

CHAPTER 92: PUBLIC WAYS AND PROPERTY

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GENERAL PROVISIONS**§ 92.001 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

SIDEWALK SPACE. The portion of a street between curb lines and adjacent property lines.

STREET COMMISSIONER. The city official with general charge, direction and control of streets and sidewalks. If one official is responsible for streets and another official is responsible for sidewalks, **STREET COMMISSIONER** shall mean whichever one is appropriate in the context the term is used. (1999 Code, § 8-101)

MUNICIPAL PROPERTY**§ 92.015 MAINTENANCE AND CONTROL.**

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

(Neb. RS 17-567) (1999 Code, § 8-102)

§ 92.016 OBSTRUCTIONS.

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

(B) The city shall have the power to regulate the building of bulkheads, cellar and basement ways, stairways, railways, windows, doorways, awnings, hitching posts and rails, lampposts, awning posts, all other structures projecting upon or over and adjoining, and all other excavations through and under the sidewalks in the city.

(Neb. RS 17-555) (1999 Code, § 8-103)

§ 92.017 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 building material and equipment as long as is necessary if those persons shall make application to and receive a permit in writing from the municipal official in charge of municipal streets to do so; provided, no permit for the occupancy of the sidewalk space, and more than one-third of the roadway of the public space adjacent to the real estate on which the 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 official issuing the permit.

(1999 Code, § 8-104)

§ 92.018 SIGNS AND CANOPIES.

(A) No person shall erect or maintain any sign, signboard, poster or rigid canopy over any street, sidewalk or alley or on other public property without having first obtained a permit therefor. Permits for signs, signboards, posters and canopies shall be issued by the City Clerk, subject to the approval of the Street Commissioner, upon the payment of the fee, if any, established by the City Council.

(B) All signs, signboards, posters and canopies extending over any public sidewalk, street, alley or other public place must be securely fastened and constructed so that there will be no danger of the them being dislodged by ordinary winds or falling from other causes.

(C) No sign, signboard, poster or canopy shall be erected or maintained which extends over any public sidewalk, street, alley or other public place in a location as to obstruct the view of any traffic light, sign or signal.

(D) Upon a determination that a sign, signboard, poster or canopy is in violation of this section, the city may proceed against the owner or occupant of the premises where the sign, signboard, poster or canopy is located as provided in § 98.03.

(1999 Code, § 8-105) Penalty, see § 92.999

§ 92.019 OVERHANGING BRANCHES.

(A) The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street or sidewalk over which there extend the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least eight feet above the surface of the walk and at least 14 feet above the surface of the street or to the heights otherwise specified by the City Council.

(B) Whenever the branches or limbs of any tree extend over streets or sidewalks contrary to these provisions so as to interfere with the lighting of the street from street lights or with the convenience of the public using the street or sidewalk, the city may proceed against the owner or occupant of the property abutting or adjacent to the street or sidewalk as provided in § 98.03.
(1999 Code, § 8-106) Penalty, see § 92.999

§ 92.020 SALE AND CONVEYANCE.

(A) *Real property.*

(1) Except as provided in division (A)(7) below, the power of the city to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution, directing the sale at public auction or by sealed bid of that property and the manner and terms thereof, except that the property shall not be sold at public auction or by sealed bid when:

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

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

(c) The property consists of streets and alleys.

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

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

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

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

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

(d) Upon completion of the comparison of names and addresses with the voter registration records, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth the name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found, and if the reason for the invalidity of the signature or address is other than the nonregistration 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.

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

(f) The City Council shall, within 30 days after the receipt of the remonstrance and certifications from the Election Commissioner or County Clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. The City Council shall, 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 city may be conveyed without consideration to the state for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. RS 18-1001 through 18-1006.

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

(Neb. RS 17-503)

(7) Divisions (A)(1) through (A)(6) above 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 \$5,000. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the city for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required.

(Neb. RS 17-503.01)

(B) *Sale and conveyance; personal property.*

(1) The power of the city to convey any personal property owned by it shall be exercised by resolution directing the sale and the manner and terms of the sale. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the city for a period of not less than seven days prior to the sale of the property. If the fair market value of the property is greater than \$5,000, notice of the sale shall also be published once in a legal newspaper published in or of general circulation in the city at least seven 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.

(2) Personal property may be conveyed notwithstanding the procedure in division (B)(1) above when:

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

(b) The property is being conveyed to another public agency.

(Neb. RS 17-503.02)

(1999 Code, § 8-107)

§ 92.021 ACQUISITION OF PROPERTY; CONSTRUCTION; ELECTIONS, WHEN REQUIRED.

(A) The city is authorized and empowered to purchase, accept by gift or devise, purchase real estate upon which to erect, and erect a building or buildings for an auditorium, fire station, city building or community house for housing city enterprises and social and recreation purposes, and other public buildings, including the construction of buildings authorized to be constructed by Neb. RS Chapter 72, art. 14, and including construction of buildings to be leased in whole or in part by the city to any other political or governmental subdivision of the state authorized by law to lease the buildings, and maintain, manage and operate the same for the benefit of the inhabitants of the city.

(B) Except as provided in division (C) below, before any purchase can be made or building erected, the question shall be submitted to the electors of the city at a general city election or at an election duly called for that purpose, or as set forth in division (D) below, and be adopted by a majority of the electors voting on the question.

(Neb. RS 17-953)

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

(1) Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the city and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice, a remonstrance against the purchase or construction is signed by registered voters of the city equal in number to 15% of the registered voters of the city voting at the last regular city election held therein and is filed with the City Council. If the date for filing the remonstrance falls upon a Saturday, Sunday or legal holiday, the signatures shall be 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 city election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then, nor within one year following the election, be purchased or constructed; or

(2) The City Council may proceed without providing the notice and right of remonstrance required in division (C)(1) above if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000. The purchase shall be approved by the City Council after notice and public hearing.

(Neb. RS 17-953.01)

(D) (1) The Mayor and City Council adopting the proposition to make the purchase or erect the building or buildings for the purposes set forth in division (A) above shall have the power to borrow money and pledge the property and credit of the city upon its negotiable bonds. No bonds shall be issued until after the same have been authorized by a majority vote of the electors voting on the proposition of their issuance, at a general city election or at a special election called for the submission of the proposition. The question of the purchase or erection of a building or buildings, as set forth in division

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(A) above, and the question of the issuance of the negotiable bonds referred to in this division (D) may be submitted as one question at a general city or special election if so ordered by resolution or ordinance.

(2) Notice of the time and place of the election shall be given by publication in some legal newspaper printed in or of general circulation in the city three successive weeks immediately prior thereto.

(3) No election for the issuance of bonds shall be called until a petition therefor signed by at least 10% of the legal voters of the city has been presented to the City Council. The number of voters voting at the last regular city election prior to the presenting of the petition shall be deemed the number of votes in the city for the purpose of determining the sufficiency of the petition.

(4) The question of bond issues for that purpose in the city when defeated shall not be resubmitted for six months from and after the date of the election.

(5) When the building to be constructed is to be used by the state or its agency or agencies under a lease authorized by Neb. RS Chapter 72, art. 14, or the building is to be leased by any other political or governmental subdivision of the state, when the combined area of the building to be leased by the state or its agency or agencies and the political or governmental subdivision of the state is more than 50% of the area of the building, and when the sum does not exceed \$2,000,000, then no vote of the electors will be required.

(Neb. RS 17-954)

(1999 Code, § 8-108)

§ 92.022 ACQUISITION OF REAL PROPERTY; PUBLIC MEETING.

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

(B) The city shall provide to the public a right of access for recreational use to real property acquired for public recreational purposes. The access shall be at designated access points and shall be equal to the right of access for recreational use held by adjacent landowners. The right of access granted to the public for recreational use shall meet or exceed the right held by a private landowner adjacent to the real property.

(Neb. RS 18-1755) (1999 Code, § 8-109)

§ 92.023 ACQUISITION OF PROPERTY; APPRAISAL.

Notwithstanding any other provision of law, the city shall not purchase, lease-purchase or acquire for consideration real property having an estimated value of \$100,000 or more unless an appraisal of the property has been performed by a certified real property appraiser.

(Neb. RS 13-403) (1999 Code, § 8-110)

**§ 92.024 PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING;
REQUIREMENTS.**

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

(2) This division (A) shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed \$100,000 or the adjusted dollar amount set by the Board of Engineers and Architects.
(Neb. RS 81-3445)

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

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

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

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

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

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

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

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

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

(D) For the purpose of this section, the city is considered a public service provider if it employs or appoints an architect or a professional engineer to be in responsible charge of the city's architectural or engineering work.

(Neb. RS 81-3423)

(1999 Code, § 8-111)

§ 92.025 SIDEWALK CAFÉS.

The City Council may permit the public streets and sidewalks within the city limits to be occupied and used under a lease, license or other permission by a person, business or others for the sale of services or goods and may permit the placement of nonpermanent sidewalk cafés, tables, chairs, benches and other temporary improvements from which sales can be transacted on the public streets and sidewalks.

(1999 Code, § 8-112)

SIDEWALKS

§ 92.040 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 the sidewalk. Unless the City Council has provided otherwise, 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 9:00 a.m. the following day, and sidewalks within the residential areas of the city shall be cleaned within 24 hours after the cessation of the storm. (1999 Code, § 8-201) Penalty, see § 92.999

§ 92.041 CONSTRUCTION; NOTICE.

(A) Whenever three-fourths of the City Council shall deem it necessary that a sidewalk shall be constructed in front of any lot or piece of ground in the city in a place where there is no sidewalk or that an existing sidewalk should be reconstructed or widened they shall so order and the Street Commissioner shall thereupon notify in writing the owner of a lot or piece of ground of the work or improvement to

be done, and the owner so notified shall be allowed 30 days from the service of the notice in which to accomplish the same. The notice shall be given by delivering the same to the owner in person or by leaving it at his or her usual place of residence in the city, or if he or she is a nonresident of the city, by publication of the notice one time in a legal newspaper published in and of general circulation in the city. The notice shall notify the owner of the passage of the resolution and that he or she will have 30 days from and after the service of notice, or from day of publication in the event of notice in that manner, within which to accomplish the work ordered or cause the same to be done, and further notifying the owner that if he or she fails to comply within 30 days after notice as aforesaid, that the city will cause the work to be done and the cost of the work to be levied and assessed thereafter by the Mayor and Council as a special tax against the premises. The notice shall be on file in the Municipal Clerk's office.

(B) If the owner of the lot or piece of ground, or his or her agent is a resident of the city, personal service of the notice in accordance with the above return on the owner or his or her agent shall be deemed sufficient notice. If the owner or his or her agent is a nonresident of the city and if his or her mailing address be unknown or if a resident thereof and cannot be found, or if the Council shall elect to serve notice on the owner or his or her agent by publication, the City Clerk shall cause a copy of the notice addressed to " _____ legal owners of the following described property, to-wit: _____" to be published once in a legal newspaper of general circulation in the city. The publisher of the legal newspaper, or his or her agent, shall file with the City Clerk an affidavit of the publication of the resolution as soon as the publication herein required is completed. This publication shall be deemed good and sufficient notice to the owners of property, resident or nonresident, in front of, abutting or adjacent to which the sidewalk is to be constructed, reconstructed or widened. The affidavit of the printer or his or her agent shall be prima facie evidence of the publication herein required and shall be preserved and made a part of the records of the city.

(C) A copy of the notice shall be mailed to each nonresident owner whose mailing address is known and the fact of the mailing shall be attested by the Street Commissioner.
(1999 Code, § 8-203)

§ 92.042 MUNICIPAL CONSTRUCTION.

(A) (1) The Mayor and City Council may construct and repair sidewalks or cause the construction and repair of sidewalks in a manner as the Mayor and City Council deem necessary and assess the expense thereof on the property in front of which the construction or repairs are made, after having given notice:

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

(b) 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 the construction or repair.

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

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(3) If the owner of any property abutting any street or avenue or part thereof fails to construct or repair any sidewalk in front of the owner's property within the time and in the manner as directed and requested by the Mayor and City Council, after having received due notice to do so, the Mayor and City Council may cause the sidewalk to be constructed or repaired and may assess the cost thereof against the property.
(Neb. RS 17-522)

(B) All sidewalks shall be constructed and repaired in conformity with plans and specifications as may be approved by the City Council.

(C) Assessments made under the provisions of this section shall be made and assessed in the following manner:

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

(2) All assessments shall be known as special assessments for improvements and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other city taxes.

(Neb. RS 17-524)
(1999 Code, § 8-204)

Statutory reference:

Authority to improve through sidewalk district, see Neb. RS 19-2417 through 19-2419

§ 92.043 REPAIR.

(A) The governing body may, by resolution, order the repair of a sidewalk on any lot or piece of ground within the municipality and may assess the expense thereof on the property in front of which the repairs are 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 the repair.

(B) The notice shall:

(1) State that the governing body has ordered repair of the sidewalk;

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

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

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

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

(2) The Municipal Clerk shall mail the notice by certified mail with return receipt requested.

(3) For purposes of this division (C), *NONRESIDENT PROPERTY OWNER* means any person or corporation whose residence and mailing address as shown on the current tax rolls is outside the boundaries of the county in which the property subject to assessment is located and who is a record owner of the property.

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

(E) Assessments made under this section shall be made and assessed in the manner provided in Neb. RS 17-524.

(1999 Code, § 8-205) (Ord. 05-679, passed 3-1-2005)

§ 92.044 FAILURE OF OWNER TO CONSTRUCT OR REPAIR.

If any owner shall neglect or refuse, or shall have failed after notice has been given as provided in this subchapter, to construct, repair, replace or reconstruct any sidewalk within the time limit in the notice given in this case, and whose duty it is made by this subchapter to construct, repair, replace or reconstruct any sidewalk, the Street Commissioner shall proceed at once without further notice to the owner or persons to have the sidewalk constructed, repaired, rebuilt or reconstructed, as the case may be, and the expense of the work shall be assessed to the lot or piece of land, and collected as provided by law; provided, a majority of the owners of the property subject to assessment for improvements shall have petitioned the Council to make the same or unless three-fourths of all the members of the Council by vote assent to the making of the improvements.

(1999 Code, § 8-206)

§ 92.045 PLANS AND SPECIFICATIONS; PERMITS; BIDS.

All concrete sidewalks hereafter laid, constructed or reconstructed along any street or avenue in the city shall be in conformity with those plans and specifications as may be prepared by the City Engineer and adopted and approved by the Mayor and Council. Any person desiring to construct or cause to be constructed any sidewalk on any street or avenue abutting his or her property in the city shall obtain a permit and survey as hereinafter provided; and it shall be unlawful for any person to construct any sidewalk without first having obtained the permit and survey. Application for the permit shall be made in writing to and filed in the office of the Street Commissioner and shall give a description of the lot or piece of land along which it is desired to construct the sidewalk. The Street Commissioner shall grant the permit unless good cause shall appear why the permit shall be denied; provided, that if it is desired to construct the sidewalk at other than the regularly prescribed location, grade or elevation, the Street Commissioner shall submit the application to the Council who shall determine whether the permit shall be granted or denied. When a permit is granted for the construction of a sidewalk, the City Engineer, or other engineer employed by the city, shall make a survey and set stakes indicating the location, grade and elevation of the sidewalk, and it shall be unlawful for any person to construct or cause to be constructed the sidewalk at any other location, grade or elevation than so designated by the Engineer. All sidewalks shall be built and constructed on the established grade or elevation or if there be no established grade then on the grade or location indicated by the City Engineer within ten days after being directed so to do. The fees of the Engineer shall be paid by the City, but if the person obtaining the permit and survey fails or neglects to construct the sidewalk within 60 days thereafter of the applicant shall be liable to the city for the expense of the survey at the rate of \$3 per hour required to make the same which shall be included in the special assessment and considered as a special benefit. Whenever the city shall construct, widen, replace or reconstruct any sidewalk as hereinbefore provided, notice specifying the work to be done and calling for bids and labor shall be published in at least one issue of a legal newspaper published in and of general circulation in the city, the bids to be filed within ten days after the date of first publication and to be opened at the next regular or special meeting of the Council who shall award the work to the lowest responsible bidder.

(1999 Code, § 8-207)

§ 92.046 CONSTRUCTION AND REPAIR REQUIREMENTS; ASSESSMENT OF COSTS.

(A) No sidewalk shall hereafter be constructed, altered or repaired until a permit therefor has been issued by the Street Commissioner as provided in § 92.045. All sidewalks shall be constructed of concrete, glass, iron or a combination of those materials and in conformity with the specifications as are adopted pursuant to the provisions of § 92.045. The City Engineer may reject the use of any materials that do not comply with these requirements and specifications, or any material that is lacking in quality, and it shall be unlawful to construct any sidewalks from any material so rejected.

(B) These specifications shall precisely provide for width, slope, distance from lot lines, forms, grading and subbase, base, wearing surface, expansion joints and other general conditions. The City Engineer shall certify to the Council a detailed schedule of all sidewalks laid, widened or rebuilt and the cost of the same from which the Council may be aided in determining the amount to be assessed as a special assessment against each lot or piece of ground; and those other facts as may be necessary to enable it to make the proper special assessment; and he or she shall also certify to the Council the

acceptance of any sidewalk so improved or what other action he has taken with reference to the sidewalk. The City Engineer shall allocate the cost of sidewalk improvements to the adjoining lots or parcels of land and prepare all necessary data for assessment sheets.

(1999 Code, § 8-208)

STREETS

§ 92.060 OPENING, WIDENING, IMPROVING OR VACATING.

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

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

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

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

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

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

(b) There is reserved to the city, any public utilities and any cable television systems the right to maintain, repair, renew and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on or below the surface of the ground that are existing as valid easements at the time title to the property is vacated for the purposes

of serving the general public or the abutting properties and to enter upon the premises to accomplish those purposes at any and all reasonable times.
(Neb. RS 17-558)

(B) The city shall have power to create, open, widen or extend any street, avenue, alley, off-street parking area or other public way or annul, vacate or discontinue the same.
(Neb. RS 17-559)
(1999 Code, § 8-301)

§ 92.061 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 Street Commissioner authorizing those excavations.
(1999 Code, § 8-302) Penalty, see § 92.999

§ 92.062 DRIVING STAKES.

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the Street Commissioner.
(1999 Code, § 8-303) Penalty, see § 92.999

§ 92.063 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.
(1999 Code, § 8-304) Penalty, see § 92.999

§ 92.064 HARMFUL LIQUIDS.

It shall be unlawful for any person to place or permit to leak in the gutter of any street any waste gasoline, kerosene or high lubricating oils, which damage or act as a solvent upon the streets.
(1999 Code, § 8-305) Penalty, see § 92.999

CURB AND GUTTER

§ 92.075 CUTTING OR GRINDING CURB; REQUIREMENTS.

(A) It is declared advisable and necessary to establish specific instructions pertaining to the curb cut, entry or crossing of a street having asphaltic or concrete surfacing with a pipeline, sewer and/or water line, conduit or cable and to the method of attaching driveways to existing curb and gutter. The person desiring to make a curb cut shall be referred to as the applicant; that the applicant shall make formal request to the City Council for approval or denial.

(B) If approved, the applicant shall make entry or crossing only at the location directed by the City Engineer or Utilities Superintendent.

(C) Existing concrete or asphaltic concrete surfacing shall be saw-cut to a depth of one-third total thickness, to a width of 12 inches either side of the trench.

(D) Sewer and water lines shall be placed at a minimum depth of 42 inches below finished grade. Gas mains, cables and conduits shall be placed at a minimum depth of 36 inches below finished grade.

(E) The applicant shall have the option of backfilling with earth or sand-gravel. Earth backfilling shall be made in six-inch maximum layers and shall be mechanically tamped to a minimum of 92% of maximum density as determined by the Modified AASHO Method, sand-gravel shall be thoroughly compacted by mechanical means or water settlement.

(F) When backfilling has been performed according to the above requirements, the paving cut shall be replaced to a depth equal to the adjoining cross-section of paving with a minimum of six inch depth. Material for this replacement shall be concrete, conforming to State of Nebraska Standard Specifications for Highway Construction. Concrete shall be type "ABX" or "47B" at applicant's option.

(G) After crossing is completed, the entire area within the right-of-way shall be left in a neat and presentable condition conforming as nearly as possible to the original condition.

(H) The applicant shall assume full responsibility for damage to any existing utilities, structures or the right-of-way itself and save the city harmless from any or all actions directly or indirectly related to his or her operations on the right-of-way while making the crossing.

(I) Any person desiring to perform curb grinding shall make a request to the Utilities Superintendent, in a form and manner as determined by the Superintendent, who shall have the authority to approve or deny the request.

(1999 Code, § 8-401)

§ 92.076 DRIVEWAYS.

Driveways shall be attached to existing curb and gutter only at locations directed by the City Engineer or Utilities Superintendent. The curb shall be removed at these locations by saw-cutting a minimum of 12 inches from the back of the curb for a length of W6' (width of drive six feet for wings). Removing the curb and replacing with a three-inch drive-over curb of construction similar to the existing. A three-fourths expansion joint shall then be placed at the curb line and the driveway built. (1999 Code, § 8-402)

§ 92.999 PENALTY.

(A) Any person, or any person's agent or servant, who violates any of the provisions of this chapter, unless otherwise specifically provided herein, shall be deemed guilty of an offense and upon conviction thereof shall be fined in any sum not exceeding \$500. A new violation shall be deemed to have been committed every 24 hours of failure to comply with the provisions of this chapter.

(B) (1) Whenever a nuisance exists as defined in this title, the municipality may proceed by a suit in equity to enjoin, abate and remove the same in the manner provided by law.

(2) Whenever, in any action, it is established that a nuisance exists, the Court may, together with the fine or penalty imposed, enter an order of abatement as a part of the judgment in the case. (1999 Code, § 8-601) (Ord. 00-20, passed 6-6-2000)