

## CHAPTER 8

### PUBLIC WAYS AND PROPERTY

#### ARTICLE 3. STREETS

**8-301 STREETS; NAMES AND NUMBERS.** The Governing Body 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 Governing Body may require. It shall be the duty of the Utilities Superintendent, upon the erection of any new building or buildings, to assign the proper numbers to said building or buildings and give notice to the owner or owners and occupant or occupants of the same.

**8-302 STREETS; WIDENING OR OPENING.** The Governing Body shall have the power to open or widen any street, alley or lane within the limits of the Municipality to create, open and improve any new street, alley or lane; provided, all damages sustained shall be ascertained in such manner as shall be provided by ordinance. (Ref. 17-558, 17-559, 76-704 through 76-724 RS Neb.)

**8-303 STREETS; EXCAVATION.** It shall be unlawful for any person to make an excavation in any hard surface street or streets for any purpose whatsoever unless a written permit is issued by the Utilities Superintendent authorizing such excavations.

**8-304 STREETS; DRIVING STAKES.** It shall be unlawful for any person to drive any peg or stake of any kind into the pavement in any street or alley without first procuring the written consent of the Utilities Superintendent.

**8-305 STREETS; MIXING CONCRETE.** It shall be unlawful for any person to mix concrete or plastering material directly on the street pavement for any reason whatsoever.

**8-306 STREETS; HARMFUL LIQUIDS.** It shall be unlawful for any person to place or permit to leak in the gutter or main thoroughfare of any street or alley any liquid or liquescent material including but not limited to waste gasoline, kerosene or lubrication oils which damage or act as a solvent upon said streets.

**8-307 STREETS; CONSTRUCTION NOTICE.** The Utilities Superintendent shall notify the owners in fee simple of real estate abutting a street, alley or part thereof which is to be put under contract for paving or repaving. Notice shall also be given to all gas, electric service and telephone companies. Notice shall also be given to all consumers of gas, water and sewer services which will be discontinued during such construction. Said notice shall be published one (1) time in a legal newspaper at least twenty (20) days prior to the beginning of such construction by the party undertaking such construction and said notice shall state at what date connections must be made and excavation completed. All gas, water, sewer and underground connections must be made prior to the paving or repaving of the street under condition after expiration of such time, permits for excavation will not be issued nor will excavation be allowed until after the completion of the

pavement in said street or alley and the formal final acceptance thereof by the proper officials of the Municipality.

**8-308 STREETS; MAINTENANCE, GRAVELING.** It shall be the duty of the Municipality through the Utilities Superintendent, to keep all streets properly maintained and supplied with adequate gravel or other material in such a manner as to allow for free flowing of traffic throughout the Municipality. It shall be unlawful for any person other than officials of the Municipality to spread gravel or other material on the Municipal streets or to alter the condition of the roadways in any manner other than what would occur during the normal use of said streets and roads.

**8-309 STREETS; PLACEMENT OF CULVERTS IN STREET RIGHT-OF-WAY.** The Municipality may by resolution require any property owner to place a culvert in the ditch beneath any driveway or access road unto a resident's property. Said culvert shall be located and constructed in a manner specified by the Utilities Superintendent. Any person desiring to place a culvert in the road ditch adjacent to his property shall first request permission to do so and shall agree to construct said culvert in the manner designated by the Utilities Superintendent.

**8-310 STREETS; EAVE 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 Municipality 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.

**8-311 STREETS; 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, sidewalk, 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 or unpaved street a vehicle, machine or implement with sharp discs or sharp wheels that bear upon said pavement or unimproved street; with wheels having cutting 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 members of the Governing Body are hereby authorized and empowered to choose the route over which the moving of such vehicles, structures or machines will be permitted and allowed. Nothing in this Section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths of an inch in diameter inclusive of the stud-casting with an average protrusion beyond the tread surface of not more than seven sixty-fourths of an inch between November 1 and April 1; provided, that school buses and emergency vehicles shall be permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets; and it shall be permissible to use tire chains of reasonable proportions upon any vehicle

when required for safety because of snow, ice or other conditions tending to cause a vehicle to slide or skid. (Ref. 39-6,131 RS Neb.)

**8-312 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 Municipality. Application for location of the above shall be made to the Governing Body in writing. Approval by that body shall be issued in writing. Any public service company granted a right-of-way for the erection and maintenance of poles, conduits, gas mains, pipe lines and wires shall at all times erect and locate their poles, wires, gas mains, pipe lines and other appurtenances at such places and in such manner as shall be designated by the Governing Body. Such poles, wires, gas mains, pipe lines and other appurtenances shall be removed or relocated by said companies at their own expense when requested to do so by the Governing Body. Any such relocation shall be ordered by resolution of the Governing Body and the Municipal Clerk shall notify any and all companies affected. Said companies shall within twenty-four (24) hours after receiving notice, at their own expense, cause the poles, wires, gas mains, pipe lines or other appurtenances to be removed. The Governing Body shall designate another location as closely as possible where said poles, wires, gas mains, pipe lines or other appurtenances 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 Municipality.

**8-313 STREETS; CONSTRUCTION ASSESSMENTS.** To defray the costs and expenses of street improvements as may be authorized by law, the Governing Body 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 Governing Body 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 Governing Body 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 Municipality at least four (4) weeks before the same shall be held. In lieu of such aforementioned notice, personal service may be had upon the persons owning or occupying the property to be assessed. Such assessments shall be known as special assessments for improvements and with the cost of notice shall be levied and collected as a special tax in addition to the taxes for general revenue purposes, subject to the same penalties and collected in like manner as either Municipal taxes and shall be certified to the County Clerk by the Municipal Clerk forthwith after the date of levy for collection by the Treasurer of said County unless otherwise specified. The said assessment shall draw interest at nine percent (9%) per annum. (Ref. 17-511, 17-524 RS Neb.)

**8-314 STREETS; IMPROVEMENT OF STREETS ON CORPORATE LIMITS.** The Governing Body shall have the power to improve any street or part thereof which divides the Municipal corporate area and the area adjoining the Municipality. When creating an improvement district including land adjacent to the Municipality, the Governing Body shall have the power to assess to the extent of special benefits, the costs of such improvements upon the properties found especially benefited thereby.

**8-315 STREETS; PETITION FOR IMPROVEMENTS.** Whenever a petition signed by the owners of record title representing more than sixty percent (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 Municipal Clerk, petitioning therefor, the Governing Body 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 and shall levy 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 Governing Body 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 Governing Body should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties. (Ref. 17-510 RS Neb.)

**8-316 STREETS, DEFERRAL FROM SPECIAL ASSESSMENTS.** Whenever the Governing Body of a Municipality creates a paving district which includes land adjacent to the Municipality which is within an agricultural use zone and is used exclusively for agricultural use, the owners of record title of such adjacent land may apply for a deferral from special assessments. For purposes of this Section, the terms agricultural use and agricultural use zone shall have the meaning specified in Section 77-1343 Reissue Revised Statutes of Nebraska 1943.

Any owner of record title eligible for the deferral granted by this Section shall to secure such assessment, make application to the Governing Body of the Municipality within ninety (90) days after creation of the paving district. 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 Governing Body. The Governing Body shall approve the application of any owner of record title upon determination that the property (a) is within an agricultural use zone and is used exclusively for agricultural use and (b) the owner has met the requirements of this Section.

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

1. Notification by the owner of record title to the Governing Body to remove such deferral;
2. Sale or transfer to a new owner who does not make a new application within sixty (60) days of the sale or transfer except as provided in subdivision 3 of this Section;

3. Transfer by reason of death of a former owner to a new owner who does not make application within one hundred twenty-five (125) days of the transfer;
4. The land is no longer being used as agricultural land; or,
5. Change of zoning to other than an agricultural zone.

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

1. 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,
2. Interest upon the special assessments not paid each year at the rate allowable by law from the dates at which such assessments would have been payable if no deferral had been granted.

In cases where the deferral provided by is Section is terminated as a result of a sale or transfer described in subdivision 2 or 3 of this Section, the lien for assessments and interest shall attach as of the day preceding such sale or transfer. (Ref. 19-2427 RS Neb.)