

# CHAPTER V STREETS AND SIDEWALKS

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# CHAPTER V STREETS AND SIDEWALKS

## ARTICLE I -PUBLIC PROPERTY REGULATIONS

### SECTION 5-101: MAINTENANCE AND CONTROL

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

(Ref. 17-567 RS Neb.)

### SECTION 5-102: OBSTRUCTIONS

Trees and shrubs growing upon or near the lot line or upon public ground and interfering with the use or construction of any public improvements shall be deemed an obstruction under this article. Said roots may be removed by the street superintendent at the expense of the owner of the property upon which the tree 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.

(Ref. 17-557.01 RS Neb.)

### SECTION 5-103: PERMITTED OBSTRUCTIONS

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

# CHAPTER V STREETS AND SIDEWALKS

## ARTICLE II-STREETS

### SECTION 5-201: NAMES AND NUMBERS

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

### SECTION 5-202: CROSSINGS

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

### SECTION 5-203: EXCAVATION

It shall be unlawful for any person to make an excavation in any street or streets for any purpose whatsoever unless a written permit is issued by the zoning administrator authorizing such excavation. Excavation in streets and alleys shall be made in such a manner as to impede travel as little as possible. Warning lights shall be maintained on all unfinished work, at night from dark until sunrise, and sufficient barricades shall be in place at all times until the work is completed, to prevent any persons from injury in coming upon or crossing such work. After completion of any job or work, all surplus material must be removed at once from the streets and alleys.

### SECTION 5-204: DRIVING STAKES

It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the zoning administrator.

### SECTION 5-205: MIXING CONCRETE

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

### SECTION 5-206: HARMFUL LIQUIDS

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

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## SECTION 5-207: EAVES AND GUTTER SPOUTS

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

## SECTION 5-208: HEAVY EQUIPMENT

It shall hereafter be unlawful for any person or persons to move or operate heavy equipment across any curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing on any unpaved street without first having protected such curb, gutter, bridge, culvert, sidewalks, crosswalk or crossing, with heavy plank sufficient in strength to warrant against the breaking or damaging of such curb, gutter, bridge, culvert, sidewalk, crosswalk or crossing. Hereafter, it shall be unlawful to run, drive, move, operate or convey over or across, any paved street a vehicle, machine or implement, with sharp discs or sharp wheels, that bear upon said pavement; with wheels having cuttings edges; with wheels having lugs, or any protruding parts, or bolts thereon that extend beyond a plain tire so as to cut, mark, mar, indent or otherwise injure or damage any pavement, gutter or curb; provided, where heavy vehicles, structures, and machines move along paved or unpaved streets, the City Council is hereby authorized and empowered to choose the route over which the moving of such vehicles, structures or machines will be permitted and allowed. Provided, school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets; and it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid.

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

The City Council shall have the power to open or widen any street, alley or lane within the limits of the City; and also to create, open and improve any new street, alley or lane; provided, all damages sustained shall be ascertained in such manner as shall be provided by law. Streets and alleys may be vacated as and when the mayor and City Council deem it necessary for the public safety, welfare and convenience and the title to the land so vacated for street or alley purposes shall revert to the owner or owners of the lot or lots from which it was originally taken, as provided by law, one-half on each side thereof.

(Ref. 17-558, 17-559,76-704 through 76-724 RS Neb.)

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

Poles, wires, gas mains, pipe lines and other appurtenances of public service companies shall be located or erected over, upon or under the streets, alleys and common grounds after a proper application shall have been made to the city clerk in writing, and permission in writing shall have been given by the City Council. Public service companies heretofore or hereafter granted right of way for the erection and maintenance of poles, conduits, gas mains, pipe lines and wires for the purpose of transacting their business upon, under or over the streets, alleys and public grounds shall at all times, when requested by the City Council, erect, locate or relocate their poles, wires, gas mains, pipe lines and other appurtenances, to such places and in such manner as shall be designated by the City Council. Such poles, wires, gas mains, pipe lines and other appurtenances, shall be removed or relocated by said companies at their own expense when requested to do so by the City Council. Whenever it becomes necessary for the City Council to request such relocation for the public safety and convenience, the City Council shall order said relocation by resolution, and the city clerk shall notify any company or companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipe lines or other appurtenances to be removed. The City Council shall designate another location, as close as possible, where said poles, wires, gas mains, pipe lines or other appurtenances may be reset or placed. All poles, wires, gas mains, pipe lines or other appurtenances, shall be reset, placed or erected in such manner that they will not interfere with the water system, sewer system, or poles, wires, and mains of any public utility located on the same street or alley, or with travel, buildings constructed, or hereafter to be constructed. Whenever possible, all pole lines, wires, gas mains, pipe lines or appurtenances shall, be confined to the alleys of the City. No water pipe, underground electric line or telephone conduit shall be laid ' in the same trench with sewer pipe in any street, alley or public grounds in the City, or nearer than three feet to any sewer pipe. No underground electric line shall be laid in the same trench with any water pipe, sewer pipe or telephone conduit in any street, alley or public grounds or nearer than three feet to any such pipes or conduit.

# CHAPTER V STREETS AND SIDEWALKS

## SECTION 5-211: CURBS AND GUTTERS; CUTTING CURB

It shall be unlawful for any person to cut into any paving, curb or sidewalk for the purpose of constructing a driveway or any other purpose whatsoever without first obtaining a written permit from the city administrator. Before any person shall obtain a permit, the applicant shall inform the city administrator of the place and time such cutting shall be done and it shall be the duty of the street superintendent to inspect the place of entry into the paving, sidewalk or curb before the same is cut. When cutting into any paving, it shall be the duty of the party to cut the paving under such rules and regulations as may be prescribed by the City Council or the street superintendent. When the applicant is ready to close the opening made, the applicant shall inform the street superintendent, who shall supervise and inspect the work done enclosing the opening. Unless specifically authorized by the street superintendent, all closing shall be done in concrete. It shall be the discretion of the city administrator to order the street superintendent to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit. The City Council may consent to cutting and closing the pavement, the paving to be done by the party holding such permit. 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 City Council for paving, curb or sidewalk to be cut. The deposit shall be retained by the City for the purpose of replacing the paving, curb or sidewalk until the work is completed to the satisfaction of the street superintendent. In the event of a disagreement of proper closing between the applicant and the street superintendent, the City Council shall be the final authority on all matters under this ordinance. In addition to making the deposit set forth above, the applicant shall, before any permit is issued, execute a bond to the City with a good and sufficient surety or sureties to be approved by the City Council in a sum set by resolution of the City Council.

# CHAPTER V STREETS AND SIDEWALKS

## ARTICLE III -SIDEWALKS

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

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

(Ref. 17-557.01 RS Neb.)

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

Whenever the City Council shall deem it necessary that a sidewalk should be constructed in front of any lot or piece of ground in the City in a place where there is no sidewalk, they shall so order and the street superintendent shall thereupon notify the owner of such lot or piece of ground, or his/her agent, if a resident of the City, of the work or improvement to be done, and such owner or person so notified shall be allowed 30 days from the date of said notice in which to construct the same.

(Ref. 17-552, 17-523 RS Neb.)

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

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

### SECTION 5-304: RECONSTRUCTING SIDEWALKS; NOTICE

Whenever the City Council shall deem it necessary that an old sidewalk shall be replaced or reconstructed, it shall order the same to be done and the street superintendent shall give notice in the manner and form provided in Section 5-303 of this article, to replace or reconstruct the same within 30 days from and after such notice.

# CHAPTER V STREETS AND SIDEWALKS

## SECTION 5-305: FAILURE TO CONSTRUCT, RECONSTRUCT OR REPAIR

If any such owner shall neglect or refuse, or shall have failed, after notice has been given as provided in this article, to construct, repair, replace or reconstruct any sidewalk within the time limited in the notice given in such case and whose duty it is made by this article to construct, repair or rebuild such walks, the street superintendent or other officer empowered herein to act shall proceed at once without further notice to such owner or person to have such sidewalks constructed, repaired, rebuilt or reconstructed, as the case may be, and the expense of such work shall be assessed to such lot or piece of land, and collected as provided by law.

## SECTION 5-306: CONSTRUCTION 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 general 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, and the City Council shall then award the work to the lowest responsible bidder. Upon approval of the work, the City Council may require the contractor to accept payment in certificates issued to him/her by the city clerk entitling him/her 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 certificates all assessments or special taxes against such real estate, together with the interest and penalty thereon, at any time upon presentation of such certificates after said assessments or special taxes against such real estate together with interest or penalty thereon shall have been collected.

# CHAPTER V STREETS AND SIDEWALKS

## SECTION 5-307: CONSTRUCTION BY PETITION

If the owners of the record title representing more than 60% of the front footage of the directly abutting property, subject to assessment for sidewalk improvements, petition the City Council to make the same, the City Council shall proceed in all things as though such construction had been ordered by it. Upon the petition of any freeholder who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the City Council may order permanent sidewalks built in accordance with this article upon the freeholder making, executing and delivering to the City an agreement to the effect that the petitioning freeholder will pay the engineering service fee and all other incidental construction costs until paid shall be a perpetual lien upon the real estate along which the freeholder desires such sidewalk to be constructed and that the petitioner gives and grants to the City the right to assess and levy the costs of such construction against the freeholder's real estate abutting the sidewalk improvement and promises to pay such costs with interest. The total cost of such improvement shall be levied, allocated, financed and specially assessed as provided by law. In the event the property owner is a non-resident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested, to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

## SECTION 5-308: CONSTRUCTION BY PROPERTY OWNERS

Any person desiring to construct or cause to be constructed any sidewalk shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit. Said owner shall make application in writing for a permit and file such application in the office of the city clerk. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed. The zoning administrator 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 zoning administrator shall submit the application to the City Council who shall determine whether the permit should be granted or denied. It shall be unlawful for any person to construct or cause to be constructed said sidewalk at any other location, grade or elevation than so designated. 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 zoning administrator.

## SECTION 5-309: SPECIFICATIONS

All sidewalks built on streets which have been brought to grade shall be constructed on said grade of concrete; the same must have a depth of not less than four inches, must be frost proof and surface composed of cement properly hardened, and in all respects substantially built. All sidewalks hereafter built on streets not on grade shall be constructed of brick or stone in the same manner and in all respects as provided in this section, and shall be laid on the natural surface of the ground, continuously with adjoining sidewalks, so far as possible. All sidewalks built adjacent to paved streets shall be constructed so as to be two inches above the curb line, sloping to match the top of the curb, and expansion joints shall be included in the construction at any and all points where driveways or sidewalks meet the pavement.

# CHAPTER V STREETS AND SIDEWALKS

## SECTION 5-310: FAILURE TO REBUILD

In case the owner of property in front of which any unlawful sidewalk is constructed or refuses or neglects to rebuild or relocate the same within five days after notice to do so, then the City Council may order the same rebuilt or relocated and assess the costs thereof upon the abutting property upon the same notice and in the same manner provided by law for the construction of and assessment for new sidewalks.

## SECTION 5-311: DUTY TO REMOVE SNOW, SLEET AND ICE; PENALTY

It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice or other substance to accumulate on the sidewalks or to permit any snow, sleet, ice, mud or other substance to remain upon said sidewalk. In the event that the mayor or his/her representative declares that emergency conditions exist and prohibits parking along snow emergency routes, property owners or occupants of lots abutting such snow emergency routes or within the business district may scoop the snow from the sidewalks under their control into the street. All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm, unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 8:30 A.M. the following day; provided, sidewalks within the residential areas of the City shall be cleaned within 24 hours after the cessation of the storm.

(Ref. 17-557 RS Neb.)

## SECTION 5-312: SIDEWALKS; DUTY TO REMOVE BRANCHES AND SHRUBBERY ENCROACHING THEREON; PENALTY

It shall be the duty of the occupant of each lot or parcel of ground in said city to keep the sidewalk adjacent thereto free from overhanging branches and free from limbs to a height of nine feet, and to keep such sidewalk free from encroaching hedges or shrubbery; and no tree, shrubbery or hedge shall be permitted closer than 18 inches to the sidewalk. It shall be the duty of the occupant of each lot or parcel of ground abutting on any intersection to trim and or remove any shrubbery, sign or other obstacle which obstructs the view for a distance of ten feet from such intersection. Any such occupant or owner who fails to remove the overhanging branches and limbs or other encroachments within five days after receiving written notice to do so, upon conviction shall be fined in any sum not exceeding that permitted by Nebraska law for the violation of a municipal ordinance and shall pay the costs of prosecution and the costs of the removal of such encroachments.

(Ref. 17-557.01 RS Neb.)

# CHAPTER V STREETS AND SIDEWALKS

## SECTION 5-313: SPACE BENEATH SIDEWALKS

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

# CHAPTER V STREETS AND SIDEWALKS

## ARTICLE IV – CONSTRUCTION OF PRIVATE DRIVES

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

Before any person, firm or corporation constructs a private drive onto any public street or alley, an application shall first be made to the City Zoning Administrator for a permit for such construction. Such application shall be accompanied by a fee of \$25.00 and shall be acted upon by the City Zoning Administrator.

### SECTION 5-402: PRIVATE DRIVE SPECIFICATIONS

Private drives shall not exceed 36 feet in width and shall not be constructed within ten feet of adjacent lot lines, unless such adjacent lots are owned by the applicant.

### SECTION 5-403: APPLICATION REQUIREMENTS

All driveway applications shall contain the following information:

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

### SECTION 5-404: ISSUANCE OF PERMIT

In the event that the City Zoning Administrator determines that such application is in due and proper form and that the same complies with this article, it shall issue a permit for construction of such requested driveway.

### SECTION 5-405: PENALTIES

Any person, firm or corporation violating the terms of this article and who constructs a driveway onto a city street or alley without first securing a permit therefore shall be deemed guilty of a misdemeanor and shall be fined in a sum not to exceed that permitted by Nebraska law for violation of a municipal ordinance, and each day's maintenance of the same shall constitute a separate offense.

(Article IV amended by Ordinance 198(10), July 20, 2010)

# CHAPTER V STREETS AND SIDEWALKS

## ARTICLE V -PENAL PROVISIONS

### SECTION 5-501: VIOLATION; PENALTY

Any and all persons violating any of the provisions of the several articles of this chapter, for which penalty is not therein provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not more than \$500.00 for each offense. Each day's maintenance of the same shall constitute a separate offense.