clerk within 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 the ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the City Council 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.

(Neb. Rev. Stat. §17-511)

### **SECTION 6-213: IMPROVEMENT OF MAIN THOROUGHFARES**

The City Council shall have power by a three-fourths vote to enact an ordinance creating a paving, graveling or other improvement district and to order such work to be done without petition upon any federal or state highways in the City or upon a street or route designated by the council as a main thoroughfare, connecting to either a federal or state highway or a county road. The council shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, alley or alleys especially benefited thereby in such district in proportion to such benefits to

pay the cost of such improvement. (Neb. Rev. Stat. §17-512)

#### **SECTION 6-214: IMPROVEMENT; PROTESTS OR PETITIONS**

Before proceeding with any improvement under Section 6-210, the sufficiency of protests or petitions or of the existence of the required facts and conditions shall be determined by the City Council at a hearing of which notice shall be given to all persons who may become liable for assessments by one publication in each of two successive weeks in a legal newspaper in or of general circulation in the City. Appeal from the action of the council may be made to the District Court. The sufficiency of the petitions or protests referred to in Sections 6-211 and 6-212 as to the ownership of the property shall be determined by the record in the office of the county clerk or register of deeds at the time of the adoption of such ordinance. In determining the sufficiency of the petitions or objections, intersections shall be disregarded, and any lot or ground owned by the City shall not be counted for or against such improvement. (Neb. Rev. Stat. §17-513)

#### **SECTION 6-215: IMPROVEMENTS; CONSTRUCTION NOTICE**

The street superintendent 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 time in a legal newspaper at least 20 days prior to the beginning of such construction by the party undertaking such construction, stating 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 completion of the pavement in said street or alley and the formal final acceptance thereof by the proper city officials.

#### **SECTION 6-216: IMPROVEMENTS; ASSESSMENT AND COLLECTION**

Assessments for improvements made under the provisions herein shall be made and assessed in the following manner:

A. Such assessments shall be made by the City Council at a special meeting, by a resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements, and the amount charged against the same, which, with the vote thereon by “yeas” and “nays,” shall be spread at length upon the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a newspaper published or of general circulation in said city at least four weeks before the same shall be held or, in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed.

B. All such assessments shall be known as “special assessments for improve-

ments” and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other city taxes.

C. In the event the property owner is a nonresident of the County, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-524)

### **SECTION 6-217: IMPROVEMENTS; NO PETITION OR CREATION OF DISTRICT**

A. The City may, without petition or creating a street improvement district, grade, curb, gutter, and pave:

1. Any portion of a street otherwise paved so as to make one continuous paved street, but the portion to be so improved shall not exceed two blocks, including intersections, or 1,325 feet, whichever is the lesser;
2. Any unpaved street or alley which intersects a paved street for a distance of not to exceed one block on either side of such paved street; and
3. Any side street or alley within its corporate limits connecting with a major traffic street for a distance not to exceed one block from such major traffic street.

B. Those improvements may be performed upon any portion of a street or alley or any unpaved street or alley not previously improved to meet or exceed the minimum standards for pavement set by the City for its paved streets.

C. In order to defray the costs and expenses of these improvements, the mayor and City Council may levy and collect special taxes and assessments or issue paving bonds as provided in Neb. Rev. Stat. §18-2003.

(Neb. Rev. Stat. §§18-2001 through 18-2004)

### **SECTION 6-218: DEFERRAL FROM SPECIAL ASSESSMENTS**

A. Whenever the City Council creates an improvement district which includes land adjacent to the City within an agricultural use zone and is used exclusively for agricultural use, the owners of record of such adjacent land may apply for a deferral from special assessments. For purposes of this section, the terms "agricultural use" and "agricultural use zone" shall have the meaning specified in Neb. Rev. Stat. §77-1343.

B. Any owner of record eligible for the deferral granted by this section shall make application to the City Council within 90 days after creation of an improvement district.

Any owner of record 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 City Council. The council shall approve the application of any owner of record 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 to the City Council to remove such deferral;
2. Sale or transfer to a new owner who does not make a new application within 60 days of the sale or transfer, except as provided in subdivision 3 of this section;
3. Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;
4. Use of land is no longer agricultural; 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 of such property shall pay to the City 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 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 the result of a sale or transfer described in subsection (B) or (C) of this section, the lien for assessments and interest shall attach as of the day preceding such sale or transfer.

(Neb. Rev. Stat. §19-2428 through 19-2431)

## **SECTION 6-219: VACATING PUBLIC WAYS**

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

herein.

A. Whenever any street, avenue, alley, or lane 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 such 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.

B. 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 such property unless the City reserves title in the ordinance vacating a portion of 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.

C. When the City vacates all or any portion of a street, avenue, alley, or lane, it shall, within 30 days after the effective date of the vacation, file a certified copy of the vacating ordinance with the county register of deeds to be indexed against all affected lots.

D. The title to property vacated pursuant to this section shall be subject to the following:

1. 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
2. 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.

(Neb. Rev. Stat. §17-558)



## Article 3 – Sidewalks

### SECTION 6-301: DUTY TO KEEP 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 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 6:00 a.m. the following day; provided, sidewalks within the residential areas of the City shall be cleaned within 24 hours after the cessation of the storm. (Neb. Rev. Stat. §17-557) (Am. Ord. No. 1539, 2/13/19)

### SECTION 6-302: SPACE BENEATH; PERMIT, BOND

No person shall be allowed to keep or use the space beneath the sidewalk lying between lot line and curb line unless a permit shall have been obtained from the City Council. The applicant for such permit shall submit plans and specifications of any present or proposed construction to the city engineer. Should such plans or specifications be disapproved, no permit shall be granted. 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 city sidewalks as herein contemplated, the City Council may require the applicant to furnish a bond to the City 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 council, in its discretion, may designate.

### SECTION 6-303: CONSTRUCTION OR REPAIR BY OWNER; APPLICATION, PERMIT

A. Any person desiring to construct or cause to be constructed any sidewalk shall do so only as provided herein. It shall be unlawful for any person to construct any sidewalk without first having made application with the city clerk and obtaining a permit. The street superintendent shall issue the desired permit unless good cause shall appear why said permit should be denied. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed.

B. All sidewalks shall be built and constructed as directed by the street superintendent using the materials and procedures established by the City. If the applicant desires to construct the sidewalk at any other than the regularly prescribed location, grade, elevation, and thickness, the superintendent shall submit the application to the City Council, which shall determine whether the permit should be granted or denied.

**SECTION 6-304: CONSTRUCTION OR REPAIR; ORDERED BY CITY**

A. Every owner of any lot or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to said lot, lots, or pieces of land in good and proper repair and in a condition reasonably safe for travel for all travelers thereon.

B. The mayor and council may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as they deem necessary and assess the expense of such construction or repairs on the property in front of which such construction or repairs are made, after having given notice:

1. By publication in one issue of a legal newspaper in or of general circulation in such city and
2. By either (a) causing a written notice to be served upon the occupant in possession of the property involved or (b) to be posted upon such premises ten days prior to the commencement of such construction or repair.

C. The notice shall:

1. State that the City Council has ordered repair of the sidewalk;
2. Contain the City's estimate of the cost of the repair;
3. Notify the property owner that he or she may, within ten days after the date of publication of the notice, notify the City that the sidewalk will be repaired within 30 days after such date of publication;
4. Notify the property owner that if he or she fails to notify the City within the ten days or, having notified the City, fails to repair the sidewalk within the 30 days, the City will cause the sidewalk to be repaired and the expense thereof will be assessed against the property.

D. All sidewalks shall be constructed or repaired in conformity with such plans, specifications, and materials as may be approved by the City Council.

E. If any owner shall fail to construct or repair any sidewalk in front of his or her property within the time and in the manner as directed herein after having received due notice to do so, the mayor and council may cause the sidewalk to be constructed or repaired and may assess the cost thereof against the property. The owner shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk.

F. In the event the property owner is a nonresident of the County, the City shall, before levying any special assessment against that property, send a copy of any notice



required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published. The city clerk shall mail the notice by certified mail with return receipt requested.

G. The powers conferred under this section are in addition to those provided in Neb. Rev. Stat. §§17-509 to 17-521 and may be exercised without creating an improvement district.  
(Neb. Rev. Stat. §17-522)

### **SECTION 6-305: IMPROVEMENTS; ASSESSMENT AND COLLECTION**

Assessments for improvements made under the provisions herein shall be made and assessed as provided in Section 6-216 (Improvements; Assessment and Collection).  
(Neb. Rev. Stat. §17-524)

### **SECTION 6-306: FAILURE TO CONSTRUCT, RECONSTRUCT OR REPAIR**

If any such owner shall neglect or refuse or shall have failed, after notice has been given as provided in this article, to construct, repair, replace or reconstruct any sidewalk within the time limit in the notice given in such case and whose duty it is made by this article to construct, repair or rebuild such walks, the street superintendent or other officer empowered herein to act shall proceed at once to have such sidewalks constructed, repaired, rebuilt or reconstructed, as the case may be, without further notice to such owner and the expense of such work shall be assessed to such lot or piece of land and collected as provided by law.

### **SECTION 6-307: CONSTRUCTION BY PETITION; IMPROVEMENT DISTRICT; SPECIAL ASSESSMENTS; ABUTTING OWNER**

A. If the owners of the record title representing more than 60% of the front footage of the properties directly abutting upon the street proposed to be improved with a sidewalk shall sign a petition and present it to the city clerk for filing, petitioning therefor, the City Council shall by ordinance create a paving or other improvement district, cause such work to be done or such improvement to be made, contract therefor, and levy special assessments on the lots and parcels of land abutting on or adjacent to such streets or alleys specially benefited thereby in such district in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431, to pay the cost of such improvement. The City Council may 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 council denies a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties.

B. Upon the petition of any property owner who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the City Council may order permanent sidewalks built in accordance with this article upon the owner making, executing, and delivering to the City an agreement to the effect that the petitioning

freeholder will pay the engineering service fee and all other incidental construction costs which until paid shall be a perpetual lien upon the real estate along which the owner desires such sidewalk to be constructed and that the petitioner gives and grants to the City the right to assess and levy the costs of such construction against the owner's real estate abutting the sidewalk improvement and promises to pay such costs with interest. The total cost of such improvement shall be levied, allocated, financed, and specially assessed as provided by law.

C. In the event the property owner is a nonresident of the County, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner, which shall be that address listed on the current tax rolls at the time such required notice was first published.  
(Neb. Rev. Stat. §17-510)

## **Article 4 – Penal Provision**

### **SECTION 6-401: VIOLATION; PENALTY**

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of an offense and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.