

PUBLIC WAYS AND PROPERTY

§8-301

Article 3. Streets

§8-304

**§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 Building Inspector, upon the approval of a permit for the construction 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. (Ref. 16-609, 16-614 RS Neb.)

**§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. 16-609, 16-645 RS Neb.)

**§8-303 STREETS; 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 Public Works Director.

**§8-304 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, sidewalks, crosswalk, or crossing with heavy plank sufficient in strength to warrant 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 cutting edges; with wheels having lugs, 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 Municipal Police 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 (5/16) 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 (7/64) of an inch between October 1, and April 15; 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. It shall be permissible to use a rubber tired crane with a fixed load when such vehicle will be transported on a state highway or on any road within the corporate limits of the Municipality, the Municipality in which the crane is intended to be transported has authorized a one-day (1) permit for the transportation of the crane and specified the route to be used and the hours during which the crane can be transported, such vehicle is escorted by another vehicle or vehicles assigned by the Municipality, and such vehicle's gross weight does not exceed the limits set out in 39-6,180(10) RS Neb. 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. (Ref. 39-771 RS Neb.)

**§8-305 STREETS; CONSTRUCTION NOTICE.** The Mayor and Council shall notify the owners in fee simple of real estate abutting a street, alley, or a 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 construction. 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.

**§8-306 STREETS; PROTECTION OF PAVING.** No person shall remove, destroy, or tear down any barricade, fence, railing, or other device erected or constructed for the purpose of protecting

paving or any other work while in course of construction or after it has been constructed on any of the streets, alleys or public grounds of the City. No person shall drive over or upon or go upon any paving or other public work in any of the streets, alleys, or public grounds of the City while the same is protected by any barrier, fence, or railing, or until such barrier, fence, or railing has been removed by the contractors in charge of such work, or by the duly authorized officials of the City.

**§8-307 STREETS; IMPROVEMENT DISTRICT; LAND ADJACENT.**

Supplemental to any existing law on the subject, a Municipality may include land adjacent to such Municipality when creating an improvement district, such as a sewer, paving, water, water extension, or sanitary sewer extension district. The Governing Body shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefitted thereby, except as provided in Section 8-308.

**§8-308 STREET; DEFERRAL FROM SPECIAL ASSESSMENTS.** Whenever the Governing Body of a Municipality creates an improvement district as specified in Section 8-307 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 an improvement district as specified in Section 8-307. 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:

- 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 six (6%) per cent from the dates at which such assessments would have been payable if no deferral had been granted.

In cases where the deferral provided by this Section is terminated as a result of a sale or transfer described in subdivision 2 or 3 of this Section the lien for assessments and interest shall attach as of the day preceding such sale or transfer. (Ref. 19-2428 thru 19-2431 RS Neb.)

**§8-309 STREETS; PETITION FOR IMPROVEMENTS.** Owners of lots or lands abutting upon any street, avenue, or alley within the Municipality representing three-fourths (3/4) of the front footage thereon may petition the Governing Body to create an improvement district, so that such district when created will make up one (1) continuous or extended thoroughfare or more without cost to the Municipality. The Governing Body shall assess the entire cost of any such improvements in any such street, avenue, or alley, including intersections of streets or avenues and spaces opposite alleys, against the private property within such improvement district, or districts. It shall be the duty of the Governing Body to create the proper improvement district or districts, which shall be consecutively, numbered, and to improve the same and to proceed in the same manner and form as hereinbefore provided for in other paving and

improvement districts. Provided, the Governing Body shall have power to levy the entire cost of such improvements of any such street, avenue, or alley, including intersections of streets or avenues and spaces opposite alleys, against the private property within such district, and to issue Street Improvement Bonds to pay for such improvements. Such bonds shall be issued to cover the entire cost of so improving such streets or avenues, intersections of the same, and spaces opposite alleys. If the assessments hereinbefore provided for, or any part thereof, shall fail, or for any reason shall be invalid, the Governing Body make other and further assessments upon such lots or lands as may be required to collect from the same the cost of any improvements properly chargeable thereto, as herein provided. The Governing Body shall have the discretion to deny the formation of the proposed district when the area to be improved 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, they shall state their grounds for such denial in a written letter to interested parties. (Ref. 16-624 RS Neb.)

**§8-310 STREETS; DRIVEWAY APPROACHES.** The Public Works Director 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 Municipal 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 thirty (30) days of mailing such notice the property owner fails or neglects to cause such repairs or replacements to be made, the Street Commissioner may cause such work to be done and assess the cost upon the property served by such approach. (Ref. 18-1748 RS Neb.)

**§8-311 LITTER, OTHER MATERIAL DEPOSITED ON STREET, ALLEY, RIGHT-OF-WAY, SIDEWALK; PROHIBITED.**

(1) It shall be unlawful for any person to deposit or maintain rock, gravel, dirt, construction material, litter, and/or containers thereof upon any street, alley, right-of-way, or sidewalk that obstructs or hinders, to any degree, the movement of vehicles and/or pedestrians lawfully thereon. This section

shall not apply to any State, County, or Municipal employee in the performance of their official duties or individuals who have petitioned and received prior written authorization from the City Administrator or other approved designee, nor to refuse or recycle receptacles provided through the City as described in Chapter 4, Article 2 of the Municipal Code.

(2) The City Administrator may direct Municipal employees to immediately remove, transport and store materials deposited or maintained in violation of the section at the owner's expense.

(3) The owner of any materials removed from any street, alley, right-of-way, or sidewalk and held by the Municipality pursuant to this section shall pay all associated fees and costs prior to the Municipality releasing said materials.

(4) Any materials removed from any street, alley, right-of-way, or sidewalk and held by the Municipality pursuant to this section for twenty (20) days or more shall be considered abandoned and become the property of the Municipality to be used or disposed of according to law.

(5) Acceptance of ownership of litter or other material listed herein shall constitute prima-fascia evidence as a violation of sub-section (1) of this section.

(6) Any person who violates sub-section (1) of this section shall be guilty of a violation of Municipal Code and subject to the following penalties: a) First offense: One hundred dollars (\$100.00), Second offense: Two hundred dollars (\$200.00), Third offense: Three hundred dollars (\$300.00) Fourth and subsequent offenses: five hundred dollars (\$500.00); and b) Recoverable with costs incurred by the Municipality.