

Chapter 8

PUBLIC WAYS AND PROPERTY

Article 1. Municipal Property

§8-101 **DEFINITIONS.** The following definitions shall be applied throughout this Chapter. When no definition is specified, the normal dictionary usage of the word shall apply.

SIDEWALK SPACE. The term "sidewalk space," as used herein, shall mean that portion of a street between curb lines and adjacent property lines.

RIGHT-OF-WAY. Right-of-way (R.O.W.) shall mean an area or strip of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both, and in which all pavement and most utilities are located. The R.O.W. is comprised of street, parking, and sidewalk.

§8-102 **MUNICIPAL PROPERTY; MAINTENANCE AND CONTROL.** The Governing Body shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the Municipality, and shall cause the same to be kept open and in repair, and free from nuisances. (*Ref. 17-567 RS Neb.*)

§8-103 **MUNICIPAL PROPERTY; SALE AND CONVEYANCE.**

(1) Except as provided in subsection (4) of this section, the power of the Municipality 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 exercise by resolution, directing the sale at public auction or by sealed bid or 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.

The Governing Body 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.

(2) 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 (3) consecutive weeks in a legal newspaper published in or of general circulation in the Municipality; provided, if a remonstrance against such sale, signed by registered voters thereof equal in number to thirty percent (30%) of the registered voters of the Municipality voting at the last regular Municipal election held therein, be filed with the Governing Body within thirty (30) days after the third (3rd) publication of the notice, such property shall not then, nor within one (1) 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 thirty (30) day period, but the filing shall be considered timely if filed or postmarked on or before the next business day. Real estate now owned or hereafter owned by the Municipality 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 sections 18-1001 to 18-1006 RS Neb.

(3) Following (a) passage of the resolution directing a sale, (b) publishing of the notice of the proposed sale, and (c) passing of the thirty-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 Municipal 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.

(4) 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 the total fair market value of which is less than five thousand dollars (\$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 Municipality for a period of not less than seven (7) days prior to the sale of the property. Confirmation of the sale by passage of an ordinance may be required. (Ref. 17-503, 17-503.01 RS Neb.)

§8-104 **MUNICIPAL PROPERTY; 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. In case such abutting property owner refuses or neglects, after five days' notice by publication or, in place thereof, personal service of such notice, to remove all encroachments from sidewalks, the city may cause such encroachments to be removed, and the cost of removal paid out of the street fund. The Council shall assess the cost of the notice and removal of the encroachment against such abutting property. Such special assessment shall be known as a special sidewalk assessment and, together with the cost of notice, shall be levied and collected as special taxes in addition to the general revenue taxes, and shall be subject to the same penalties and shall draw interest from the date of the assessment. Upon payment of the assessment, the same shall be credited to the street fund. It shall be unlawful for any person, persons, firm, or corporation to obstruct, or encumber, by fences, gates, building structures, debris, plowed snow or otherwise, any of the streets, municipal property, alleys or sidewalks. (Ref. 17-557.01 RS Neb.)

§8-105 **MUNICIPAL PROPERTY; 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 Municipal official in charge of Municipal streets to do so; provided, no permit for the occupancy of the sidewalk space, and more than one-third (1/3) 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.

Definitions:

- a. Break-away Mailboxes: Mailboxes which are designed to bend or fall away when struck by a vehicle, such as mailboxes which are constructed with a 4 by 4 wooden gate post, 2 inch tubular street gate post, one piece plastic mailbox placed upon a 3 ½ inch steel sleeve, and similar designs which are not constructed of brick and/or blocks.
- b. Multi-compartment Mailboxes: Mailboxes which typically contain multiple mailboxes for two or more separate residences upon a single post or pedestal.
- c. Non-breakaway Mailboxes: Mailboxes which are not designed to bend or fall away when struck by a vehicle. Examples of non-breakaway mailboxes include brick or block mailbox structures and pillar mailbox structures.
- d. Pillar: Decorative structures placed at the back of the curb or abutting the street that are not designed to bend or fall away when struck by a vehicle. Examples of pillars include brick or block decorative structures.

Residents are not allowed to build or maintain any building or structure which will be placed upon any street right-of-way, except breakaway mailboxes. Breakaway mailboxes may be installed in the City's street right-of-way without a building permit from the City. No person shall construct, use, or maintain any multi-compartment mailbox, non-breakaway mailbox, pillar, or a combination thereof in the City, unless and until permission is granted to construct multi-compartment mailboxes, non-breakaway mailbox, pillar, or a combination thereof by the issuance of a building permit by the City Zoning Administrator. Multi-compartment mailboxes, non-breakaway mailbox, pillar, or a combination thereof shall not exceed the total square footage of four square feet (4') per structure and five feet (5') in height. Multi-compartment mailboxes, non-breakaway mailbox, pillar, or a combination thereof shall not exceed two (2) structures per residential property and shall be positioned at the end of the driveway or property entrance abutting a City street or one (1) structure per residential property without a driveway or property entrance abutting a City Street. Multi-compartment mailboxes, non-breakaway mailbox, pillar, or a combination thereof shall meet site-triangle guidelines of the City and other City Zoning Regulations as may be applicable.

Any property owner, who places or constructs any structure or item of any kind in the City's street right-of-way, be it general, implied, or specific, including mailboxes and pillars, shall hold the City harmless from any liability relating to the construction and maintenance of the structure in the City's street right-of-way or because of any defect therein of said structure.

Any structure located in the City's street right-of-way, be it general, implied, or specific, and shall apply, also, to snow removal, pavement repairs, or street cleaning is subject to damage or destruction, at any time, as the result of the City or a person with a utility easement entering upon the City's street right-of-way to construct, repair or maintain facilities located in the City's street space.

Structures in the City's street right-of-way, be it general, implied, or specific, have no absolute right to be there. (Ordinance #1064, 12/12/07)

§8-106 **MUNICIPAL PROPERTY; WEEDS.** It is hereby the duty of the Police Chief 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 thereon in like manner during the growing season for weeds; provided, any weeds growing in excess of twelve (12") inches shall be considered a violation of this section. In the event that the owner of any lot or parcel of land within the Municipality is a nonresident of the Municipality 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 Municipality to whom notice can be given, it shall be the duty of the Street Superintendent or his agent to post a copy of the notice on the premise and then to cut or cause the weeds thereon to be cut as therein provided and report the cost thereof in writing to the Governing Body. The cost shall then be audited and paid by the Municipality and the amount thereof 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 Municipality or may be recovered by civil suit brought by the Municipality 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 Municipality 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.

§8-107 **MUNICIPAL PROPERTY; CANOPIES OR AWNINGS EXTENDING OVER THE SIDEWALK.** All canopies or awnings hereafter erected or allowed to remain extending over the Municipal sidewalk shall be of suitable sturdy material and wherever possible on iron frames. All canopies and awnings shall be elevated at least seven (7') feet at the lowest part from the top of the public sidewalk and shall not project over said sidewalk to exceed three-fourths (3/4) of the width thereof. They shall be supported without posts by iron brackets or by an iron framework attached firmly to the building, so as to leave the sidewalk wholly unobstructed; provided, nothing herein shall be construed to prevent the owner of any building from constructing a substantial awning or marquee of noncombustible material supported with or without posts over the sidewalk space if located flush with the outer edge thereof and if permission in writing shall have first been secured from the Mayor and Council.

§8-108 **MUNICIPAL PROPERTY; MAINTAIN CLEARANCE ABOVE WALKS AND STREETS; NOTICE; UNLAWFUL REMOVAL OF TREES AND SHRUBS; PERMIT; NON-LIABILITY.**

- a. The Street Superintendent or his/her duly authorized agent may require the trimming of trees or shrubs growing upon any lot, lots or lands within the Municipality, or upon the streets, alleys or sidewalk space abutting upon any lot, lots or lands by the owners of said lot, lots or lands or from the streets, alleys or sidewalk space abutting thereon.
- b. The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to any sidewalk or street over which there extends the branches of any tree shall

at all times keep the branches or limbs thereof trimmed to the height of at least eight (8') feet above the surface of any sidewalk or at least fourteen (14') feet above the surface of any street.

- c. The Municipal Clerk shall give the property owner or owners notice by personal service to trim trees or shrubs and overhanging branches as required herein. In the event said owner or owners fail, neglect or refuse to trim trees or shrubs and overhanging branches as required herein within fifteen (15) days after notice has been given, the Street Superintendent or his/her duly authorized agent shall trim trees or shrubs or overhanging branches as required herein, and shall assess the cost upon the lot, lots, or lands. The assessments shall be collected as are other taxes of the Municipality.
- d. It shall be unlawful for any person to cut down or destroy any trees or shrubs growing within the sidewalk space, street, or on any other Municipal property without first making a written or verbal application to, and receiving a written permit from the Street Superintendent or his/her agent. Trees or shrubs removed upon receiving a permit shall be at the expense of the permit holder. Any person violating the section shall be guilty of a misdemeanor and shall be fined not more than one hundred (\$100.00) dollars for each violation.
- e. The City at its own option may cut down or destroy any trees or shrubs growing within the sidewalk space, street or on any other Municipal property at its own expense.
- f. Nothing in this section shall be deemed to impose any liability upon the City or upon any of its officers or employees nor to relieve the owner and occupant of any private property from the duty to keep trees and shrubs upon private property or under his/her control in a safe condition. *(Ref. 17-555 RS Neb.)*

§8-109 MUNICIPAL PROPERTY; SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCEDURE.

The Municipality's Governing Body 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 sections 19-2428 to 19-2431 RS Neb., the Governing Body shall have power to assess, to the extent of such benefits, the cost 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 Governing Body shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law. *(Ref. 18-1751 RS Neb.) (Ord. No. 689, 12/30/87)*

§8-110 MUNICIPAL PROPERTY; 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 benefited thereby, except as provided in section 8-316. *(Ref. 19-2427 RS Neb.) (Ord. No. 690, 12/30/87)*

§8-111 STREETS; DEFERRAL FROM SPECIAL ASSESSMENTS. Whenever the Governing Body of a Municipality creates an improvement district as specified in Sections 8-110 and 8-311 which includes land adjacent to the Municipality which is

within an agricultural use zone and is used exclusively for agricultural use, the owners or 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 Sections 8-110 and 8-311. 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 a 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%) percent from the dates at which such assessment 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.) (Ord. No. 691, 12/30/87)*

§8-112 **MUNICIPAL PROPERTY; ACQUISITION OF REAL PROPERTY.** When acquiring an interest in real property by purchase or eminent domain, the Municipality shall do so only after the Governing Body has authorized the acquisition by action taken in a public meeting after notice and public hearing. *(Ref. 18-1755 RS Neb.) (Ord. No. 854, 4/8/98)*

Article 2. Sidewalks

- §8-201** **SIDEWALKS; OVERHANGING BRANCHES.** The owner or occupant of any lot, piece, or parcel of ground abutting or adjacent to any street or sidewalk over which there extends the branches of trees shall at all times keep the branches or limbs thereof trimmed to the height of at least eight (8') feet above the surface of said street or walk. 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 street lights, or with the convenience of the public using said street or sidewalk, the Governing Body at any regular or special meeting may pass a resolution ordering the owner or occupant to cut or remove said obstructions within five (5) days after having received a copy thereof from the Street Superintendent stating that the Municipality 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 non-resident of the county in which the property lies, the Municipality 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. *(Ref. 17-557.01 RS Neb.)*
- §8-202** **SIDEWALKS; 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 (5) 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 eight-thirty (8:30) o'clock A.M. the following day; Provided, sidewalks within the residential areas of the Municipality shall be cleaned within twenty-four (24) hours after the cessation of the storm. *(Ref. 17-557 RS Neb.)*
- §8-203** **SIDEWALKS; MAINTENANCE.** Every owner of any lot, lots, or piece of land within the corporate limits shall at all times, keep and maintain the sidewalk 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 travel for all travelers thereon. In the event that the owner or owners of any lot, lots, or lands, abutting on any street, avenue, or part thereof shall fail to construct or repair any sidewalk in front of his, her, or their lot, lots, or lands, within the time and in the manner as directed and required herein after having received due notice to do so, they shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk, and the Governing Body shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property. In the event the property owner is a non-resident of the county in which the property lies, the Municipality shall, before levying any special assessment against the 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. *(Ref. 17-557.01 RS Neb.)*

§8-204 **SIDEWALKS; REPAIR.** The Municipal official in charge of sidewalks may require sidewalks of the Municipality to be repaired. Notice to the owners of property upon which such sidewalks in disrepair are located shall require within forty-eight (48) hours from issuance of notice said owners to make arrangements to have the sidewalk repaired. Said repairs shall be completed within twenty-one (21) days after issuance of said notice. No special assessment shall be levied against the property unless said owner shall neglect or refuse to repair within the time prescribed and in the event that such owner fails to repair, the Municipality shall cause the repairs to be made and assess the property owner the expense of such repairs. In the event the property owner is a non-resident of the county in which the property lies, the Municipality 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.

§8-205 **SIDEWALKS; CONSTRUCTION BY OWNER.** Sidewalks shall be constructed along the front property line, and, along the side property line where the side property line is adjacent to a street within twelve (12) months from the date of issuance of a building permit for a new residence in any Residential District within the city limits, except where unusual conditions exist which eliminate the need for sidewalks and an exception to eliminate all or a portion of the sidewalk construction requirement is recommended by the Planning Commission and approved by the City Council; and, sidewalks shall be constructed along the front property line and, along the side property line where the side property line is adjacent to a street at the time a new commercial business or industrial building is constructed, except where unusual conditions exist which eliminate the need for sidewalks and an exception to eliminate all or a portion of the sidewalk construction requirement is recommended by the Planning Commission and approved by the City Council. Sidewalk construction shall hereinafter be a requirement of the Building Permit.

Any property owner planning to construct 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 Municipal Clerk. The permit shall give a description of the lot, or piece of land along which the sidewalk is to be constructed. The Zoning Enforcement Officer 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 Street Superintendent shall determine whether the permit should be granted or denied. 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 Street Superintendent. *(Amended by Ord. Nos. 720, 5/9/90; 780, 9/13/93; 788, 1/12/94; 882, 12/8/99)*

§8-205.1 **SIDEWALKS; CONSTRUCTION, MATERIALS TO BE USED.** All sidewalks, on either side of the streets and avenues of this City, in front of or along any lot, lots or lands abutting upon the same, which shall be hereinafter constructed, reconstructed or replaced, shall be of concrete. No person shall construct, reconstruct or replace any sidewalk of any other material within the limits of this City without the written

permission of the Zoning Enforcement Officer. (*Ord. No. 720, 5/9/90; Amended by Ord. No. 882, 12/8/99*)

§8-205.2 SIDEWALKS; WIDTH AND DISTANCE FROM LOT LINE. All sidewalks in the residential districts shall be four feet (4') in width. Sidewalks shall be located at a distance of twelve inches (12") outside the lot line, unless otherwise authorized by the Board of Zoning Adjustment. Whenever possible, they shall correspond in width to sidewalks already built to which they are adjacent or adjoin.

Sidewalks in the commercial districts shall be of width as established by the Street Superintendent. (*Ord. No. 720, 5/9/90, Amended by Ord. No. 882, 12/8/99; 915, 11/14/01*)

§8-205.3 SIDEWALKS; MANNER OF CONSTRUCTION. All concrete sidewalks shall be constructed according to the following specifications:

1. Sub-base. The sub-base shall consist of a layer of sand one (1") inch thick, well tamped.
2. Sub-grade. All soft or spongy places shall be removed, and all depressions filled with suitable material, which shall be thoroughly compacted by flooding and tamping in layers not exceeding six (6") in thickness.
3. Proportions of Materials. The minimum mixture shall consist of a 5½ bag mix of Portland cement. All sidewalks shall be float-finished and/or burlapped for a rough surface.
4. Slabs. The slabs shall be four (4') feet square, except in the business district, where the size of the slabs shall be determined by the Street Superintendent.
5. Thickness. The thickness of the slabs for the Residential District shall not be less than four (4") inches and for the Business District not less than five (5") inches.

Sidewalks shall be laid upon a grade of one-fourth (1/4") of an inch to one (1) foot above the curb grade, unless otherwise authorized by the Board of Zoning Adjustment. All sidewalks shall conform to the specifications adopted by the City as to the quality of work and materials. The whole work of grading and laying of said sidewalk, whether done by the City, or by the owner of the respective lot, lots, or parcels of land abutting upon the same, shall be under the supervision of the Street Superintendent, and subject to his approval. All sidewalks shall conform to the grade, where established, and on streets where no grade is yet established, then on a grade established by the Street Superintendent with relation to the particular points between which said sidewalk is to be built. The Street Superintendent shall establish grades on streets where the same have not yet been established.

Sidewalks shall be built on a grade or level with the surface of the ground as near as can be. When ordered by the Council, any property owner shall rebuild or reconstruct his sidewalk to conform to the grade thus established. It shall be the duty of the Street Superintendent to furnish sidewalk grade. (*Ord. No. 720, 5/9/90; Amended by Ord. No. 882, 12/8/99*)

§8-205.4 SIDEWALKS AND DRIVEWAYS; EXPANSION JOINTS. All concrete sidewalks and driveways hereafter constructed, reconstructed or repaired within the limits of the City, that shall abut on City streets with concrete curbing or pavement shall be constructed with a minimum expansion joint, of approved design and materials, of one (1') inch between sidewalk and concrete curbing, or pavement, and a minimum expansion joint, of approved design and materials, of one (1") inch between driveway and curb or apron, which shall be located a minimum distance of four (4') feet from the edge of pavement or street and a maximum distance of ten (10') feet from the edge of pavement or street, or at the edge of existing sidewalk, where such exits at a lesser distance from the edge of pavement or street. In any area where the sidewalks and/or driveways abut the street, as exits, a one (1") inch expansion joint shall be required. (*Ord. No. 720, 5/9/90; Amended by Ord. No. 882, 12/8/99*)

§8-205.5 SIDEWALKS; CURB RAMPS FOR THE HANDICAPPED. Curb ramps for the Handicapped shall be included on all new construction and reconstruction of curbs. Curb ramps shall be made to meet or exceed the requirements of the Board of Public Roads Classifications and Standards.

A lip not to exceed one-half (1/2") inch may be constructed on ramps. The normal gutter line profile shall be maintained through the area of the ramp.

Surface texture on the ramp shall be that obtained by tining, transverse to the slope of the ramp. The tines shall produce grooves approximately one-eighth (1/8") inch wide and three-sixteenths (3/16") deep on one-half (1/2") centers. The flares and wings shall be broomed.

Care shall be taken to assure a uniform grade on the ramp, free of sags and short grade changes.

The slope of sidewalks approaching curb ramps (or their flares) shall be flat enough to provide recovery areas for wheelchairs entering or exiting the ramps.

A minimum clearance of five and one-half (5 1/2') feet shall be provided between an obstruction and the top end of the curb ramp.

Crosswalk marking and signing shall conform to the latest edition of the Manual of Uniform Traffic Control Devices (MUTCD). (*Ord. No. 720, 5/9/90; Amended by Ord. No. 882, 12/8/99*)

§8-205.6 SIDEWALKS; CONSTRUCTION NOT IN ACCORDANCE WITH REGULATIONS. In case any lot owner or owners of a piece of land within the corporate limits of this City, under notice given or otherwise, shall construct a sidewalk in violation of this Article, the Street Superintendent or Zoning Administrator may stop the work of such construction and order the same to be constructed in accordance with said Article and the work already done to be changed, and on failure of such owner to change any such work, the Street Superintendent or other officer shall forthwith change said work, and the expense of same shall be assessed and taxed to said lot and collected as if taxed, as provided by law. (*Ord. No. 720, 5/9/90; Amended by Ord. No. 882, 12/8/99*)

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 Municipal official in charge of streets, 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; CROSSINGS.** The Governing Body may order and cause to be constructed, under the supervision of the Municipal official in charge of streets, such street, avenue, and alley crossings as the Governing Body shall deem necessary. When a petition for the construction of any such crossings is filed by an interested resident in the office of the Municipal Clerk, said Municipal Clerk shall refer such application to the chief street official who shall investigate and make his recommendation to the Governing Body. Action by the Governing Body on such application, whether the application is approved or rejected, shall be considered final.
- §8-303 **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 thru 76-724 RS Neb.)*
- §8-304 **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 chief Municipal street official authorizing such excavations.
- §8-305 **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 Municipal Street official.
- §8-306 **STREETS; 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.
- §8-307 **STREETS; 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.
- §8-308 **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.

§8-309 **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 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 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 street 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 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 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; 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. 60-6,250 RS Neb.)*

§8-309.01 **STREETS; HEAVY LOADS, SPECIAL ROUTES.** It shall be unlawful for any person, partnership, firm or corporation to drive with heavier loads on the streets, pavement or public roads within the City of David City, Nebraska, than authorized by resolution of the City of David City, Nebraska. Said streets and routes shall be posted by the Street Superintendent pursuant to resolution of the Council and this shall constitute notice to the Public.

§8-310 **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. (Ref. 17-567 RS Neb.)

§8-311 STREETS; CONSTRUCTION ASSESSMENT. 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 other 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. After is shall 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 Municipality 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. (Ref. 17-511, 17-524 RS Neb.)

§8-312 STREETS; AUCTIONS, PARADES, RACES, RALLIES, BLOCK PARTIES AND SUCH OTHER RELATED ACTIVITIES; PERMIT REQUIRED FOR CLOSING. No person shall close any street or alley in the City for purposes of auction sales, parades, races, rallies, block parties and such other related activities without first obtaining a permit from the City.

A person seeking issuance of a permit shall file an application for such permit with the City, said application to be in writing upon forms provided by the City:

- (1) Every application shall be accompanied by a cash deposit of ten dollars (\$10.00).
- (2) Upon receipt of the application and deposit, said application shall be referred to the City Administrator.
- (3) If the application is not approved, the deposit shall be returned to the applicant. If the application is approved, the applicant shall be required to comply with all rules, regulations and conditions contained in said permit and with all other applicable laws and ordinances. (Ref. 17-567 RS Neb.)

§8-313 **STREETS; 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 minimum thickness of the driveway approach shall be five (5"). 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 Superintendent may cause such work to be done and assess the cost upon the property served by such approach. (Ref. 18-1748 RS Neb.)

§8-314 **STREETS; VACATING PUBLIC WAYS; DEFINITIONS AND ASCERTAINING DAMAGES.**

- 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 Governing Body vacating such street, avenue, alley, lane or similar public ways.
- 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.
- B. The Mayor shall appoint three (3) or five (5) or seven (7) disinterested residents of the Municipality 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 Governing Body vacating 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.
- C. 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. (Ref. 17-558, 17-559 RS Neb.) (Ord. No. 663, 8/27/86)

§8-315 **STREETS; VACATING PUBLIC WAYS; PROCEDURE.**

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

- A. Notice. Notice shall be given to all abutting property owners either by First (1st) 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 Municipality. The content of the notice will advise the abutting property owners that the Governing Body 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.
- B. Consent / Waiver. The Governing Body may have all the abutting property owners sign a form stating that they consent to the action being taken by the Governing Body and waive their right of access. The signing of such form has no effect on claims for special damages, as defined in Section 8-314 by the abutting property owners, but does create the presumption that the Governing Body's action was proper.
However, if all the abutting property owners do not sign the consent/waiver form, the Governing Body may still proceed with vacating such street, avenue, alley, lane or similar public way under the authority granted them by Sections 17-558 and 17-559 RRS Neb.
- C. Ordinance. The Governing Body shall pass an ordinance that shall state essentially the following:
1. A declaration that the action is expedient for the public good or in the best interests of the Municipality.
 2. A statement that the Municipality shall have an easement for maintaining all utilities.
 3. A method or procedure for ascertaining special damages to abutting property owners.
- D. 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. (*Ref. 17-558, 17-559 RS Neb.*) (*Ord. No. 664, 8/27/86*)

§8-316

STREETS; CONSTRUCTION ASSESSMENT; ALL NEW SUBDIVISIONS & HOUSING DEVELOPMENTS LOCATED WITHIN THE CITY'S CORPORATE LIMITS AND WITHIN THE CITY'S ZONING JURISDICTION.

- (A) To defray the costs and expenses of street improvements, as may be authorized by law, the Governing Body shall have the power and authority to require that all developers petitioning the municipality for street construction shall pay the following expenses:

Street Construction: The developer(s) is responsible for eighty percent (80%) of all costs associated with the development of new streets within, leading to, or connecting the subdivision(s).

Curb and Gutter: The developer(s) is responsible for eighty percent (80%) of all costs associated with the installation of new curb; curb and gutter.

Intersections: The developer(s) is responsible for eighty percent (80%) of all costs associated with installation of intersections within the subdivision or housing development.

Engineering Fees: The developer(s) is responsible for eighty percent (80%) of all costs associated with the services provided by the selected engineer.

- (B) Before final plat approval is granted by the Governing Body, the developer(s) shall have completed and paid, their full share of the project costs.
- (C) The arrangement, character, extent, width, grade, and location of all streets within all subdivisions and housing developments shall conform to the standards of the Comprehensive Plan of current adoption and Zoning Ordinances of the City. All required improvements and installations shall be constructed or installed to conform to the provisions of this Ordinance and the standard specifications of the City.
- (D) All developers wishing to locate new subdivisions, or who have existing subdivisions and housing developments, located within the city limits and within the city's zoning jurisdiction are required to obtain and use an engineer that is selected by the municipality through a competitive bidding process.

§8-317 STREETS; CLEANLINESS AND SANITATION OF PUBLIC STREETS.

It shall be unlawful for any person to drop, or cause to be left, upon any municipal highway, street, or alley, except at places designated by the Governing Body any rubbish, debris, grass, grass clippings, or waste. It is hereby the duty of the Municipal Police Department to investigate and document such violations of this code, and make a report of such violations to the City Office. Upon receipt of such violation notice, the City Clerk's Office shall send a billing to the responsible party in the amount of \$25.00.

For the purposes of this section, person includes the owner of the property from which the grass cuttings originate, the person legally entitled to occupy the premises, and, or, any person who caused the grass cuttings to be placed onto the street. (Ordinance No. 1063 12-12-07)

Article 4. Curb and Gutter

§8-401 **CURB AND GUTTER; 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 having obtained a written permit from the Governing Body therefore. Before any person shall obtain a permit, he shall inform the Municipal Clerk of the place where such cutting is to be done, and it shall be the chief Street Superintendent'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 Governing Body or the Municipal Engineer. When the applicant is ready to close the opening made, he shall inform the Street Superintendent, who shall supervise and inspect the materials used and the work done in closing the opening. It shall be discretionary with the Governing Body to order the Street Superintendent, under the supervision and inspection of the Municipal Engineer or the committee of the Governing Body on the 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 Governing Body may consent to the work of cutting and closing the paving to be done by the party holding such permit. Before any permit is issued by the Governing Body, the applicant for such permit shall deposit with the Municipal Treasurer a sum set by resolution of the Governing Body 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 Municipality for the purpose of replacing the paving, curb, or sidewalk, in the event the work is done by the Municipality. In the event the Municipality elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the Municipality until the work is completed to the satisfaction of the Street Superintendent or of the committee of the Governing Body 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 Municipality with a good and sufficient surety or sureties to be approved by the Governing Body in a sum set by resolution of the Governing Body. *(Ref. 17-567 RS Neb.)*

Article 5. Trees

§8-501 TREES; DEFINITIONS.

STREET TREES. "Street trees" are herein defined as trees, shrubs, bushes and all other woody vegetation on street right-of-way, commonly called parquets, lying between property lines on either side of all streets, avenues, and ways within the City, and the street driving surface.

PARK TREES. "Park trees" are herein defined as trees, shrubs, bushes and all other woody vegetation in public parks and all areas owned by the City, or to which the public has free access as a park.

COMMUNITY FORESTER. "Community Forester" shall be the City employee responsible for the funding and application of Tree City U.S.A.

§8-502 TREES; STREET TREE SPECIES NOT TO BE PLANTED.

Austrees	Elm Trees	Shrubbery of all types
Black Locust	Fruit Trees	Siberian Elm
Black Walnut	Poplars	Silver Maples
Conifers	Seedless Cottonwoods	Tree of Heaven
Cottonwood	Weeping Willow	

§8-503 TREES; PUBLIC TREE CARE.

(1) The City shall have the right to plant, maintain, and remove trees and shrubs on all public areas to ensure public safety and to preserve the continuity and aesthetic beauty of such public grounds.

(2) The City Tree Board may remove or order removed, any tree or part thereof which is in an unsafe condition, or which by reason of its nature is injurious to sewers, electric power lines, underground utilities, and other public improvements, or is infected with an injurious fungus, insect or other pest.

(3) The City Tree Board shall also have cause to order removed any tree or part thereof which is deemed hazardous to private property or the general public.

(4) Planting trees on adjacent property is not affected by this Article except to the extent of provisions of section 8-506 and Attachment A.

(5) The adjacent or abutting property owners shall have the responsibility to perform appropriate tree care on their street trees.

§8-504 TREES; CLEARANCE OVER STREETS AND WALKWAYS.

(1) Clearance over streets and walkways shall be the responsibility of the adjacent or abutting property owner. A clearance of eight feet (8') will be maintained over the walkways and clearance of fourteen feet (14') will be maintained over streets and alleys.

(2) Property owners are responsible for the trees on their own property.

(3) It shall be the responsibility of the Utility Department to prune any trees in close proximity to utility lines.

§8-505 TREES; DISTANCES FOR PLANTING.

(1) Street trees may be planted in the parquette where there is more than eight feet (8') between the edge of the sidewalk and the curb of the street. Trees planted in the parquette shall be equidistant from the sidewalk and the curb. Street or private property trees shall not be planted any closer than five feet (5') from a sidewalk.

(2) No tree shall be planted closer than thirty-five feet (35') from the street corner, measured from the point of the nearest intersection of curbs or curb lines

(3) Large trees are those that reach mature heights exceeding forty feet (40'). Medium trees have a mature height of twenty-five feet (25') to forty feet (40'), and small (ornamental) trees have a mature height of less than twenty-five feet (25').

(4) Large or medium street trees shall not be planted closer than thirty-five feet (35') from another tree.

(5) Small (ornamental) trees shall not be planted closer than twenty-five feet (25') from another tree.

(6) No tree shall be planted closer than ten feet (10') from a fire hydrant or utility pole.

§8-506 TREES; TREE TOPPING AND TRIMMING.

It shall be unlawful to top any tree. Topping is defined as the severe cutting back of limbs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions will be pruned using other acceptable pruning techniques, such as drop crotch pruning or directional pruning.

§8-507 TREES; TREE REMOVAL PERMIT.

(1) It shall be unlawful for any person, property owner, homeowner or any firm engaged in the business or occupation, for hire or other valuable consideration, to prune, treat or remove any street or any park trees within the City without first applying for and procuring a permit. There shall be no permit fee. The permit is obtained at the City Office during regular business hours.

(2) The property owner will be required to submit two (2) written estimates with the tree removal application. The City will normally cost share on the removal;

- (3) After the bids / estimates have been reviewed, the City Street Superintendent will notify the bid winner (tree removal estimate);
 - (4) If a tree is a hazard or a public safety concern, and the tree needs to be removed quickly, the requirement of two (2) estimates can be skipped with the approval of the Mayor or Council President;
 - (5) Trees must be cut down within forty-five (45) days of the issuance of the permit;
 - (6) The City Office must be notified one (1) day prior to the actual tree removal;
 - (7) During the cutting of anything within ten feet (10') of any street, the police department must be contacted and traffic caution cones must be placed on the street(s);
 - (8) A safety letter is to be written by the City Attorney notifying residents of a hazardous tree and the time line in which to remove the tree and cost share with the City;
 - (9) If the City removes, or has removed, a dead or hazardous tree the cost is to be assessed against the property;
 - (10) Work performed by any public service company or City employee in the pursuit of the public service endeavors shall be exempt from this requirement.
 - (11) Once the entire tree removal process is completed, including the stump removal, the property owner will pay the entire cost to the tree remover and then submit a copy of the paid receipt to the City Office for reimbursement.
- (Ordinance No. 1161 11/09/11)

§8-508 TREES; STUMP REMOVAL.

After any street or park tree is removed, the stump shall be removed at least four inches (4") below the surface of the ground and the remaining hole shall be filled with suitable soil.

§8-509 TREES; BUSINESS LICENSE.

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 of David City, Nebraska without first filing for and paying a \$25.00 annual license fee based on a calendar year, due January 1. Individual homeowners and property owners pruning, treating or removing street in compliance with Article 8 shall be exempt from licensing, however shall be required to apply for a permit and comply with all requirements required in §8-507 and §8-510 prior to commencing any work.

§8-510 TREES; INSURANCE REQUIREMENTS.

(1) It shall be unlawful for any person or firm to engage in the business or occupation or pruning, treating or removing street or park trees within the City of David City, Nebraska without filing evidence of bond or insurance in the minimum amounts of five hundred thousand dollars (\$500,000.00) for bodily injury and five hundred thousand dollars (\$500,000.00) property damage, which shall be on file with the City Clerk.

(2) It shall be unlawful for individual homeowners and property owners to prune, treat or remove street trees within the City of David City, Nebraska without filing evidence of home owners insurance.

(3) Exempt from this requirement are: a) Any pruning and removals under the diameter of four inches (4") at the last cut, and b) any public employees doing such work in the pursuit of their public service endeavor.

§8-511 TREES; PENALTY.

(1) It shall be unlawful for any person to prevent the appointed representative from entering on to property for purposes of carrying out his or her duties, hereunder, or to interfere with the appointed representatives in the lawful performance of his or her duties under the provisions of this Article.

(2) Any persons violating any provision shall be subject to a fine not to exceed one hundred dollars (\$100.00).

Article 6. Penal Provision

§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 one hundred (\$100.00) dollars for each offense. A new violation shall be deemed to have been committed every twenty-four (24) hours of such failure to comply.