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CHAPTER 8 – PUBLIC WAYS AND PROPERTY

Article 1 – Municipal Property

§8-101 MAINTENANCE AND CONTROL

The City Council shall have the care, supervision, and control of all public highways, bridges, streets, public squares, and commons within the City and shall cause the same to be kept open, in repair, and free from nuisances. Property owners with land adjacent to alleys shall cause the portion of the alley which is adjacent to their property line and extends out to the center of the alley to be kept open, in repair, and free from nuisances. (Neb. Rev. Stat. §17-567)

§8-102 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. Said trees, shrubs and their roots may be removed by the City 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, persons, firm, or corporation to obstruct or encumber by fences, gates, buildings, structures, or otherwise any of the streets, alleys, or sidewalks. (Neb. Rev. Stat. §17-555, 17-557, 17-557.01)

§8-103 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 persons shall make application to and receive a permit in writing from the city official in charge of 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 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 official issuing the permit. (Neb. Rev. Stat. §17-142)

§8-104 WEEDS

It is hereby the duty of the Chief of Police or his duly authorized agent 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 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 in like manner during the growing season for weeds; provided, any weeds growing in excess of six inches on any sidewalk space shall be considered a violation of this section. In the event that the owner of any lot or parcel of land abutting said sidewalk space within the City is a nonresident of the City 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 there

can be found no one within the City to whom notice can be given, it shall be the duty of the Chief of Police or his agent to post a copy of the notice on the premises and then to cut or cause the weeds to be cut as therein provided and report the cost in writing to the City Council. The cost shall then be audited and paid by the City and the amount shall be assessed against the lot or parcel of land as a special tax thereon and shall be collected as are other taxes of the City or may be recovered by civil suit brought by the City 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 City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

§8-105 SALE AND CONVEYANCE

(1) Except as provided in subsection (9) 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.

(2) 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.

(3) 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.

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

(5) Upon receipt of the remonstrance, the City Council, with the aid and assistance of

the County Clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The Council shall deliver the remonstrance to the County Clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the remonstrance, the County Clerk shall issue to the City Council a written receipt that the remonstrance is in his or her custody. The 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 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 County Clerk determines that the printed name, street and number or voting precinct, and city or post office address matches the registration records and that the registration was received on or before the date on which the remonstrance was filed with the City Council. The determinations of the County Clerk may be rebutted by any credible evidence which the City Council finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance process. Upon completion of the comparison of names and addresses with the voter registration records, the 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 County Clerk shall set forth the reason for the invalidity of the signature. If the 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 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 County Clerk shall certify to the City Council the number of valid signatures necessary to constitute a valid remonstrance and shall deliver the remonstrance and the certifications to the Council within 40 days after the receipt of the remonstrance from the 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.

(6) The City Council shall, within 30 days after the receipt of the remonstrance and certifications from the County Clerk, hold a public hearing to review the remonstrance and certifications and receive testimony regarding them. Following the hearing, the City Council shall vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

(7) 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.

(8) 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 Register of Deeds of the county in which the property is located.

(9) Subsections (1) to (8) of 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 having a total fair market value of less than \$5,000.00. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the City for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required.

(Neb. Rev. Stat. §17-503, 17-503.01)

§8-106 SIGNS AND CANOPIES

No person, firm, or corporation shall erect or maintain any sign, signboard, poster, or rigid canopy over any street, sidewalk, alley, or on other public property without having first obtained a permit therefor. Permits for signs, canopies, posters, and signboards shall be issued by the City Clerk, subject to the approval of the City Administrator, upon the payment of a fee set by resolution of the City Council. All signs 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 same being dislodged by ordinary winds or falling from other causes. No sign or canopy shall be erected or maintained which extends over any public sidewalk, street, alley, or other public place in such a location as to obstruct the view of any traffic light, sign, or signal. Upon the written order of the City Council, any person owning or occupying the premises where such a sign, canopy, poster, or signboard is located shall cause the same to be removed within the time limit specified on such notice. (Neb. Rev. Stat. §17-557)

§8-107 OVERHANGING BRANCHES (Repealed by Ord. No. 890, 9/28/00)

§8-108 SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCEDURE

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 Council shall have 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 district, the City Council shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law. (Neb. Rev. Stat. §18-1751)

§8-109 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 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 Section 8-314. (Neb. Rev. Stat. §19-2427)

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

(1) The City is authorized and empowered to (a) purchase, (b) accept by gift or devise, (c) purchase real estate upon which to erect, and (d) erect a building or buildings for an auditorium, fire station, city building, or community house for housing city enterprises and social and recreation purposes, and other public buildings and maintain, manage, and operate the same for the benefit of the inhabitants of the City.

(2) Except as provided in subsection (3) of this section, before any such purchase can be made or building erected, the question shall be submitted to the electors of the City at a general city 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.

(3) 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:

(a) Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the City. 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 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

(b) The City Council may proceed without providing the notice and right of remonstrance required in subdivision (a) of this subsection if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000.00. The purchase shall be approved by the City Council after notice and public hearing as provided in Neb. Rev. Stat. §18-1755.

(Neb. Rev. Stat. §17-953, 17-953.01)

§8-111 ACQUISITION OF PROPERTY; PUBLIC MEETING; ACCESS FOR RECREATIONAL USE

(1) 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.

(2) The City shall provide to the public a right of access for recreational use to real property acquired for public recreational purposes. Such 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 such right held by a private landowner adjacent to the real property.

(Neb. Rev. Stat. §18-1755)

§8-112 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 \$100,000.00 or more unless an appraisal of such property has been performed by a certified property appraiser.

(Neb. Rev. Stat. §13-403)

§8-113 PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS

(1) Except as provided in subsection (2) of this section, the City shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer or those under the direct supervision of an architect or professional engineer.

(2) Subsection (1) of this section shall not apply to the following activities:

(a) Any public works project with contemplated expenditures for the completed project that do not exceed \$80,000. (Neb. Rev. Stat. §81-3445, 81-3449(3), and 81-3453(3))

(b) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building. (Neb. Rev. Stat. §81-3449(4) and 81-3453(4))

(c) Performance of professional services for itself if the City appoints a city engineer or employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work. (Neb. Rev. Stat. §81-3423, 81-3449(9), and 81-3453(6))

(d) The practice of any other certified trade or legally recognized profession. (Neb. Rev. Stat. §81-3449(11) and 81-3453(7))

(e) Earthmoving and related work associated with soil and water conservation practices performed on any land owned by the City that is not subject to a permit from the Department of Natural Resources. (Neb. Rev. Stat. §81-3449(13) and 81-3453(12))

(f) The work of employees and agents of the City performing, in accordance with

other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land use regulations and their customary duties in utility and public works construction, operation, and maintenance. (Neb. Rev. Stat. §81-3449(14) and 81-3453(13))

(g) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant. (Neb. Rev. Stat. §81-3453(10))

(h) The construction of city water wells as defined in Neb. Rev. Stat. §46-1212, the installation of pumps and pumping equipment into city water wells, and the decommissioning of city water wells, unless such construction, installation, or decommissioning is required by the City to be designed or supervised by an engineer or unless legal requirements are imposed upon the City as a part of a public water supply. (Neb. Rev. Stat. §81-3453(15))

(i) Any other activities described in Neb. Rev. Stat. §81-3449 to 81-3453.
(Am. by Ord. No. 879, 5/18/00)

Article 2 – Sidewalks

§8-201 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 hours after the cessation of a storm unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 10:00 A.M. the following day; provided, sidewalks within the residential areas of the City shall be cleaned within 24 hours after the cessation of the storm. (Neb. Rev. Stat. §17-557)

§8-202 MAINTENANCE (Repealed 2005)

§8-203 REPAIR

(1) The Mayor and City Council may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as they deem necessary and assess the expense thereof on the property in front of which such 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 such premises ten days prior to the commencement of such repair or construction. (Neb. Rev. Stat. §17-522)

(2) The notice shall:

(a) State that the City Council has ordered repair of the sidewalk;

(b) Contain the City's estimate of the cost of the repair;

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

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

(3)(a) Before the City imposes any special assessments for sidewalk repair, a copy of the notice that is required to be published shall be mailed to the last known address of all non-

resident property owners as shown on the current tax rolls at the time such notice is first published. (Neb. Rev. Stat. §13-310)

(b) The City Clerk shall mail the notice by certified mail with return receipt requested. (Neb. Rev. Stat. §13-312)

(c) For purposes of this division, “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. (Neb. Rev. Stat. §13-314)

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

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

§8-204 CONSTRUCTION BY OWNER; REMOVAL AND REPLACEMENT

(1) 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.

(2) 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 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 the sidewalk at any other than the regularly prescribed location, grade, or elevation, the city official in charge of sidewalks 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 official in charge of sidewalks. (Neb. Rev. Stat. §17-522)

(3) No sidewalk or portion of sidewalk shall be removed without being replaced. Any sidewalk removed shall be replaced to meet the requirements and standards stated above for new construction. Any replacement sidewalk shall be constructed within 60 days of removal of the existing sidewalk.

(Am. by Ord. No. 888, 11/2/00)

§8-205 CITY CONSTRUCTION

(1) 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 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.

(2) A copy of said notice shall be personally served upon the occupant in possession of such property or, when personal service is not possible, said notice shall be posted upon such premises ten days prior to the commencement of construction. The 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 posting as herein required.

(3) Said notice shall notify the owner of the premises of the passage of the resolution ordering him to construct or cause to be constructed a sidewalk within 30 days after the date of publication and further, that if he fails to construct the sidewalk or cause the same to be done within the time allowed, the City will cause the sidewalk to be constructed and the cost thereof shall be levied and assessed as a special tax against the premises; provided, the notice shall contain the official estimate of the cost of said construction and no special assessment in excess of this estimate shall be assessed against the property. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (Neb. Rev. Stat. §17-522, 17-523)

§8-206 CONSTRUCTION BIDS

Whenever the City shall construct, widen, replace, or reconstruct any sidewalk, notice prepared by the City Attorney, specifying the work to be done and calling for bids for doing such work and supplying the necessary materials and labor, shall be published in at least one issue of a legal newspaper of circulation in the City; provided, bids so invited shall be filed in the office of the City Clerk within ten days after the date of publication. Bids shall be opened at the next regular or special meeting of the City Council, which shall then award the work to the lowest responsible bidder. Upon approval of the work, the Council may require the contractor to accept payment in certificates issued to him by the City Clerk entitling him to all assessments or special taxes against such real estate whenever such assessments or special taxes shall be collected, together with the interest or penalty collected thereon. Each certificate shall give the legal description of the lot, lots, or parcel of ground against which the assessments or special taxes are assessed. Such certificate or certificates may be assigned and transferred, entitling the holder to the same rights as if held by the original contractor. The County Treasurer shall pay over to such contractor or other holder of the certificate or certificates all assessments or special taxes against such real estate, together with the interest and penalty thereon, at any time upon presentation of such certificate or certificates after said assessments or special taxes against such real estate, together with interest or penalty thereon shall have been collected. (Neb. Rev. Stat. §18-2442)

§8-207 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 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 nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

§8-208 REQUIRED

(1) The official in charge of buildings shall require all property owners of newly constructed buildings or substantially improved properties, residential or commercial, to install sidewalks along and contiguous to the lot, lots, or parcel of land abutting any street, avenue, or roadway. For the purpose of this section, "substantially improved" shall mean any reconstruction, rehabilitation, renovation, addition, or other improvement of a structure or premises whose cost equals or exceeds 50% of the assessed value of the principal building or structure before start of construction of the improvement.

(2) Said property owner shall provide a site plan including but not limited to the location of all required sidewalks at the time of building permit application. If it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, or elevation, the city official in charge of sidewalks shall submit the application to the City Council, which shall determine whether the desired location shall 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 not established grade, then on the grade or elevation indicated by the city official in charge of sidewalks.

(3) All sidewalks shall be constructed of concrete with a minimum thickness of four inches and a minimum width of four feet. Where a required sidewalk extends to a street intersection, handicapped access ramps shall be provided. If the street curb is not sloped to provide said access, the property owner shall be responsible to have said curb ground to the appropriate height and slope. In multiple-family residential and nonresidential applications, said sidewalks shall be of a width suitable for the anticipated traffic but not less than four feet.

(4) The official in charge of buildings shall not issue a certificate of occupancy until such time as all required sidewalk improvements are complete.

(Ord No. 947, 10/10/02)

Article 3 – Streets

§8-301 NAMES AND NUMBERS

(1) The City Council may at any time 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 Council may require. It shall be the duty of the Street Superintendent upon the erection of any new building to assign the proper numbers to said building or buildings and give notice to the owner(s) and occupant(s) of the same. Every building or residence fronting upon any of the streets in the City shall be numbered and the following system of numbering the same is hereby adopted:

(a) All streets shall be numbered north and south from Silver Street and east and west from Fifth Street. Streets running north or south from Silver Street shall be designated as such, for example “North Fifth Street” and “South Fifth Street.” Streets running east or west from Fifth Street shall be designated as such, for example “East Silver Street” and “West Silver Street.”

(b) For streets running east and west, odd numbers shall be given to the buildings and residences on the south side and even numbers on the north side. For streets running north and south, odd numbers shall be given to the buildings and residences on the west side and even numbers on the east side. On all streets running north or south from Silver Street, numbers shall commence with 100 for the first number in the first block, 200 for the second block, and in like manner to the city limits. On all streets running east or west from Fifth Street, numbers shall commence with 100 for the first number in the first block, 200 for the first number in the second block, and in like manner to the city limits.

(c) On any street where there is a long block directly opposite to two blocks, the numbers in the long block shall be made to correspond with the blocks opposite.

(d) In all cases where there shall be short streets or streets which do not extend to the basic or original streets: Such streets shall be taken to have the numbered blocks which they would have and receive in case they did extend to the original streets and shall be designated in their numbers of buildings or residences as East or West, or North or South.

(e) The space or distance allowed each number shall be eight feet. To find a number, measure from the corner of one block, commencing with the first number of the block, and count one number for each eight feet until opposite the door. The number of these eight feet shall be the number for the door of the building.

(f) The numbers herein provided for shall not be less than three inches in height nor less than one and one-half inches in width nor shall they exceed eight inches in height nor four inches in width.

(2) It shall be the duty of each owner or occupant to place or cause to be placed and maintained upon the front of his building in a conspicuous place near the front entrance to

such building the number of that building. Any person failing to comply with the provisions of this section shall upon conviction thereof be fined in the sum of \$2.00 and costs of prosecution and stand committed until such fine and costs are paid. In case of the refusal or neglect of any person herein designated to number his buildings as provided in this section, the Council may order the proper number placed thereon.

§8-302 CROSSINGS

The City Council may order and cause to be constructed, under the supervision of the city official in charge of streets, such street, avenue, and alley crossings as the Council shall deem necessary. When a petition for the construction of any such crossings is filed by an interested resident in the office of the City Clerk, he or she shall refer such application to the chief street official, who shall investigate and make his recommendation to the City Council. Action by the Council on such application, whether the application is approved or rejected, shall be considered final. (Neb. Rev. Stat. §17-509)

§8-303 WIDENING, IMPROVING, OR VACATING

(1) (a) 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.

(b) Whenever any street or alley 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 such street or alley. If title is retained by the City, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the City.

(c) When a portion of a street, avenue, alley, or lane is vacated only 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 such street or alley. If title is retained by the City, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the City.

(d) 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.

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

(i) 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

(ii) 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 on or below the surface of the ground that are existing as valid easements at the time title to the property is vacated, for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times. (Neb. Rev. Stat. §17-558)

(2) 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. Rev. Stat. §17-559)

§8-304 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 chief street official authorizing such excavations. (Neb. Rev. Stat. §17-567)

§8-305 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 chief street official. (Neb. Rev. Stat. §17-557)

§8-306 MIXING CONCRETE

It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever. (Neb. Rev. Stat. §17-557)

§8-307 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. (Neb. Rev. Stat. §17-557)

§8-308 STREETS; PIPE LINES AND WIRES

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 of the City. Application for location of the above shall be made to the City Council in writing. Approval by that body shall be issued in writing. Any public service company granted a right of way for the erection and maintenance of poles, conduits, gas mains, 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 City Council. Such poles, wires, gas mains, pipe lines, and other appurtenances shall be removed or relocated by said compa-

nies at their own expense when requested to do so by the City Council. Any such relocation shall be ordered by resolution of the Council, and the City Clerk shall notify any and all companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense cause the poles, wires, gas mains, pipe lines, or other appurtenances to be removed. The City Council shall designate another location as closely as possible where said 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 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, pipe lines, or appurtenances shall be confined to the alleys of the City.

§8-309 CONSTRUCTION ASSESSMENT

(1) 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 same. The vote shall be recorded in the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in some legal newspaper published, or of general circulation, in the City at least four weeks before the same shall be held. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed.

(2) Such assessments shall be known as "special assessments for improvements" and with the cost of notice shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as other city taxes and shall be certified to the County Clerk by the City Clerk forthwith after the date of levy for collection by the Treasurer of said county unless otherwise specified. After it shall have become delinquent, said assessment shall draw interest at the legal interest rate per annum. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (Neb. Rev. Stat. §17-511, 17-524, 19-2428 through 19-2431, 45-104.01)

§8-310 IMPROVEMENT DISTRICTS; OBJECTIONS

Whenever the City Council deems it necessary to make any improvements allowed by statute which are to be funded by a levy of special assessment on the property especially benefited,

the City Council shall by ordinance create a paving, graveling, or other improvement district and, after the passage, approval, and publication or posting of such ordinance, shall publish notice of the creation of any such district for six days in a legal newspaper of the City, if a daily newspaper, or for two consecutive weeks if it is a weekly newspaper. If no legal newspaper is published in the City, the publication shall be in a legal newspaper of general circulation in the City. If the owners of the record title representing more than 50% of the front footage of the property directly abutting on the street or alley to be improved file with the City Clerk within 20 days after the first publication of such notice written objections to the creation of such district, such improvement shall not be made as provided in such ordinance but such ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the City Council shall immediately cause such work to be done or such improvement to be made, shall contract for the work or improvement, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited in such district in proportion to such benefits to pay the cost of such improvement. (Neb. Rev. Stat. §17-511)

§8-311 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's corporate area and the area 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. (Neb. Rev. Stat. §17-509)

§8-312 IMPROVEMENT OF MAIN THOROUGHFARES

The Mayor and City Council shall have the power, by a three-fourths vote, 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 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. (Neb. Rev. Stat. §17-512)

§8-313 PETITION FOR IMPROVEMENTS

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

grounds for such denial in a written letter to interested parties. (Neb. Rev. Stat. §17-510)

§8-314 DEFERRAL FROM SPECIAL ASSESSMENTS

(1) Whenever the City Council creates an improvement district as specified in Section 8-108 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, “agricultural use” means the use of land as described in Neb. Rev. Stat. §77-1359, so that incidental use of the land for nonagricultural or nonhorticultural purposes shall not disqualify the land; and “agricultural use zone” means designation of any land predominantly for agricultural or horticultural use by any political subdivision pursuant to Neb. Rev. Stat. §19-924 to 19-933; Neb. Rev. Stat. Chapter 14, Article 4; Chapter 15, Article 9; Chapter 16, Article 9; Chapter 17, Article 10 or Chapter 23, Article 1. The primary objective of the agricultural use zoning shall be to preserve and protect agricultural activities and the potential for agricultural, horticultural or open use of land. Uses to be allowed on such lands include primarily agricultural-related or horticultural-related uses, and nonagricultural or nonhorticultural industrial, commercial or residential uses allowed on such lands shall be restricted so that they do not conflict with or detract from this objective.

(2) 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 as specified in Section 8-108. Any owner of record title who makes application for the deferral provided by this section shall notify the County Register of Deeds of such application in writing prior to approval by the City Council, which 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.

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

(a) Notification by the owner of record title to the City Council to remove such deferral;

(b) 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;

(c) Transfer by reason of death of a former owner to a new owner who does not make application within 125 days of the transfer;

(d) The land is no longer being used as agricultural land; or

(e) Change of zoning to other than an agricultural zone.

(4) 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.

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

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

§8-315 DRIVEWAY APPROACHES

The Street Superintendent may require the owner of property served by a driveway approach constructed or maintained upon the street right of way to repair or replace any such driveway approach which is cracked, broken, or otherwise deteriorated to the extent that it is causing or is likely to cause damage to or interfere with any street structure, including pavement or sidewalks. The City Clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such driveway approach. If within 30 days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the Street Superintendent may cause such work to be done and assess the cost upon the property served by such approach. (Neb. Rev. Stat. §18-1748)

§8-316 VACATING PUBLIC WAYS; DEFINITIONS AND ASCERTAINING DAMAGES

(1)(a) "Special damages" shall mean only those losses or damages or injuries which a property owner suffers that are peculiar or special or unique to his/her property and which result from the City Council's vacation of such street, avenue, alley, lane or similar public way.

(b) "Special damages" shall not mean those losses or damages or injuries that a property owner suffers that are in common with the rest of the City or public at large, even though those losses or damages or injuries suffered by the property owner are greater in degree than the rest of the City or public at large.

(2) The Mayor shall appoint three or five or seven disinterested residents of the City to a special commission to ascertain the amount of special damages that the abutting property owners are entitled to receive and which resulted from the City Council's vacation of such street, avenue, alley, lane or similar public way. The appointees of the special commission shall be approved by the City Council. Only special damages, as herein defined, shall be awarded to the abutting property owners.

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

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

(Neb. Rev. Stat. §17-558, 17-559)

§8-317 VACATING PUBLIC WAYS; PROCEDURE

Whenever the City Council decides that it would be in the best interests of the City to vacate a street, avenue, alley, lane or similar public way, the Council shall comply with the following:

(1) *Application.* Any person requesting that a public way be vacated shall first make application with the City Clerk. Said application shall specifically identify all public streets, avenues, alleys or ways requiring consideration and the reasons why said public streets, avenues, alleys or ways should be vacated. A non-refundable application fee as determined by the City Council shall accompany application. Each request for the vacation of a public street, avenue, alley or way, or combination thereof, whether or not including a specific public way or combinations of public ways previously applied for, shall require a separate application with a separate application fee attached.

(2) *Recommendation/Public Hearing.* The City Council shall receive a recommendation from the Planning Commission, the Fire Department, and any other entity it so chooses before the Council decides whether it would be in the best interest of the City to vacate a street, avenue, lane or similar public way or combination thereof. No such vacation shall become effective until separate public hearings are held by both the Planning Commission and the City Council in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard.

(3) *Notice.* Notice shall be given to all abutting property owners either by first class mail to their last known address or, if there is no known address, then by publishing the notice in a newspaper that is of general circulation in the City. The content of the notice will advise the abutting property owners that the City Council will consider vacating such street, avenue, alley, lane or similar public way at their next regular meeting or, if a special meeting is scheduled for such discussion, then the date, time and place of such meeting.

(4) *Consent/Waiver.* The City Council may have all the abutting property owners sign a form stating that they consent to the action being taken by the City Council and waive their right of access. The signing of such form has no effect on claims for special damages, as defined in Section 8-316, by the abutting property owners but does create the presumption that the Council's action was proper. However, if all the abutting property owners do not sign the consent/waiver form, the City Council may still proceed with vacating such street, avenue, alley, lane or similar public way under the authority granted by Neb. Rev. Stat. §17-558 and 17-559.

(5) *Ordinance.* The City Council shall pass an ordinance that shall state essentially the

following:

(a) A declaration that the action is expedient for the public good or in the best interests of the City.

(b) A statement that the City shall have an easement for maintaining all utilities.

(c) A method or procedure for ascertaining special damages to abutting property owners.

(6) *Filing.* The Clerk shall file a copy of the ordinance with the County Register of Deeds to ensure that abutting property owners can gain title to their share of the vacated street, avenue, alley, lane or similar public way and so that such land will be drawn to the attention of the County Assessor.

(Neb. Rev. Stat. §17-558, 17-559) (Am. by Ord. No. 991, 9/2/04)

§8-318 REMOVAL OF SNOW, ICE, OTHER MATERIAL AND ACCUMULATION

(1) No person shall throw, cast, drop, place, deposit or cause to be thrown, cast, dropped, placed or deposited on any sidewalk, street, alley or any other public way any ice, snow, grass, leaves, branches, or other refuse or debris.

(2) Exceptions.

(a) Snow and ice may be removed from private property in the downtown business district and temporarily placed in the public way so as to assist in snow and ice removal, provided such temporary placement does not impede travel or create a hazardous condition and such temporary placement is removed by the responsible party within 12 hours of its initial placement.

(b) Snow and ice removed from sidewalks in the downtown business district and placed in the street adjacent to the sidewalk from which the snow and ice was removed, provided such placement does not impede travel or create a hazardous condition.

(Ord. No. 996, 2/3/05)

Article 4 – Curb and Gutter

§8-401 CUTTING CURB

(1) 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 City Council. Before any person shall obtain a permit, he shall inform the City Clerk of the place where such cutting is to be done and it shall be the chief street official's duty to inspect the place of entry into the paving, sidewalk, or curb, before the same is cut. When cutting into any paving, it shall be the duty of the party to cut the paving under such rules and regulations as may be prescribed by the City Council or the City Engineer. When the applicant is ready to close the opening made, he shall inform the chief street official, who shall supervise and inspect the materials used and the work done in closing the opening. It shall be discretionary with the Council to order the chief street official, under the supervision and inspection of the City Engineer or the committee of the Council on streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit. The City Council may consent to the work of cutting and closing the paving to be done by the party holding such permit.

(2) Before any permit is issued by the City Council, the applicant for such permit shall deposit with the City Treasurer a sum set by resolution of the Council 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 City for the purpose of replacing the paving, curb, or sidewalk, in the event the work is done by the City. In the event the City elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the City until the work is completed to the satisfaction of the chief street official or of the committee of the City Council 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 City with a good and sufficient surety or sureties to be approved by the City Council in a sum set by resolution.

(Neb. Rev. Stat. §17-567)

Article 5 – Trees

(Article Am. by Ord. No. 890, 9/28/00)

§8-501 DEFINITIONS

“Park trees” shall mean trees, shrubs, bushes and all other woody vegetation in public parks having individual names and all areas owned by the City or to which the public has free access as a park.

“Street trees” shall mean trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

§8-502 CREATION AND ESTABLISHMENT OF A CITY TREE BOARD

There is hereby created and established a City Tree Board for the City which shall consist of five members, citizens and residents of this City or the near surrounding area, who shall be appointed by the Mayor with the approval of the City Council.

§8-503 TERMS OF OFFICE

The terms of the five persons to be appointed by the Mayor shall be three years, except that the term of two members appointed to the first Board shall be for only one year and the term of two members of the first Board shall be for two years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term.

§8-504 COMPENSATION

Members of the Board shall serve without compensation.

§8-505 DUTIES AND RESPONSIBILITIES

It shall be the responsibility of the Board to study, investigate, counsel, develop (and update annually) and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and upon its acceptance and approval shall constitute the official Comprehensive City Tree Plan for the City. The Board, when requested by the City Council, shall consider, investigate, make findings, report and recommend upon any special matter or question coming within the scope of its work.

§8-506 OPERATION

The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

§8-507 STREET TREE SPECIES TO BE PLANTED

The following list constitutes the official street tree species for the City. No species other than those included in this list may be planted as street trees without written permission of the City Tree Board.

SMALL TREES	MEDIUM TREES	LARGE TREES
Apricot	Ash; Green Ash	Kentucky Coffee Tree
Crabapple, flowering	Honey Locust (thornless)	Maple, Norway
Golden Rain Tree	Linden or Basswood	Maple, Silver
Hawthorn	Mulberry, Red (fruitless, male)	Maple, Sugar
Pear, Bradford	Oak, English Oak, Red	Oak, Burr Sycamore
Redbud Soapberry	Oak, Swamp White	Sycamore, London plantee
Lilac, Japanese Tree	Pecan	
Serviceberry	Birch, River	
	Osage, Orange (male, thornless)	
	Persimmon	
	White Hackberry	

§8-508 SPACING

The spacing of street trees will be in accordance with the three species size classes listed in section above and no trees may be planted closer together than the following, except in special plantings designed or approved by landscape architect: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet.

§8-509 DISTANCE FROM CURB AND SIDEWALK

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in subsection above and no trees may be planted closer to any curb or sidewalk than the following: small trees, 2 feet; medium trees, 3 feet; large trees, 4 feet.

§8-510 DISTANCE FROM STREET CORNERS AND FIREPLUGS

No street tree shall be planted closer than 35 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than ten feet of any fireplug.

§8-511 UTILITIES

No street trees other than those species listed as small trees in Section 8-507 above may be planted under or within ten lateral feet of any overhead utility wire or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

§8-512 PUBLIC TREE CARE

(1) The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

(2) The City Tree Board may remove or cause or order to be removed any tree or part thereof which is in an unsafe condition or which by reason or its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements or is affected with any injurious fungus, insect or other pest. This section does not prohibit the planting of street trees by adjacent property owners, providing that the selection and location of said trees is in accordance with Sections 8-507 through 8-511 hereof.

§8-513 TREE TOPPING

It shall be unlawful for any person or firm to top any street tree, park tree or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree as to remove the normal canopy and disfigure the tree. Trees severely damaged by storm or other causes or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section at the determination of the City Tree Board.

§8-514 PRUNING; CORNER CLEARANCE

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 said walk and at least 14 feet above the surface of said street. Whenever the limbs or branches of any tree or trees extend over streets or sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from streetlights or with the convenience of the public using said street or sidewalk, the City Council at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove said obstructions within five days after having received a copy thereof from the Street Superintendent, stating that the City will remove said branches and charge the costs thereof to the owner or occupant as a special assessment for improvements as herein provided if said resolution is not complied with. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessments against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (Neb. Rev. Stat. §17-557.01)

§8-515 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY

(1) The City shall have the right to cause the removal of any dead or diseased trees on

private property within the City when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the City, according to the provisions of Section 6-305 of this code.

(2) For purposes of carrying out the provisions of this subsection, the City Police shall have the authority to enter on private property along with any arborist or tree expert they may designate to inspect, examine or perform tests on the trees thereon.

§8-516 REMOVAL OF STUMPS

All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump does not project over the surface of the ground.

§8-517 INTERFERENCE WITH CITY TREE BOARD

It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board or any of its agents while they are engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds as authorized in this section.

§8-518 ARBORIST'S LICENSE AND BOND

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the City without first applying for and procuring a license. The license fee shall be paid annually in advance; provided, however, no license shall be required of any public service company or city employee doing such work in pursuit of their public service endeavors. Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$100,000 for property damage, indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors as herein described. Said license fee shall be set by the City Council and shall be available for public inspection at the office of the City Clerk during office hours. Each applicant shall also provide evidence of current certification by Nebraska Arborists Association as a Certified NAA Arborist or as an Arborist licensed in Omaha or Lincoln.

§8-519 REVIEW BY CITY COUNCIL

The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the Tree Board to the City Council, which may hear the matter and make the final decision.

Article 6 – Penal Provisions

§8-601 VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply. (Am. by Ord No. 870, 5/3/00)

§8-602 ABATEMENT OF NUISANCE

(1) Whenever a nuisance exists as defined in this chapter, the City may proceed by a suit in equity to enjoin and abate 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.

(Neb. Rev. Stat. §18-1720, 18-1722)