

CHAPTER 8

PUBLIC WAYS AND PROPERTY

ARTICLE 1. MUNICIPAL PROPERTY

§8-101 DEFINITIONS. The following definitions shall be applied throughout this Chapter. When no definition is specified, the normal dictionary usage of the word shall apply.

SIDEWALK SPACE. The term “sidewalk space”, as used herein, shall mean that portion of a street right of way between curb lines and adjacent property lines.

§8-102 MUNICIPAL PROPERTY: MAINTENANCE AND CONTROL

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

The Governing Body shall manage all matters dealing with the Community Building except those specifically delegated by the Governing Body. They shall adopt by resolution all rules and regulations governing the operation of the Community Building, which includes the fees for the use of the building as well. (*Ref. 17-567 RS Neb.*)

§8-103 STREETS; PLANTING OF VEGETATION

No person or persons shall plant or allow any tree or shrub to grow within the sidewalk space without first making a written application and receiving a written permit from the Governing Body. Such application shall contain the species of vegetation, expected height and span, and the location where it will be planted as measured from the nearest edge of the driving service of the road and measured from the nearest property line adjacent to the Municipal property or right-of-way. In no event shall any tree or shrub be permitted to be planted within the following described area at the intersection of two (2) street rights-of-way.

The area shall be defined as set forth in Article 2, Eagle Zoning Ordinance, definition for Sight Triangle.

By filling the herein reference application, the applicant shall become obligated that upon the approval of the application and planting of the vegetation, the applicant and his or her successor-in-title shall be obligated to maintain the vegetation so approved. The applicant shall maintain any shrubs planted within ten feet (10') of the driving surface of the street to a height not to exceed thirty inches (30") and shall keep all branches of trees which are within ten feet (10') of the driving surface of the street trimmed to a height of at least ten feet (10') above the ground surface over which said branches hang.

An application under this section may only be filed by a property owner owning property immediately adjacent to the right-of-way wherein such planting is

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proposed. All trees and shrubs located within the sidewalk area prior to May 5, 1981, shall be maintained by the adjacent property owner as described herein. In the event that the adjacent property owner fails to maintain trees and shrubs located in the sidewalk space in accordance with the provisions of this section, the Governing Body may order the employees of the Municipality to so maintain said trees and shrubs and assess the cost of such maintenance to the property owner or, in the discretion of the Governing Body, the Governing Body may order the tree or shrub removed. When any such tree or shrub is ordered removed by the Governing Body, the adjacent property owner shall be given notice of the order to secure the removal of the tree or shrub. If the property owner fails or neglects to remove or cause to be removed the said tree or shrub, the Municipal employees shall remove the same and assess the expense of such removal against the property immediately adjacent to the sidewalk space wherein the tree or shrub is planted and growing. In the event the property owner is a nonresident in which the property lies, the Municipality 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. No fee shall be charged for said permit.

§8-104 MUNICIPAL PROPERTY; TREES.

It is declared a nuisance for a property owner to permit, allow, or maintain any dead, damaged or diseased trees, within the right-of-way of streets within the corporate limits of the Municipality. Notice to abate and remove such nuisance and notice of the right to a hearing and the manner in which it may be requested shall be given to each owner or owner's duly authorized agent and to the occupant, if any, by personal service or certified mail. Within five (5) days after the receipt of such notice, if the owner or occupant of the lot or piece of ground does not request a hearing or fails to comply with the order to abate and remove the nuisance, the city or village may have such work done and may levy and assess all or any portion of the costs and expenses of the work upon the lot or piece of ground so benefited in the same manner as other special taxes for improvements are levied and assessed. The notice, hearing and abatement process set forth in Chapter 4, Article 3 shall be followed. (Amended Ord. 2018-6)

§8-104.01 MUNICIPAL PROPERTY; SIDEWALKS, STREETS AND OTHER MUNICIPAL PROPERTY; OVERHANGING BRANCHES, VEGETATION, OBSTRUCTIONS AND ENCROACHMENTS.

The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to a sidewalk, street, avenue, alley, right of way or other municipal property over which there extends the branches of trees or shrubs shall at all times keep the branches or limbs thereof trimmed to the height of at least eight (8) feet above the surface of said walk or right of way and at least ten (10) feet above the surface of any street, roadway or alley. Whenever the limbs or branches of any tree or trees, shrubs,

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vegetation or any other obstructions such as ice, mud, snow or other encroachments extend over or on sidewalks, streets, avenues, rights of way or other municipal property, contrary to the provisions herein, or so as to interfere with the lighting of the street from street lights, or with the convenience or safety of the public using said public or municipal property notice ordering the owner or occupant to cut the tree, branch, vegetation or remove said obstruction within five (5) days after having received a copy thereof by publication, or in place thereof, personal service of such notice from the Governing Body stating that the Municipality will remove said branches, vegetation or obstruction and charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided, if said notice is not complied with, within five (5) days, the Municipality may then cause such branches, vegetation or encroachments to be removed, and the cost of removal paid out of the street fund. The Governing Body shall assess the cost of the notice and removal of the branches, vegetation or encroachment against such abutting or adjacent 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.

In the event the property owner is a non-resident of the Municipality in which the property lies, the Municipality 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 non-resident 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. *(Ref. 17-557.01 RS Neb.) (Formerly § 8-201) (Amended Ord. No 2018-6)*

§8-105 MUNICIPAL PROPERTY; WEEDS.

It is hereby the duty of the Street Committee members or their duly authorized agent(s) to view and inspect the sidewalk space within the corporate limits for growing weeds during the growing season, and if rank and noxious weeds are found growing thereon, he or she shall notify the owner or occupant thereof, to cut down such weeds as close to the ground as can be practicably done and keep the weeds cut thereon in like manner during the growing season for weeds; provided, any weeds growing in excess of twelve inches (12") shall be considered a violation of this section. In the event that the owner of any lot or parcel of land within the Municipality is a nonresident of the Municipality or cannot be found therein the notice may be given to any person having the care, custody, or control of such lot or parcel of land. In the event that no one can be found within the Municipality to whom notice can be given, it shall be the duty of the Street Committee or their agent(s) to post a copy of the notice on the premise and then to cut or cause the weeds thereon to be cut as therein provided and report the cost thereof in writing to the Governing Body. The cost shall then be audited and paid by the Municipality and the amount thereof shall be assessed against the lot or parcel of land as a special tax thereon and shall be collected as

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other taxes of the Municipality or may be recovered by civil suit brought by the Municipality against the owner of the parcel of land. In the event the property owner is a nonresident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice 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.

§8-106 MUNICIPAL PROPERTY; MAIL BOXES.

Mail boxes are allowed within the Municipal street right-of-way so long as they conform to the regulations as governed by the U.S. Postal System.

§8-107 MUNICIPAL PROPERTY; EXCAVATIONS.

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 excavation or exposures of any kind protected and guarded by suitable guards or barricades by day and by warning light at night. In the event of failure, neglect, or refusal to comply with the provisions of this Article, it shall be the duty of the Building Inspector to stop all work upon said building and improvement until suitable guards are erected and kept in the manner aforesaid. It shall be unlawful for the owner of any property to fail to comply with this section and such offense shall be punished as provided in the penal provision Article of this Chapter.

§8-108 MUNICIPAL PROPERTY; SALE AND CONVEYANCE OF REAL PROPERTY.

1. Except as provided below, the power the Governing Body to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution directing the sale at public auction or by sealed bid of such property and the manner and terms thereof, except that such property shall not be sold at public auction or by sealed bid when:

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

(b) Such property is being conveyed to another public agency; or

(c) Such property consists of streets and alleys.

2. The Governing Body may establish a minimum price for real property at which bidding shall begin or shall serve as a minimum for a sealed bid.

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3. After the passage of the resolution directing the sale, notice of all proposed sales of property described in subsection (1) 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 Municipality.

4. If within thirty days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the Municipality, equal in number to thirty percent of the registered voters of the Municipality voting at the last regular Municipal Election held therein and is filed with the Governing Body of such city or village, 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 thirty-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. Upon the receipt of the remonstrance, the Governing Body of the Municipality, with the aid and assistance of the Election Commissioner or County Clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The Governing Body of the Municipality 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 Governing Body a written receipt that the remonstrance is in the custody of the Election Commissioner or County Clerk. The Election Commissioner or County Clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the Governing Body. The Election Commissioner or County Clerk shall also compare the signer's printed name, street and number or voting precinct, and city, village, 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, village, 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 Governing Body. The determinations of the Election Commissioner or County Clerk may be rebutted by any credible evidence which the Governing Body 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

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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 Governing Body 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 Governing Body within forty days after the receipt of the remonstrance from the Governing Body. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than twenty signatures on one signature page shall be counted.

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

5. Real estate now owned or hereafter owned by the Municipality 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.

6. Following (a) passage of the resolution directing a sale, (b) publishing of the notice of the proposed sale, and (c) passing of the thirty-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 Municipal Clerk shall upon passage of such ordinance certify the name of the purchaser to the Register of Deeds of the county in which the property is located.

This Article shall not apply to the sale of real property if the authorizing resolution directs the sale of real property, the total fair market value of which is less than five thousand dollars. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the Municipality 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 shall be required.

This section shall not apply to the sale of personal property if the authorizing resolution directs the sale of an item or items of personal property the total fair

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market value of which is less than one thousand dollars (\$1000.00). Following the passage of the resolution directing the sale of such property, notice of such sale shall be posted in a prominent place within the Municipality for a period of not less than seven (7) days prior to the sale of such property. Such notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required. (*Ref. 17-503; 17-503.01 RS Neb.*)

§8-109 MUNICIPAL PROPERTY; SALE OF PERSONAL PROPERTY; PROCEDURE.

The power of the Municipality to convey any personal property owned by it shall be exercised by resolution directing the sale and the manner and terms thereof. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the Municipality 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 five thousand dollars, notice of the sale shall also be published once in a legal newspaper published in or of general circulation in such Municipality 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. (*Ref 17-503.02 RS Neb.*)

§8-110 MUNICIPAL PROPERTY; ACQUISITION OF PROPERTY; CONSTRUCTION, ELECTIONS WHEN REQUIRED.

The Municipality is authorized and empowered to (1) purchase, (2) accept by gift or devise, (3) purchase real estate upon which to erect, and (4) erect a building or buildings for an auditorium, fire station, Municipal building, or community house for housing Municipal enterprises and social and recreation purposes, and other public buildings, including the construction of buildings authorized to be constructed by Chapter 72, article 14, and including construction of buildings to be leased in whole or in part by the Municipality to any other political or governmental subdivision of the State of Nebraska authorized by law to lease such buildings, and maintain, manage, and operate the same for the benefit of the inhabitants of the Municipality. Except as provided in Neb. Rev. Stat. §17-953.01, before any such purchase can be made or building erected, the question shall be submitted to the electors of the Municipality at a general Municipal Election or at an election duly called for that purpose, or as set forth in § 17-954, and be adopted by a majority of the electors voting on such question.

If the funds to be used to finance the purchase or construction of a building under §17-953, or its successor, are available other than through a bond issue, then either:

(1) Notice of the proposed purchase or construction shall be published in a

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

(2) The Governing Body may proceed without providing the notice and right of remonstrance required in subdivision (1) of this section if the property can be purchased below the fair market value as determined by an appraisal, and there is a willing seller, and the purchase price is less than twenty-five thousand dollars. The purchase shall be approved by the Governing Body after notice and public hearing as provided in section 18-1755 RS Neb, or its successor.

(Ref. 17-953; 17-953.01 RS Neb)

§8-111 MUNICIPAL PROPERTY; ACQUISITION OF REAL PROPERTY.

When acquiring an interest in real property by purchase or eminent domain, the Municipality shall do so only after the Governing Body has authorized the acquisition by action taken in a public meeting after notice and public hearing.
(Ref. 18-1755 RS Neb.)

§8-112 MUNICIPAL PROPERTY; ACQUISITION OF PROPERTY; APPRAISAL

The Municipality shall not purchase, lease-purchase, or acquire for consideration real property having an estimated value of one hundred thousand dollars or more unless an appraisal of such property has been performed by a certified real property appraiser.

(Ref. 13-403 RS Neb.)

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ARTICLE 2. SIDEWALKS

§8-201 SIDEWALKS; OVERHANGING BRANCHES, VEGETATION AND ENCROACHMENTS. Subject matter transferred to §8-104.01

(Amended Ord. No 2018-06; effective 6/20/18)

§8-202 SIDEWALKS; KEPT CLEAN.

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. All sidewalks within the business district shall be cleaned within five (5) hours after the cessation of a storm, unless the storm or fall of snow shall have ceased after three (3:00) o'clock A.M., then, in which case the sidewalk shall be cleaned before eight (8:00) o'clock A.M. the following day; Provided, sidewalks within the residential areas of the Municipality shall be cleaned within twelve (12) hours after the cessation of the storm. (*Ref. 17-557 RS Neb.*)

§8-203 SIDEWALKS; BENEATH.

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

§8-204 SIDEWALKS; MAINTENANCE.

Every owner of any lot, lots, 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, as the case may be, in good and proper repair, and in a condition reasonably safe for travel for all travelers thereon. In the event that the owner or

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owners of any lot, lots, or lands shall fail to construct or repair any sidewalk in front of his, her, or their lot, lots, or lands, within the time and in the manner as directed and required hereinafter having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the Governing Body shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property. In the event the property owner is a non-resident of the county in which the property lies, the Municipality 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 non-resident 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. *(Ref. 17-557.01 RS Neb.)*

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§8-205 SIDEWALKS; NEW CONSTRUCTION; INSTALLATION OF SIDEWALK

The owner of any lot within the Municipality upon which a new main building or garage has been constructed shall construct or install a sidewalk in the public right-of-way in the front of such lot prior to occupying such new main building or garage and no certificate of occupancy shall be issued by the Building Official until such time as the required sidewalk is constructed or installed. Upon the failure or refusal of the owner of such lot to construct or install the required sidewalk, the Municipality shall construct or install such sidewalk and assess the expense thereof on the property in front of which such construction is made, after having given notice of its intention to do so (1) by publication in one issue of a legal newspaper of general circulation in the Municipality and (2) by either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon the premises ten days prior to the commencement of such construction or installation.

§8-206 SIDEWALKS; REPAIR.

The Building Inspector may require sidewalks of the Municipality to be repaired. Notice to the owners of property upon which such sidewalks in disrepair are located shall require within forty-eight (48) hours from issuance of notice said owners to make arrangements to have the sidewalk repaired. Said repairs shall be completed within twenty-one (21) days after issuance of said notice. No special assessment shall be levied against the property unless said owner shall neglect or refuse to repair within the time prescribed and in the event that such owner fails to repair, the Municipality shall cause the repairs to be made and assess the property owner the expense of such repairs. In the event the property owner is a non-resident of the Municipality, the Municipality 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 non-resident 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.

§8-207 SIDEWALKS; CONSTRUCTION BY OWNER.

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

Said owner shall make application in writing for a permit and file such application in the office of the Municipal Clerk. The permit shall give a description of the lot, or piece of land along which the sidewalk is to be constructed. The official in charge of sidewalks shall issue the desired permit unless good cause shall appear why said permit should be denied; Provided, if it is desired to construct

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the sidewalk at any other than the regularly prescribed location, grade, or elevation, the Municipal official in charge of sidewalks shall submit the application to the Governing Body who shall determine whether the permit should be granted or denied. It shall be unlawful for any person to construct, or cause to be constructed said sidewalk at any other location, grade, or elevation than so designated by the Municipality. All sidewalks shall be built and constructed on the established grade, or elevation, and if there is no established grade, then on the grade or elevation indicated by the Municipal official in charge of sidewalks.

§8-208 SIDEWALKS; CONSTRUCTION BY PETITION.

If the owners of the record title representing more than sixty (60%) per cent of the front footage of the directly abutting property, subject to assessment for sidewalk improvements, petition the Governing Body to make the same, the Governing Body shall proceed in all things 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 Governing Body may order permanent sidewalks built in accordance with this Article upon the freeholder making, executing, and delivering to the Municipality an agreement to the effect that the petitioning freeholder will pay the engineering service fee and all other incidental construction costs - until these costs are paid, a perpetual lien shall be upon the real estate along which the freeholder desires such sidewalk to be constructed and that the petitioner gives and grants to the Municipality 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. In the event the property owner is a non-resident of the county in which the property lies, the Municipality 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 non-resident 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.

§8-209 SIDEWALKS; CONSTRUCTION STANDARDS.

- (a) All sidewalks within the right of way of the Municipality shall be subject to approval by the Building Official or Municipal Street Committee and shall be not less than four feet in width and not less than four inches in depth.
- (b) All sidewalks shall be constructed of Portland cement concrete or equal materials approved by the Building Official or Municipal Street Committee. The Building Official or Municipal Street Committee may reject use of any materials that do not comply with such requirements or specifications, or any material that is lacking in quality, and it shall be unlawful to construct any sidewalks from any materials so rejected.

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- (c) Sidewalks, except those extending from the lot line to the curb line, or along a block face where a distance between the lot line and the sidewalk has previously been established, shall be from lot line to lot line. All sidewalks extending from the line of the abutting lot to the curb line shall be constructed so that the outer edge of the walk shall rest flush with the top to the curb, and said walk shall be built up to the building on a uniform grade.
- (d) All sidewalks shall be constructed so as to incline upwards from the street side edge of the sidewalk toward the boundary of the lot at a rate of not less than 1/4 inch nor more than 1/2 inch in one foot, except as otherwise authorized by the Building Official or Municipal Street Committee.
- (e) All sidewalks in each block shall be of uniform height above the curb; provided, that where such elevation does not allow uniformity of height about the curb, the Building Official or Municipal Street Committee may permit elevations other than herein affixed. In all cases, the end of the sidewalk at the curb shall incline upwards at a uniform grade until the established height of the walk is reached.
- (f) The Building Official or Municipal Street Committee shall approve, prior to placement of concrete, the line and grade of all sidewalks; and it shall be unlawful for any person, firm, or corporation to construct any sidewalk without first having secured the line and grade of the same from the Building Official or Municipal Street Committee of the Governing Body and having obtained a permit as herein provided. In the event the line and grade are established by staking, it shall be unlawful for any person to remove any stakes so established.

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ARTICLE 3. STREETS

§8-301 STREETS; NAMES AND NUMBERS.

The Governing Body may at any time, after consulting with other legal entities as provided by law, by ordinance, rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the Governing Body may require. It shall be the duty of the Governing Body, upon a building permit being issued, to assign the proper street numbers to said building or buildings and give notice to the owner or owners and occupant or occupants of the same. Prior to occupancy of a newly constructed building, the street numbers assigned by the Governing Body shall be attached by the owner to said building or appurtenances thereto in a manner such that the street numbers are readable from the abutting street. In the case of a building on the corner lot, said numbers need only be readable from the street upon which the building fronts.

§8-302 STREETS; CROSSINGS.

The Governing Body may order and cause to be constructed, under the supervision of the Municipal official in charge of streets, such street, avenue, and alley crossing as the Governing Body shall deem necessary. When a petition for the construction of any such crossings is filed by an interested resident in the office of the Municipal Clerk, said Municipal Clerk shall refer such application to the Municipal Street Committee of the Governing Body who shall investigate and make recommendations to the Governing Body on such application, whether the application is approved or rejected, shall be considered final.

§8-303 STREETS; WIDENING OR OPENING.

The Governing Body shall have the power to open or widen any street, alley, or lane within the limits of the Municipality; to create, open, and improve any new street, alley, or lane; Provided, all damages sustained shall be ascertained in such manner as shall be provided by ordinance. (*Ref. 17-558, 17-559, 76-704 to 76-724 RS Neb.*)

§8-304 STREETS; EXCAVATION.

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the Governing Body authorizing such excavation. Prior to the issuance of such written permit, the person requesting the issuance of such permit shall file with the Municipal Clerk a bond in the amount as set forth below showing good and sufficient surety to ensure that upon completion of the excavation. Such bond shall remain in effect for a period of one (1) year following the completion and approval of the replacement of the street surface by the Municipal Street Committee of the

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Governing Body. The bonds to be required shall be as follows: for an excavation to tap a water main of the Municipality – Five Hundred (\$500.00) dollars; for excavations to make a sewer connection in the sewer main of the Municipality – Fifteen Hundred (\$1,500.00) dollars; for any other type of excavation – Three (\$3.00) dollars per square foot based upon the estimated surface dimensions of the excavation; Provided, however, should the applicant for the permit possess and maintain a bond as required under Eagle Municipal Code § 10-307, which bond is in effect for the calendar year during which the construction is to take place, no such bond shall be required hereunder.

§8-305 STREETS; DRIVING STAKES.

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

§8-306 STREETS; MIXING CONCRETE.

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.

§8-307 STREETS; HARMFUL LIQUIDS.

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

§8-308 STREETS; HEAVY EQUIPMENT.

It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culver, sidewalk, crosswalk, or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk, or crossing. Hereafter, it shall be unlawful to run, drive, move, operate, or convey over or across any paved street a vehicle, machine, or implement with sharp discs or sharp wheels that bear upon said pavement; with wheels having cutting edges; with wheels having lugs, any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent, or otherwise injure or damage any pavement, gutter, or curb; Provided, where heavy vehicles, structures, and machines move along paved or unpaved streets the Municipal Street Committee is hereby authorized and empowered to choose the route over which the moving of such vehicles, structures, or machines will be permitted and allowed. Nothing in this Section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths (5/16) of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than seven sixty-fourths (7/64) of an inch between October 1, and April 15; Provided,

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that school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets; and it shall be permissible to use tire chairs of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid. (*Ref. 60-6,250 RS Neb.*)

§8-309 STREETS; PIPE LINES 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 Municipality. Application for location of the above shall be made to the Governing Body 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, pipe lines, and wires shall at all times erect and locate their poles, wires, gas mains, pipe lines, and other appurtenances at such places and in such manner as shall be designated by the Governing Body. 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 Governing Body. Any such relocation shall be ordered by resolution of the Governing Body and the Municipal Clerk shall notify any and all companies affected. Said companies shall, within twenty-four (24) hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipelines, or other appurtenances to be removed. The Governing Body shall designate another location as closely as possible where said poles, wires, gas mains, pipe lines, or other 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 pole lines, wires, gas mains, pipelines, or appurtenances shall be confined to the alleys of the Municipality.

§8-310 CONSTRUCTION OF DRIVEWAY APPROACHES; PERMIT REQUIRED; INSTALLATION OF CULVERTS

- (a) For purposes of this Section, the following terms shall have the following definitions:

Driveway approach shall mean an area of the public right-of-way located between the roadway and property adjacent to the public right-of-way that is intended to provide access for vehicles from the roadway to the adjacent property.

Roadway shall mean the portion of the public right-of-way which is improved or designed to accommodate through vehicular traffic on or which through vehicles ordinarily travel.

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- (b) It shall be unlawful for any person to construct, reconstruct, relocate, or alter a driveway approach within the Municipality without first having obtained a driveway approach permit issued by the Municipality. The owner of the property to be served by the driveway approach shall file an application for a driveway approach permit in the office of the Municipal Clerk on forms provided by the Municipality, which shall include the following information.
- (1) The legal description and street address of the property;
 - (2) The name and owner of the property;
 - (3) The telephone number of the owner;
 - (4) A site plan of the driveway approach and the property to be served thereby and shall show thereon any utilities located within the boundaries of the proposed driveway approach, including, but not limited to, water, sewer, gas, electrical, telephone or cable installations, and the dimensions of the driveway, including length and width and the number of lanes for the proposed driveway.
 - (5) If the installation of a culvert is proposed or required, the amount of fill proposed to be used to support the driveway and the proposed size and materials to be used for the culvert.
- (c) The Building Official or Municipal Street Committee shall review and may approve or deny applications for driveway approaches. No driveway approach permit shall be approved for any driveway approach which interferes with the proper operation of any utility installation or any shut-off, stop box or curb cock appurtenant thereto.
- (d) All residential driveway approaches constructed of concrete shall be required to be poured to a depth of five (5) inches minimum, with a one-inch expansion joint between the driveway approach and the street. All commercial driveway approaches constructed of concrete shall be required to be poured to a depth of six (6) inches minimum, with a one-inch expansion joint between the driveway approach and the street. No driveway approach may exceed a maximum width of twenty-six feet.
- (e) In order to lessen the possibility of a driveway approach creating a flooding situation to the detriment of the streets and public ways of the Municipality, all driveway approach applications proposing the installation of a culvert shall be submitted to the Municipal Street Committee for review and analysis. If the Municipal Street Committee determines that the proposed culvert is inadequate in either size or building materials so as to prevent and avoid hazards to the traveling public and menace to

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travel by the caving, sliding, washing or other impediments to Eagle's streets, or is inadequate to prevent flooding of private property, the Municipal Street Committee shall require that the applicant install a proper sized culvert to be constructed of proper materials. Culvert pipe installed beneath driveway approaches abutting on Municipal streets shall have a minimum inside diameter of eighteen (18) inches, unless the Municipal Street Committee determines that a greater inside diameter is needed to prevent creating hazards to Eagle's streets or flooding of property. An equivalent elliptical or arch-shaped culvert pipe may be substituted, if approved by the Municipal Street Committee. The minimum culvert length shall be twenty (20) feet for a single lane driveway and thirty (30) feet for a double lane driveway. Minimum grade shall be one-eighth (1/8) inch per foot of culvert length; except that the Municipal Street Committee may approve a different grade if site conditions warrant. Acceptable culvert pipe matter shall be as follows: (a) Reinforced concrete pipe conforming to the most recent revision of ASTM designation C76, C506, or C507 for reinforced concrete pipe, minimum strength Class III. Installation shall be in accordance with the manufacturer's recommendations. (b) Galvanized corrugated steel pipe conforming to the most recent revision of AASHTO specification M-36. Minimum pipe wall shall be sixteen (16) gauge (0.064 inches). Joints shall be made with connecting bands and bolts as supplied by the pipe manufacturer. Installation shall be in accordance with the manufacturer's recommendations. (c) If specifically suited for culvert installation, pipes manufactured from other materials may be approved by the Municipal Street Committee on a case-by-case basis. Once approved by the Municipal Street Committee, the property owner shall purchase and have delivered to its property the proper sized culvert made of the approved materials. In order to make certain that Eagle's streets are not subject to being undermined by runoff or that other property is not subject to being flooded from the Municipality's right-of-way ditches, the Municipality shall install said culvert at its expense. Prior to such installation the applicant shall provide a receipt showing that the cost of the culvert has been paid. Also, prior to the installation of said culvert the applicant and the Municipality shall enter into a written agreement which clearly identifies the duties and responsibilities of the respective parties. The written agreement must be approved by the Governing Body of the Municipality before the Municipality can commence any work to install the culvert.

(Amended by Ordinance 2020-03, May 18, 2020 effective June 2, 2020)

§8-311 SEDIMENT ON PUBLIC WAYS; NUISANCE; NOTICE TO REMOVE; PENALTY

- a.) It shall be declared a nuisance for any owner, tenant, contractor or other person responsible for real property to allow soil or

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sediment to be deposited into or upon any street, alley, sidewalk, public way, storm drainage system, or public ground as a result of tracking, runoff or other erosion and sedimentation from a building or development site. The owner, tenant, contractor or other responsible person shall remove the same within a reasonable period of time as required by the Municipality, Department of Environmental Quality, or other agency. Whenever the person responsible for sediment deposited into or upon any street, alley, sidewalk, public way, storm drainage system, or public grounds refuses or neglects to remove the same, the Municipality may elect to remove the sediment and the expense of such removal shall be recoverable by the Municipality after notice is given pursuant to the Municipal Nuisance Abatement procedures.

- b.) If the Municipality, Department of Environmental Quality, or other agency determines that the conditions described above constitute an immediate nuisance and hazard to public safety, the Municipality shall issue a written notice to abate and remove such nuisance or hazard within twenty-four (24) hours. If such person responsible shall have failed or refused to abate and remove such nuisance at the expiration of twenty-four (24) hours from delivery of notice, the Municipality may remove such nuisance and the expense of such removal shall be recoverable by the Municipality by assessment against the property benefited or by other means.

(Added by Ordinance 2019-07, 6/17/19, effective July 2, 2019)

ARTICLE 4. CURB AND GUTTER

§8-401 CURB AND GUTTER; CUTTING CURB; PERMIT REQUIRED.

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 Governing Body therefore. Before any person shall obtain a permit, he or she shall inform the Municipal Clerk of the place where such cutting is to be done, and it shall be the duty of the Municipal Maintenance staff 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 Governing Body or the Municipal Engineer. When the applicant is ready to close the opening made, he or she shall inform the Municipal Maintenance staff, who shall supervise and inspect the materials used and the work done in closing the opening.

It shall be discretionary with the Governing Body to order the Municipal Maintenance staff, under the supervision and inspection of the Municipal Engineer or the Municipal Street Committee of the Governing Body, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit.

Before any permit is issued by the Governing Body, the applicant for such permit shall deposit with the Municipal Treasurer a sum set by resolution of the Governing Body for all paving, curb, or sidewalk to be cut. Such sum shall be set on a per square foot cost of construction basis. The deposit shall be retained by the Municipality for the purpose of replacing the paving, curb, or sidewalk, in the event the work is done by the Municipality. In the event the Municipality elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the Municipality until the work is completed to the satisfaction of the committee of the Governing Body on streets and alleys. In addition to making the deposit above set forth, the applicant shall, before any permit is issued, execute a bond to the Municipality with a good and sufficient surety or sureties to be approved by the Governing Body in a sum set by resolution of the Governing Body.

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ARTICLE 5. PENAL PROVISION

§8-501 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 five hundred (\$500.00) dollars for each offense, recoverable with costs. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply. (*Ref. 17-207*)