

CHAPTER 6 – PUBLIC WAYS AND PROPERTY

ARTICLE 1 – PUBLIC PROPERTY

- 6-101 DEFINITION**
- 6-102 MAINTENANCE AND CONTROL**
- 6-103 ACQUISITION OF PROPERTY; CONSTRUCTION; ELECTIONS, WHEN REQUIRED**
- 6-104 REAL PROPERTY; SALE AND CONVEYANCE**
- 6-105 PERSONAL PROPERTY; SALE AND CONVEYANCE**
- 6-106 OBSTRUCTIONS; TREES AND SHRUBS**
- 6-107 OBSTRUCTIONS; BUILDING MATERIALS AND EQUIPMENT; PERMIT**
- 6-108 CONSTRUCTION SITE; BARRICADES AND LIGHTS**
- 6-109 OVERHANGING BRANCHES**
- 6-110 EAVES AND GUTTER SPOUTS**
- 6-111 PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS**

ARTICLE 2 – STREETS

- 6-201 STREET DEPARTMENT; OPERATION AND FUNDING**
- 6-202 NAMES**
- 6-203 NUMBERING**
- 6-204 EXCAVATION; PERMIT, BOND REQUIRED**
- 6-205 DRIVING STAKES**
- 6-206 MIXING CONCRETE**
- 6-207 HARMFUL LIQUIDS**
- 6-208 DRIVEWAY APPROACHES**
- 6-209 HEAVY EQUIPMENT**
- 6-210 PIPELINES AND WIRES**
- 6-211 CONSTRUCTION NOTICE**
- 6-212 CONSTRUCTION ASSESSMENTS**
- 6-213 VACATING STREETS OR ALLEYS; DEFINITIONS**
- 6-214 VACATING STREETS OR ALLEYS; PROCEDURES**
- 6-215 VACATING STREETS OR ALLEYS; ASCERTAINING DAMAGES**
- 6-216 VACATING STREETS OR ALLEYS; VESTING OF TITLE**

ARTICLE 3 – SIDEWALKS

- 6-301 DUTY TO KEEP CLEAN**
- 6-302 SPACE BENEATH; PERMIT, BOND**
- 6-303 CONSTRUCTION BY OWNER**
- 6-304 CONSTRUCTION BY CITY**
- 6-305 REPAIRING SIDEWALK; NOTICE**
- 6-306 RECONSTRUCTING SIDEWALK; NOTICE**

6-307 FAILURE TO CONSTRUCT, RECONSTRUCT OR REPAIR
6-308 CONSTRUCTION BY PETITION

ARTICLE 4 – CURB AND GUTTER

6-401 CUTTING CURB; PERMIT
6-402 CUTTING AND CLOSING BY CITY
6-403 DEPOSIT AND BOND

ARTICLE 5 – PENAL PROVISION

6-501 VIOLATION; PENALTY

CHAPTER 6 – PUBLIC WAYS AND PROPERTY

Article 1 – Public 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: MAINTENANCE AND CONTROL

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 and in repair and free from nuisances. (Neb. Rev. Stat. §17-567)

SECTION 6-103: ACQUISITION OF PROPERTY; CONSTRUCTION; ELECTIONS, WHEN REQUIRED

A. The City 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, 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 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 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 registered voters of the City equal in num-

ber to 15% of the registered voters of the City voting at the last regular 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 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 City 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 6-104: REAL PROPERTY; SALE AND CONVEYANCE

A. Except as provided in subsection (I) 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 real property and the manner and terms thereof, except that such real 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 such 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 real 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.

D. 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% of the registered voters of the City voting at the last regular election held therein and is filed with the City Council, such property shall not then nor within one 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.

E. 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. 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, who 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. 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 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. 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 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 20 signatures on one signature page shall be counted.

F. The City Council shall, within 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 vote following the hearing on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

G. 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, such property shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §18-1001 to §18-1006.

H. Following passage of the resolution directing a sale, publishing of the notice of the proposed sale, and 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. The city clerk shall upon passage of such ordinance certify the name of the purchaser to the county register of deeds.

I. Subsections (A) to (H) 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. 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. by Ord. Nos. 1128, 1/5/83; 1376, 5/8/96; 1428, 11/10/98)

SECTION 6-105: 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 a 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. 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.

SECTION 6-106: OBSTRUCTIONS; TREES AND SHRUBS

A. 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. Said roots maybe removed by the City at the expense of the owner of the property upon which the tree is located should the owner fail or neglect to do so after notice. 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. The public ways and property shall be considered to be obstructed when the owner or occupant of the adjacent property shall permit or suffer to remain on any premises owned or controlled by him/her any hedge, shrubbery, bush, or similar growth within two feet adjacent to the lot line whether or not there is a sidewalk abutting or adjoining such premises. It shall be the duty of owners and occupants to keep all such similar growth trimmed and pruned at all times.

B. Whenever any such growth is allowed to grow within two feet of the lot line contrary to the provisions of this section, the City Council may pass a resolution ordering the owner or occupant to remove such obstructions within three days after having been served with a copy of said resolution by the City stating that the City will do so and will charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided or shall collect the same by civil suit brought in the name of the City against the said owner or occupant.

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 making of any public improvement or so that the roots thereof interfere with any utility wires or pipe shall be deemed an obstruction. Such trees, shrubs, and roots may be removed by the City pursuant to the procedure prescribed above. In the event the property owner is a nonresident of the county in which the property lies, 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. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-557.01)

SECTION 6-107: OBSTRUCTIONS; BUILDING MATERIAL AND EQUIPMENT; PERMIT

Any person engaged in constructing, repairing or wrecking any building or structure in the City may occupy street or sidewalk space adjacent to such building or structure with building material and equipment for a limited time if such person shall first obtain a written permit from the street commissioner; provided, no permit shall be granted for the occupancy for more than one-third of the adjacent roadway; and provided further, a suitable and safe passageway for pedestrians shall be provided and maintained at all times by the builder. Any person using the sidewalk or street for the above purpose shall be liable to the City for any damage recovered against the City by any person on account of any such obstruction so placed in any street or sidewalk space. (Ord. 440; 4/21/52)

SECTION 6-108: CONSTRUCTION SITE; 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.

SECTION 6-109: OVERHANGING BRANCHES

A. The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to any street or sidewalk over which 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 street or walk. Whenever the limbs or branches of any tree or trees extend over streets or sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from street lights or with the convenience of the public using said street or sidewalk, the City Council at any regular or special meeting may pass a resolution ordering the owner to cut or remove said obstructions. Notice may be given to said owner by publication or personal service.

B. In case such abutting property owner refuses or neglects, after such notice, to remove all encroachments from sidewalks as provided herein, the City through the 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 abutting 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.

C. In the event the property owner is a nonresident of the county in which the property lies, 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. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-557, 17-557.01)

SECTION 6-110: EAVES 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 re-

ceive the waste waters 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 whenever it is found to be impossible to drain said eave spouts into the alley.

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 \$86,000;
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;
3. Performance by the City of professional services for itself if the City appoints a city 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;
4. The practice of any other certified trade or legally recognized profession;
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;
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;
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;

8. The construction of water wells as defined in Neb. Rev. Stat. §46-1212, 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 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; and
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)

Article 2 – Streets

SECTION 6-201: STREET DEPARTMENT; OPERATION AND FUNDING

The City owns and operates the Street Department through the street superintendent. The City Council, for the purpose of defraying the cost of the care, management, and maintenance of the Street Department may each year levy a tax not exceeding the maximum limit prescribed by state law on the actual valuation of all real estate and personal property within the corporate limits that is subject to taxation. The revenue from the said tax shall be known as the Street Fund and shall remain in the custody of the city treasurer. The street superintendent shall have the direct management and control of the Street Department and shall faithfully carry out the duties and responsibilities of the office, which shall be assigned by the mayor or City Council. The superintendent shall have the authority to adopt rules and regulations for the sanitary and efficient management of the department subject to the supervision and review of the mayor, city administrator and City Council.

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 city clerk, 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 three 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 any police officer of the City 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 6-204: EXCAVATION; PERMIT, BOND REQUIRED

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 and filed 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/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. (Am. by Ord. No. 1024, 9/6/78)

SECTION 6-205: 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 6-206: 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.

SECTION 6-207: 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.

SECTION 6-208: 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 6-209: 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; 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 the moving of such vehicles, structures or machines 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 five-sixteenths 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 of an inch between October 1 and April 15.

D. 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)

SECTION 6-210: PIPELINES AND WIRES

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 of the City. Application for location of the above shall be made to the City Council in writing. Approval by that body shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, conduits, gas mains, pipelines, and wires shall at all times erect and locate their appurtenances at such places and in such manner as shall be designated by the City Council. Such appurtenances shall be removed or relocated by said companies at their own expense when requested to do so by the City Council. Any such relocation shall be ordered by resolution of the City Council and the city clerk shall notify any and all companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipe lines, or other appurtenances to be removed. The City Council shall designate another location as closely as possible where said appurtenances may be reset or placed. All appurtenances shall be reset, placed, or erected in such a manner that they will not interfere with the water system; sewerage system; poles, wires, and mains of any public utility; adjacent buildings; or with travel on the public ways and property. Whenever possible, all appurtenances shall be confined to the alleys of the City.

SECTION 6-211: 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 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 city officials.

SECTION 6-212: CONSTRUCTION ASSESSMENTS

A. To defray the costs and expenses of street improvements as may be authorized by law, the City Council shall have power and authority to levy and collect special taxes and assessments upon the lots and pieces of ground adjacent to, abutting upon, or especially benefiting from the street, avenue, alley, or sidewalk in whole or in part opened, widened, curbed, curbed and guttered, graded, paved, repaired, graveled, macadamized, parked, extended, constructed, or otherwise improved or repaired. The City Council, sitting as the Board of Equalization, shall review all such improvements in accordance with the procedure provided by law. All special assessments shall be made by the City Council at a regular or special meeting by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against the same. The vote shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in some legal newspaper published or of general circulation in the City at least four weeks before the same shall be held.

B. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the 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 like manner as other city taxes and shall be certified to the county clerk by the city clerk forthwith after the date of levy, for collection by the county treasurer unless otherwise specified. After it shall become delinquent, said assessment shall draw interest at the legal interest rate per annum. In the event the property owner is a nonresident of the county in which the property lies, 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. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-511, 17-524)

SECTION 6-213: VACATING STREETS OR ALLEYS; DEFINITIONS

"Special damages" shall mean only those losses or damages or injuries which a property owner suffers that are peculiar, special or unique to his/her property and which result from the City Council's vacation of such street, avenue, alley, lane or similar public way. "Special damages" shall not mean those losses, damages or inju-

ries that a property owner suffers that are in common which 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.

SECTION 6-214: VACATING STREETS OR ALLEYS; PROCEDURES

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:

A. *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 will advise the abutting property owners that the City Council will consider vacating such street, avenue, alley, lane or similar public way at their next regular meeting or if a special meeting is scheduled for such discussion, then the date, time and place of such meeting.

B. *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 has no effect on claims for special damages, as defined in Section 6-338, by the abutting property owners but does create the presumption that the City Council's action was proper. However, if all the abutting property owners do not sign the consent/waiver form, the City Council may still proceed with vacating such street, avenue, alley, lane or similar public way under the authority granted them by Neb. Rev. Stat. §17-558 and §17-559.

C. *Ordinance.* The City Council shall pass an ordinance that shall state essentially the following:

1. A declaration that the action is expedient for the public good or in the best interests of the City.
2. A statement that the City shall have an easement for maintaining all utilities.
3. A method or procedure for ascertaining special damages to abutting property owners.

D. *Filing.* The clerk shall file a copy of the ordinance with the county register of deeds to ensure that abutting property owners can gain title to their share of the vacated street, avenue, alley, lane or similar public way and so that such land will be drawn to the attention of the county assessor.

(Neb. Rev. Stat. §17-558, 17-559) (Ord. 1211, 11/5/86)

SECTION 6-215: VACATING STREETS OR ALLEYS; ASCERTAINING DAMAGES

A. 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 such street, avenue, alley, lane or similar public way. The appointees of the special commission shall be approved by the Council. Only special damages, as herein defined, shall be awarded to the abutting property owners.

B. In determining the amount of compensation to award the abutting property owners as special damages, the aforementioned commission shall use the following rule:

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

(Ref. 17-558, 17-559 RS Neb.) (Ord. No. 1210, 11/05/86)

SECTION 6-216: VACATING STREETS OR ALLEYS; VESTING OF TITLE

A. Upon the vacation of any street or alley or any part thereof by the City, the title of such property shall vest in the owner of the abutting property and become part of such property, one-half on each side thereof, except that the City may reserve title to such property 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 interest of the City.

B. In the event the City does not elect to reserve title in the vacated portion of such street or alley, the title to said property nonetheless 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 10:00 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)

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. Before any permit shall be granted, the applicant for said 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 City Council, in its discretion, may designate.

SECTION 6-303: CONSTRUCTION BY OWNER

No person shall construct a sidewalk along any street in the City until after the street superintendent shall have set the lines therefor. The sidewalk shall be constructed of concrete and shall conform to such other specifications as the street superintendent shall determine. The sidewalk shall be at least 4 inches deep and 36 inches wide and shall conform as nearly as possible to existing sidewalks along the street.

SECTION 6-304: CONSTRUCTION BY CITY

A. The City Council may by resolution order the construction of a sidewalk on any lot or piece of ground within the City. Notice of the City Council's intention to construct said sidewalk shall be given by the city clerk by publication of notice one time in a legal newspaper of general circulation in the City.

B. A copy of said notice shall be personally served upon the occupant in possession of such property or, when personal service is not possible, said notice shall be posted upon such premises ten days prior to the commencement of construction. The city attorney shall prepare the notice required in this section. Such service shall include a form of return evidencing personal service or posting as herein required.

C. Said notice shall notify the owner of the premises of the passage of the resolution ordering him/her to construct or cause to be constructed a sidewalk within 15 days after the date of publication, and further, that if he/she fails to construct the sidewalk or cause the same to be done within the time allowed, the City will cause the sidewalk to be constructed and the cost thereof shall be levied and assessed as a special tax against the premises; provided, the notice shall contain the official estimate of the cost of said construction and no special assessment in excess of this estimate shall be assessed against the property. In the event the property owner is a nonresident of the county in which the property lies, 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. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-522, 17-523)

SECTION 6-305: REPAIRING SIDEWALK; NOTICE

A. The City Council may by resolution order the repair of a sidewalk on any lot or piece of ground within the City and may assess the expense thereof on the property on which such repairs are made after having given notice of its intention to do so by:

1. Publication in one issue of a legal newspaper of general circulation in the City and
2. Either (a) causing a written notice to be served upon the occupant in possession of the property involved or (b) posting notice upon such premises ten days prior to the commencement of such repair.

B. 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/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/she fails to so notify the City within

the ten days or, having so 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.

C. Before the City 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. The city clerk shall mail the notice by certified mail with return receipt requested.

D. For purposes of this article, “non-resident 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.

E. All sidewalks shall be repaired in conformity with such plans and specifications as may be approved by the City Council.

F. Assessments made under this section shall be made and assessed in the manner provided in Neb. Rev. Stat. §17-524.

SECTION 6-306: RECONSTRUCTING SIDEWALK; NOTICE

Whenever the City Council shall deem it necessary that an old sidewalk shall be replaced or reconstructed, it shall order the same to be done and the street commissioner shall give notice, in the manner and form provided in Section 6-305, that the same is to be replaced or reconstructed within 30 days from and after such notice.

SECTION 6-307: 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 6-308: CONSTRUCTION BY PETITION

A. If the owners of record representing more than 60% of the front footage of the directly abutting property subject to assessment for sidewalk improvements petition the City Council to make such improvements, the City Council shall proceed as though such construction had been ordered by it. Upon the petition of any freeholder 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 freeholder's making, executing and delivering to the City an agreement to the effect that

1. The petitioning freeholder will pay the engineering service fee; all other incidental construction costs until paid shall be a perpetual lien upon the real estate along which the freeholder desires such sidewalk to be constructed and
2. The petitioner gives and grants to the City the right to assess and levy the costs of such construction against the freeholder'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.

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

Article 4 – Curb and Gutter

SECTION 6-401: CUTTING CURB; PERMIT

It shall be unlawful for any person to cut into any paving, curb, or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first having obtained a written permit from the street superintendent. Before any person shall obtain a permit, the street superintendent is to be informed of the place where such cutting is to be done, and it shall be the street superintendent's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut. When cutting into any paving, it shall be the duty of the party to cut the paving under such rules and regulations as may be prescribed by the City Council or the street superintendent. When the applicant is ready to close the opening made, he/she shall inform the street superintendent, who shall supervise and inspect the materials used and the work done in closing the opening.

SECTION 6-402: CUTTING AND CLOSING BY CITY

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 City Council may consent to the work of cutting and closing the paving to be done by the party holding such permit.

SECTION 6-403: DEPOSIT AND BOND

Before any permit is issued by the street superintendent, 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 City Council and filed 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. In addition to making the deposit above set forth, the applicant shall, before any permit is issued, execute a bond to the City with a good and sufficient surety or sureties to be approved by the City Council in a sum set by resolution of the City Council. (Neb. Rev. Stat. §17-567)

Article 5 – Penal Provision

SECTION 6-501: 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 a misdemeanor 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.