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## **CHAPTER V PUBLIC WAYS AND PROPERTY**

### **ARTICLE I - PUBLIC PROPERTY REGULATIONS**

#### **SECTION 5-101: 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. (Ref. Neb. Rev. Stat. §17-567)

#### **SECTION 5-102: OBSTRUCTIONS**

Trees and shrubs growing upon or near the lot line or upon public ground and interfering with the use or construction of any public improvements shall be deemed an obstruction under this article. Shrubbery located near a traffic intersection or pedestrian crosswalk must be trimmed and not exceed 3 1/2 feet in height as well as be located 20 feet back from said intersection or crosswalk. Said trees, shrubs and their roots may be removed by the utilities superintendent at the expense of the owner of the property upon which the tree or shrub is located, should the owner fail or neglect, after notice, to do so. It shall be unlawful for any person, firm or corporation to obstruct or encumber by fences, gates, buildings, structures or otherwise, any of the streets, alleys or sidewalks. (Ref. Neb. Rev. Stat. §17-557.01)

#### **SECTION 5-103: PERMITTED OBSTRUCTIONS**

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

#### **SECTION 5-104: MUNICIPAL PROPERTY; SALE AND CONVEYANCE**

1. Except as provided in subsection 4 of this section, the power of the City to convey any real and personal 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 and personal property and the manner and terms thereof,

except that such real and personal 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.

The City Council may establish a minimum price for such real and personal property at which bidding shall begin or shall serve as a minimum for a sealed bid.

2. After the passage of the resolution directing the sale, notice of all proposed sales of real and personal 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 City; provided, if a remonstrance against such sale, signed by registered voters thereof equal in number to 30% of the registered voters of the City voting at the last regular municipal election held therein, be filed with the City Council within 30 days after the third publication of the notice, 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 next 30 day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. 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.

3. Following (a) passage of the resolution directing a sale, (b) publishing of the notice of the proposed sale, and (c) 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 in which the county is located.

4. This section shall not apply to the sale of real and personal property if the authorizing resolution directs the sale of an item or items of real and personal property the total fair market value of which is less than \$5,000.00. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the City for a period of not less than seven days prior to the sale of the property. Confirmation of the sale by passage of an ordinance may be required.  
(Ref. Neb. Rev. Stat. §17-503, 17-503.01)

SECTION 5-105: ACQUISITION OF PROPERTY; CONSTRUCTION;  
ELECTIONS, WHEN REQUIRED

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, municipal 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.

Except as provided below, before any such purchase can be made or building erected, the question shall be submitted to the electors of the City at a general municipal 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.

If the funds to be used to finance the purchase or construction of a building under 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 number to 15% of the registered voters of the City voting at the last regular municipal 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 collected within the 30 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 City 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 City Council 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 \$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.

(Ref. Neb. Rev. Stat. §17-953 and 17-953.01)

## SECTION 5-106: SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCESS

The City Council may, by ordinance, create a special improvement district for the purpose of replacing, reconstructing or repairing an existing street, alley, water line, sewer line, or any other such improvement.

Except as provided in Neb. Rev. Stat. §19-2428 to 19-2431, the City Council shall have the power to assess, to the extent of such benefits, the costs of such improvements upon the properties found especially benefited thereby, whether or not such properties were previously assessed for the same general purpose. In creating such special improvement districts, the City Council shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law.

## SECTION 5-107: IMPROVEMENT DISTRICT; LAND ADJACENT

Supplemental to any existing law on the subject, a city may include land adjacent to such city when creating an improvement district, such as a sewer, paving, water, water extension, or sanitary sewer extension district. The City Council shall have the power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby, except as provided in Neb. Rev. Stat. §19-2428 to 19-2431.

## SECTION 5-108: ACQUISITION OF REAL PROPERTY

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

## SECTION 5-109: ACQUISITION OF PROPERTY; APPRAISAL

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

## SECTION 5-110: THE CITY MAY RESERVE TITLE TO PROPERTY IN AN ORDINANCE VACATING A STREET OR ALLEY

1. Upon the vacation of any street or alley or any part thereof by the City, title to 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.

2. In the event the City does not elect to reserve title in the vacated portion of such street or alley, title to the property nonetheless shall be subject to the following:

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

(b) There is reserved to the City, any public utilities, any cable television systems and any similar 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.

(Section 5-110 added by ordinance 1/11/2006)

## ARTICLE II - STREETS

### SECTION 5-201: NAMES AND NUMBERS

The City Council may at any time, by ordinance, rename any street or provide a name for a new street. It shall be the duty of the utilities superintendent, upon the erection of any new building or buildings, to assign the proper numbers to said building or buildings, and give notice to the owner, owners, occupant or occupants, of the same.

### SECTION 5-202: CROSSINGS

The City Council may order and cause to be constructed, under the supervision of the street supervisor, such street, avenue and alley crossing, and the same shall be constructed of such materials as the City Council shall deem necessary. When a petition for the construction of any such crossing is filed by an interested resident in the office of the city clerk, said city clerk shall refer such application to the street supervisor, who shall investigate and recommend to the City Council allowance or rejection as final action by the City Council on such application.

### SECTION 5-203: 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 utilities superintendent authorizing such excavation. Excavation in streets and alleys shall be made in such a manner as to impede travel as little as possible. Warning lights shall be maintained on all unfinished work, at night from dark until sunrise, and sufficient barricades shall be in place at all times until the work is completed, to prevent any persons from injury in coming upon or crossing such work. After completion of any job or work, all surplus material must be removed at once from the streets and alleys.

### SECTION 5-204: 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 utilities superintendent.

### SECTION 5-205: MIXING CONCRETE

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



#### SECTION 5-206: 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 5-207: EAVES AND GUTTER SPOUTS

It is hereby declared unlawful for any person to erect or maintain any dwelling house or business building within the limits of the City where the said dwelling or building abuts on any sidewalk or street, without providing proper guttering and eave spouts to receive the waste waters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling house or business building shall be constructed to drain into the alleys, or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain said eave spouts into the alley.

#### SECTION 5-208: HEAVY EQUIPMENT

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 curb, gutter, bridge, culvert, sidewalks, crosswalk or crossing, with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing. Hereafter, it shall be unlawful to run, drive, move, operate or convey over or across, any paved street a vehicle, machine or implement, with sharp discs or sharp wheels, that bear upon said pavement; with wheels having cuttings edges; with wheels having lugs, or any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent or otherwise injure or damage any pavement, gutter or curb; provided, where heavy vehicles, structures, and machines move along paved or unpaved streets, the 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. Provided, school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets; and it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid.

#### SECTION 5-209: WIDENING, OPENING, VACATING

The City Council shall have the power to open, widen or vacate any street, alley or lane within the limits of the City and to create, open and improve any new street, alley or lane. In the event of such action, the damages sustained by the affected property owner shall be determined by the City Council. To ascertain

such damages, the City Council shall notify, by certified mail, the affected parties of such anticipated action and the parties' right to file claims for damages. Such notice shall set a date for filing claims for such damage and notify the affected parties of a hearing date when such claims filed will be considered by the Council. If any claims are filed, the Council shall hold a special meeting to consider such claims and determine the damages, if any. Any party may appeal the decision of the City Council to the District Court of Dawes County, Nebraska, for further consideration. Such appeal must be filed within 30 days of the Council's determination. In the event that no claims are filed, it will be determined that no damages will result from the action of the City Council and no damages will be paid.

(Ref. Neb. Rev. Stat. §17-558, 17-559, 76-704 through 76-724)

#### SECTION 5-210: UTILITY LINES, WIRES, ETC.

Poles, wires, gas mains, pipe lines and other appurtenances of public service companies shall be located or erected over, upon or under the streets, alleys and common grounds after a proper application shall have been made to the city clerk in writing, and permission in writing shall have been given by the City Council. Public service companies heretofore or hereafter granted right of way for the erection and maintenance of poles, conduits, gas mains, pipe lines and wires for the purpose of transacting their business upon, under or over the streets, alleys and public grounds shall at all times, when requested by the City Council, erect, locate or relocate their poles, wires, gas mains, pipe lines and other appurtenances, to such places and in such manner as shall be designated by the City Council. Such poles, wires, gas mains, pipe lines and other appurtenances, shall be removed or relocated by said companies at their own expense when requested to do so by the City Council. Whenever it becomes necessary for the City Council to request such relocation for the public safety and convenience, the City Council shall order said relocation by resolution, and the city clerk shall notify any company or 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 close as possible, where said poles, wires, gas mains, pipe lines or other appurtenances may be reset or placed. All poles, wires, gas mains, pipe lines or other appurtenances, shall be reset, placed or erected in such manner that they will not interfere with the water system, sewer system, or poles, wires, and mains of any public utility located on the same street or alley, or with travel, buildings constructed, or hereafter to be constructed. Whenever possible, all pole lines, wires, gas mains, pipe lines or appurtenances shall be confined to the alleys of the City. No water pipe, underground electric line or telephone conduit shall be laid in the same trench with sewer pipe in any street, alley or public grounds in the City, or nearer than three feet to any sewer pipe. No underground electric line shall be laid in the same trench with any water pipe, sewer pipe or telephone conduit in any street, alley or public grounds or nearer than three feet to any such pipes or conduit.

## SECTION 5-211: CONSTRUCTION ASSESSMENT

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 a legal newspaper published or of general circulation in the City at least four weeks before the same shall be held. 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 municipal 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 non-resident 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 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. Neb. Rev. Stat. §17-511, 17-524, 19-2428 through 19-2431, 45-104.01)

## SECTION 5-212: IMPROVEMENT DISTRICTS, OBJECTIONS

Whenever the City Council shall deem it necessary to make any improvements allowed by statute, the City Council shall by ordinance create a paving, graveling or other improvement district or districts, and after the passage, approval and publication or posting of such ordinance, shall publish notice of the creation of any such district for six days in a legal newspaper of the City, if a daily newspaper, or for two consecutive weeks if the same be a weekly newspaper. If the owners of record title representing more than 50% of the front footage of the property directly abutting on the street(s) or alley(s) to be improved shall file with the city clerk within 20 days after the first publication of said notice, written

objections to the creation of such district(s), said improvements shall not be made as provided in said ordinance; but said ordinance shall be repealed. If said objections are not filed against the district in the time and manner aforesaid, the City Council shall forthwith cause such work to be done or such improvement to be made, and shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street(s) and alley(s) especially benefited thereby in such district in proportion to such benefits to pay the cost of such improvement.

(Ref. Neb. Rev. Stat. §17-511)

#### SECTION 5-213: IMPROVEMENT OF STREETS ON CORPORATE LIMITS

The mayor and City Council shall have the power to improve any street or part thereof which divides the city corporate area and the land adjoining the City. When creating an improvement district including land adjacent to the City, the Council shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby.

(Ref. Neb. Rev. Stat. §17-509)

#### SECTION 5-214: IMPROVEMENT OF MAIN THOROUGHFARES

The mayor and City Council shall have the power by a 3/4 vote of the City Council to create by ordinance a paving, graveling or other improvement district and to order such work done upon any federal or state highway in the City or upon a street or route designated by the mayor and City Council as a main thoroughfare that connects on both ends to either a federal or state highway or a county road. The City Council shall contract therefor and shall have the power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby.

(Ref. Neb. Rev. Stat. §17-512)

#### SECTION 5-215: PETITION FOR IMPROVEMENTS

Whenever a petition signed by the owners of record title representing more than 60% of the front footage of the property directly abutting upon the street(s), alley(s), public way or the public grounds proposed to be improved shall be presented and filed with the city clerk, petitioning therefor, the City Council shall by ordinance create a paving, graveling, or other improvement district and shall cause such work to be done or such improvement to be made, and shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited thereby in such district in proportion to such benefits, to pay the cost of such improvement. The City Council shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the City Council should deny a requested

improvement district formation, it shall state the grounds for such denial in a written letter to interested parties.  
(Ref. Neb. Rev. Stat. §17-510)

## SECTION 5-216: DEFERRAL FROM SPECIAL ASSESSMENTS

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

Any owner of record title eligible for the deferral granted by this section shall, to secure such assessment, make application to the City Council within 90 days after creation of an improvement district. Any owner of record title who makes application for the deferral provided by this section shall notify the county register or deeds of such application in writing prior to approval by the City Council. The City Council shall approve the application of any owner of record title upon determination that the property (a) is within an agricultural use zone and is used exclusively for agricultural use, and (b) the owner has met the requirements of this section.

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

1. Notification by the owner of record title to the City Council to remove such deferral;
2. Sale or transfer to a new owner who does not make a new application within 60 days of the sale or transfer, except as provided in subdivision 3 of this section;
3. Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;
4. The land is no longer being used as agricultural land; or
5. Change of zoning to other than an agricultural zone.

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

- A. The total amount of special assessments which would have been assessed against such property, to the extent of special benefits, had such deferral not been granted; and
- B. Interest upon the special assessments not paid each year at the rate of 6% from the dates at which such assessments would have been payable if no deferral had been granted.

In cases where the deferral provided by this section is terminated as a result of a sale or transfer described in subdivision 2 or 3 of this section, the lien for assessments and interest shall attach as of the day preceding such sale or transfer.

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

#### SECTION 5-217: 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 obtaining a written permit from the zoning administrator. Before any person shall obtain a permit, the applicant shall inform the city clerk of the place and time such cutting shall be done and it shall be the duty of the utilities superintendent 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 utilities superintendent. When the applicant is ready to close the opening made, the applicant shall inform the utilities superintendent, who shall supervise and inspect the work done enclosing the opening. Unless specifically authorized by the utilities superintendent, all closing shall be done in concrete. It shall be the discretion of the City Council to order the utilities superintendent 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 zoning administrator, the applicant for such permit shall deposit with the city treasurer a sum set by the City Council for paving, curb or sidewalk to be cut. The deposit shall be retained by the City for the purpose of replacing the paving, curb or sidewalk until the work is completed to the satisfaction of the utilities superintendent. In the event of a disagreement of proper closing between the applicant and the utilities superintendent, the City Council shall be the final authority on all matters under this ordinance. In addition to making the deposit set forth above, 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 zoning administrator.

#### SECTION 5-218: REMOVING SNOW TO CITY STREETS; PROHIBITED

It shall be unlawful for any person to intentionally shovel, plow or otherwise remove snow from his/her sidewalk or driveway onto a city street.

## ARTICLE III – SIDEWALKS

### SECTION 5-301: DUTY OF PROPERTY OWNERS; LIABILITY

Every owner of any lot, lots or piece of land within the limits of this city shall at all times keep and maintain the sidewalks 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 all travelers thereon; in case the owner or owners of any lot, lots or land abutting on any street or avenue or part thereof shall fail to construct or repair any sidewalk in front of his/her or their lot, lots or land within the time and in the manner as directed and required by this article after having received due notice to do so, they shall be liable for all damages and injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the mayor and City Council shall have power to cause such sidewalks to be constructed or repaired and assess the cost thereof against such property.

(Ref. Neb. Rev. Stat. §17-557.01)

### SECTION 5-302: NEW SIDEWALK; NOTICE

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. 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 sent by first class mail to such premise ten days prior to the commencement of construction. The notice required in this section shall be prepared by the city attorney in accordance with the provisions of this section. Such service shall include a form of return evidencing personal service or mailing as herein required. Said notice shall notify the owner of the premise of the passage of the resolution ordering him/her to construct or cause to be constructed a sidewalk within 30 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 premise; 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 non-resident 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 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. Neb. Rev. Stat. §17-552, 17-523)

#### SECTION 5-303: REPAIRING SIDEWALK; NOTICE

Whenever the utilities superintendent shall deem it necessary that any sidewalk shall be repaired, or it shall be required by the City Council or committee on streets and walks, or the utilities superintendent, he/she or they shall notify the owner of the lot or piece of land along and contiguous to which such sidewalk is situated to repair the same within three weeks from and after the giving of such notice. Arrangements for such repair shall be required within 48 hours from issuance of notice. Oral notice to the owner shall be deemed sufficient. If the owner is not found by the utilities superintendent, then a written notice left in the house situated on such lot or piece of ground, or posted upon said premises, shall be sufficient, and the two weeks shall begin to run from the leaving or posting up of such notice as the case may be.

#### SECTION 5-304: RECONSTRUCTING SIDEWALKS; 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 utilities superintendent shall give notice in the manner and form provided in Section 5-303 of this article, to replace or reconstruct the same within 30 days from and after such notice.

#### SECTION 5-305: 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 limited in the notice given in such case and whose duty it is made by this article to construct, repair or rebuild such walks, the utilities superintendent or other officer empowered herein to act shall proceed at once without further notice to such owner or person to have such sidewalks constructed, repaired, rebuilt or reconstructed, as the case may be, and the expense of such work shall be assessed to such lot or piece of land, and collected as provided by law.

#### SECTION 5-306: CONSTRUCTION BY PETITION

If the owners of the record title 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 the same, the City Council 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 City Council may order permanent sidewalks built in accordance with this article upon the freeholder making, executing and delivering to the City an agreement to the effect that the petitioning freeholder will pay the engineering service fee and all other incidental



construction costs until paid shall be a perpetual lien upon the real estate along which the freeholder desires such sidewalk to be constructed and that the petitioner gives and grants to the City the right to assess and levy the costs of such construction against the 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 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 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.

#### SECTION 5-307: 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 city clerk. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The utilities superintendent shall issue the desired permit unless good cause shall appear why said permit should be denied; provided, if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade or elevation, the utilities superintendent shall submit the application to the City Council which 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 City. 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 utilities superintendent.

#### SECTION 5-308: DUTY TO REMOVE SNOW, SLEET AND ICE; PENALTY

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. In the event that the mayor or his/her representative declares that emergency conditions exist and prohibits parking along snow emergency routes, property owners or occupants of lots abutting such snow emergency routes or within the business district may scoop the snow from the sidewalks under their control into the street. 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.  
(Ref. Neb. Rev. Stat. §17-557)

**SECTION 5-309: DUTY TO REMOVE BRANCHES AND  
SHRUBBERY ENCROACHING THEREON; PENALTY**

It shall be the duty of the occupant of each lot or parcel of ground in said city to keep the sidewalk adjacent thereto free from overhanging branches and free from limbs to a height of 8 feet, and to keep such sidewalk free from encroaching hedges or shrubbery; and no tree, shrubbery or hedge shall be permitted closer than 18 inches to the sidewalk. It shall be the duty of the occupant of each lot or parcel of ground abutting on any intersection to trim and or remove any shrubbery, sign or other obstacle which obstructs the view for a distance of ten feet from such intersection. Any such occupant or owner who fails to remove the overhanging branches and limbs or other encroachments within five days after receiving written notice to do so, upon conviction shall be fined in any sum not exceeding \$500.00 and shall pay the costs of prosecution and the costs of the removal of such encroachments.  
(Ref. Neb. Rev. Stat. §17-557.01)

## ARTICLE IV - CONSTRUCTION OF PRIVATE DRIVES

### SECTION 5-401: APPLICATION FOR CONSTRUCTION OF PRIVATE DRIVE

Before any person, firm or corporation constructs a private drive onto any public street or alley, an application shall first be made to the zoning administrator for a permit for such construction. Such application shall be accompanied by a fee of \$25.00 and the zoning administrator shall act upon such application within 5 days of receipt of the application.

### SECTION 5-402: APPLICATION REQUIREMENTS

All driveway applications shall contain the following information:

- (1) The addition, block and lot which the driveway is to serve;
- (2) The location of the proposed driveway with reference to adjacent lot lines;
- (3) The width of the driveway and type of street surface to which the driveway will connect.

### SECTION 5-403: ISSUANCE OF PERMIT

In the event that the zoning administrator determines that such application is in due and proper form and that the same complies with this article and would not divert water unto another persons property, he shall issue a permit for construction of such requested driveway.

### SECTION 5-404: PENALTIES

Any person, firm or corporation violating the terms of this article and who constructs a driveway onto a city street or alley without first securing a permit therefore shall be deemed guilty of a misdemeanor and shall be fined in a sum not to exceed \$500.00, and each day's maintenance of the same shall constitute a separate offense.

## ARTICLE V - PENAL PROVISION

### SECTION 5-501: VIOLATION; PENALTY

Anyone violating any of the terms and conditions of any of the foregoing chapter and articles shall be deemed guilty of a misdemeanor and shall be fined in a sum of not more than \$500.00 for each offense, recoverable with costs, or by imprisonment in the county jail for a term not to exceed 30 days. Each day such violation continues may be considered a separate offense.