

CHAPTER 91: STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

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GENERAL PROVISIONS

§ 91.001 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. When no definition is specified, the normal dictionary usage of the word shall apply.

ALLEY. A dedicated public right-of-way other than a street, which provides only a secondary means of access to abutting property, the right-of-way of which is 20 feet or less in width.

RIGHT-OF-WAY. A strip of land taken or dedicated for use as a public road. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalks, lighting and drainage facilities, and may include special features (required by the topography or treatment), such as grade separation, landscaped areas, viaducts and bridges.

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SIDEWALK. The portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic.

STREET. The wearing or exposed surface of the right-of-way used by vehicular traffic. Where curbs exist, the street width is measured from the backs of the curb on one side to the back of the curb on the other side.

TERRACE. The portion of a right-of-way between the edge of the street and adjacent property lines. The part of the street or avenue or highway in the city not covered by sidewalk and lying between the lot line and the curblines or, on unpaved streets, that part of the street, avenue or highway lying in the lot line and that portion of the street usually traveled by vehicular traffic.
(2002 Code, §§ 70-1, 70-142)

§ 91.002 MAINTENANCE AND CONTROL.

The 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 them to be kept open and in repair, and free from nuisances.
(2002 Code, § 70-2)

§ 91.003 OBSTRUCTIONS.

(A) 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 chapter. Roots may be removed by the city, 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 to obstruct or encumber, by fences, gates, buildings, structures or otherwise, any of the public right-of-way. The public right-of-way shall be considered to be obstructed when the owner or occupant of the adjacent property shall permit or suffer to remain on any premises owned or controlled by him or her any hedge, shrubbery, bush or similar growth within two feet adjacent to the lot line, whether there is a sidewalk abutting or adjoining such premises or not. It shall be the duty of owners and occupants to, at all times, keep trimmed and pruned all such similar growth. Whenever any such growth is allowed to grow within two feet of the lot line contrary to the provisions of this section, the Council may pass a resolution ordering the owner or occupant to remove such obstructions within three days after having been served with a copy of the resolution by the city stating that the city will do so and will charge the costs to the owner or occupant as a special assessment for improvements, or shall collect the costs by civil suit brought in the name of the city against the owner or occupant. It shall be the duty of an owner or occupant engaged in construction of any building or improvement upon or near the public ways and property to have all excavations or exposures of any kind protected and guarded by suitable guards or barricades by day and by warning lights at night.
(2002 Code, § 70-3)

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(B) Persons engaged in the erection, construction, reconstruction, wrecking or repairing of any building, or the construction or repair of a sidewalk along any street may occupy the public street space with such building material and equipment as long as is necessary if such persons shall make application to and receive a permit in writing from the city official in charge of city streets to do so; however, no permit for the occupancy of the terrace, and more than one-third of the street of the public space adjacent to the real estate on which the building is to be constructed, erected, reconstructed, wrecked or repaired shall be granted; and a suitable passageway for pedestrians shall be maintained within the public right-of-way included in the permit, which shall be protected and lighted in the manner required by the official issuing the permit.

(2002 Code, § 70-4)

Penalty, see § 91.999

Statutory reference:

Authority to prevent and remove all encroachments on streets and sidewalks, see Neb. RS 16-210

§ 91.004 IMPROVEMENTS TO TERRACE.

It shall be the duty of every owner or occupant of any lot abutting upon any street or avenue to keep the space between the lot, curblin and edge of the street free and clear of all weeds, rubbish or other obstructions.

(2002 Code, § 70-5) Penalty, see § 91.999

§ 91.005 WEEDS.

(A) It is the duty of the City Administrator or his or her duly authorized agent to view and inspect the terrace within the corporate limits for growing weeds. If rank and noxious weeds are found growing on such space, he or she may notify the owner or occupant to cut down such weeds as close to the ground as can be practicably done and keep the weeds cut in like manner during the growing season for weeds.

(B) If the owner of any lot or parcel of land within the city is a non-resident of the city or cannot be found in the city, the notice may be given to any person having the care, custody or control of such lot or parcel of land. If there can be found no one within the city to whom notice can be given, it shall be the duty of the City Administrator or his or her duly authorized agent to post a copy of the notice on the premises and then to cut or cause the weeds to be cut and report the cost in writing to the Council. The cost shall then be audited and paid by the city, and the amount shall be assessed against the lot or parcel of land as a special tax and shall be collected as are other taxes of the city or may be recovered by civil suit brought by the city against the owner of the parcel of land.

(2002 Code, § 70-6) (Ord. 2000-13, passed 6-27-2000) Penalty, see § 91.999

Statutory reference:

Authority to declare the growth of weeds a nuisance, see Neb. RS 16-230

Noxious Weed Control Act, see Neb. RS 2-945.01 et seq.

§ 91.006 MUNICIPAL PROPERTY; COMMERCIAL USE.

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(A) Except for the Central Business District, it shall be unlawful for any person to use any city or public property or public right-of-way for commercial use, to include, but not be limited to, the sales and/or display of any items, merchandise or vehicles; the storage of any items, merchandise or vehicles for commercial use; and the advertisement of any items, merchandise, place or property, except as may be specifically permitted by any other section of this code, and except as may be allowed by the Council for designated times and places.

(B) Regulations concerning the sales and/or display of any items or merchandise in the Central Business District shall be as set forth by separate resolution.
(2002 Code, § 70-9) (Ord. 97-24, passed 11-25-1997; Ord. 2002-12, passed 6-25-2002) Penalty, see § 91.999

§ 91.007 PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING; REQUIREMENTS.

(A) Except as provided in division (B) below, the city shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications and estimates have been prepared and the construction has been observed by an architect, a professional engineer or a person under the direct supervision of an architect or professional engineer, or those under the direct supervision of an architect or professional engineer.

(B) Division (A) above shall not apply to the following activities:

(1) Any public works project with contemplated expenditures for the completed project that do not exceed that which is allowed by Neb. RS 81-3449;

(2) Any alteration, renovation or remodeling of a building if the alteration, renovation or remodeling does not affect architectural or engineering safety features of the building;

(3) Performance of professional services for itself, if the city appoints a city engineer or employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work;

(4) The practice of any other certified trade or legally recognized profession;

(5) Earthmoving and related work associated with soil and water conservation practices performed on any land owned by the city that is not subject to a permit from the Department of Water Resources;

(6) The work of employees and agents of the city performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs and land use regulations and their customary duties in utility and public works construction, operation and maintenance;

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(7) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;

(8) The construction of city water wells as defined in Neb. RS 46-1212, the installation of pumps and pumping equipment into city water wells, and the decommissioning of city water wells unless such construction, installation or decommissioning is required by the city to be designed or supervised by an engineer or unless legal requirements are imposed upon the city as a part of a public water supply; and/or

(9) Any other activities described in Neb. RS 81-3449 through 81-3453.
(2002 Code, § 70-10) (Ord. 98-15, passed 6-30-1998; Ord. 2007-3, passed 4-24-2007)

Statutory reference:

Engineers and Architects Regulation Act, see Neb. RS 81-3401 et seq.

§ 91.008 PARADES.

(A) ***PARADE*** means any procession, demonstration or parade of five or more vehicles or 25 or more persons moving on or along a public street, other than a crosswalk, for the purpose of display, demonstration, show, advertisement or exhibition.
(2002 Code, § 70-191)

(B) No procession, demonstration or parade shall be held or conducted upon or along any public street without a parade permit from the Chief of Police. A parade permit shall contain the date, time, proposed route, approximate number of persons and vehicles, and the purpose of the proposed procession, demonstration or parade. This section shall not apply to weddings or funeral processions, the movement of armed forces of the United States or military forces of the state or the forces of any Police or Fire Department.
(2002 Code, § 70-192)
Penalty, see § 91.999

SIDEWALKS

§ 91.025 OVERHANGING BRANCHES.

The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any sidewalk over which there extends the branches of trees shall at all times keep the branches or limbs trimmed to a height of at least seven feet above the surface of the walk. Whenever the limbs or branches of any tree extend over sidewalks contrary to the provisions of this section so as to interfere with the convenience

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of the public using the sidewalk, the City Administrator or his or her agent shall serve written notice upon the owner or occupant, by first class mail or personal service, ordering the owner or occupant to cut or remove the obstructions within ten days after having received the mailing or being served.

(2002 Code, § 70-43) Penalty, see § 91.999

Statutory reference:

Authority to require removal of obstructions, see Neb. RS 16-663

§ 91.026 KEPT CLEAN.

(A) *Generally.* It shall be unlawful for any person, business, association, corporation or organization of any kind, who owns, occupies, leases or controls any property within the corporate city limits upon which a sidewalk has been constructed to allow an accumulation of snow, or ice, dirt, or rock, or gravel on said sidewalk abutting said property at any time. In the event of a snow or ice storm said sidewalks shall be cleaned of snow and ice 24 hours after the city completes snow removal of the street adjacent to said sidewalk. Placing snow removed from sidewalks onto the paved portion of any municipal street is prohibited.

(B) *Exceptions.*

(1) In locations where the street surface between the curbs exceeds 40 feet and where the improvements on any such abutting property are located so as to leave the owner no where else to place the removed snow; in this exception, the snow or ice needs to be removed within 12 hours of any snowfall necessitating the City Street Department to remove said snow from the public streets, and such snow or ice will be placed not less than one foot from the curb line.

(2) (a) If, after proper notice is given, the tenant or property owner, whichever is applicable, fails to remove said snow, or ice, dirt, or rock, or gravel, the city shall cause the removal of said snow, or ice, dirt, or rock, or gravel within three days of the property being posted, or the tenant or owner being personally served, or within five days of such notice being mailed by first class mail. The tenant or property owner will be billed for the costs incurred to remove said snow, or ice, dirt, or rock, or gravel.

(b) If the costs are not paid within two months, the City Clerk shall cause a lien to be placed upon the property in the form of a special assessment.

(2002 Code, § 70-44) (Ord. 2001-31, passed 1-30-2001) Penalty, see § 91.999

Statutory reference:

Related provisions, see Neb. RS 16-663

§ 91.027 PROHIBITED OPENINGS AND OBSTRUCTIONS.

(A) It shall be unlawful for any person or property owner abutting on the sidewalks, streets and alleys of the city to construct on, in or under the sidewalks, streets or alleys of the city any of the following without Council approval:

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- (1) Open stairway leading into an entrance into the building on either the first floor, the upper stories or to the basement of any building;
- (2) An airway for light or air or for any other purpose;
- (3) Holes, covered stairs or elevators, unless covered in a manner approved by the Council and in no event to extend above the level of the sidewalk or the street;
- (4) Structures or buildings of any nature; or
- (5) Supports for any part of any structure or building.

(B) Awnings, signs or related support structures may be permitted as provided in §§ 154.01 through 154.04 of this code.

(2002 Code, § 70-45) Penalty, see § 91.999

Statutory reference:

Related provisions, see Neb. RS 16-207, 16-210

§ 91.028 MAINTENANCE.

Every owner of any lot or piece of land within the corporate limits shall at all times keep and maintain the sidewalk along and contiguous to such lot or piece of land in good and proper repair, and in a condition reasonably safe for travel for all travelers. If the owner of any lot or lands, abutting on any street or avenue, shall fail to construct or repair any sidewalk in front of his or her lot or lands, within the time and in the manner as directed and required after having received due notice to do so, he or she shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk; and the Council shall have power to cause any such sidewalks to be constructed or repaired and assess the costs against such property.

(2002 Code, § 70-46)

§ 91.029 REPAIR.

(A) The City Administrator or his or her agent may require sidewalks of the city to be repaired or replaced. These repairs shall be completed within 21 days after issuance or mailing of the notice. Notice to the owner abutting the property shall be served personally by posting the property or via first class mail.

(B) No special assessment shall be levied against the property unless the owner shall neglect or refuse to repair within the time prescribed; and, if such owner fails to repair, the city shall cause the repairs to be made and assess the property owner the expense of such repairs.

(2002 Code, § 70-47)

Statutory reference:

Related provisions, see Neb. RS 16-661, 16-662

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§ 91.030 CONSTRUCTION BY OWNER.

(A) Any person desiring to construct or cause to be constructed any sidewalk shall do so only as provided in this section. It shall be unlawful for any person to construct any sidewalk without first having obtained a Right-of-Way permit from the Street Superintendent. City employees performing their duties as public employees and contractors hired by the City shall be exempt from obtaining a Right-of-Way permit for City projects.

(B) The owner or contractor shall make application in writing for a Right-of-Way 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 Street Superintendent shall issue the desired permit unless good cause shall appear why the permit should be denied. If it is desired to construct the sidewalk at any other place than the regularly prescribed location, grade or elevation, the Street Superintendent shall submit the application to the 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 the sidewalk at any other location, grade or elevation than so designated by the city. All sidewalks shall be built and constructed on the established grade or elevation and, if there is no established grade, then on the grade or elevation indicated by the Street Superintendent. (2002 Code, § 70-48; Ord. 2018-10, passed 5-15-2018) Penalty, see § 91.999

Statutory reference:

Construction and repair of sidewalks in municipalities, see Neb. RS 16-661 through 16-665

§ 91.031 CITY CONSTRUCTION.

(A) The Council may, by resolution, order the construction of a sidewalk on any lot or piece of ground within the city. Notice of the Council's intention to construct the sidewalk shall be given by the City Clerk by publication of notice one time in a legal newspaper of general circulation in the city.

(B) A copy of the notice shall be personally served upon the occupant in possession of such property; or, when personal service is not possible, the notice shall be posted upon such premises 30 days prior to the commencement of construction. The notice required in this section shall be prepared by the City Attorney in accordance with the provisions of this section. Such service shall include a form of return evidencing personal service or posting as required in this section.

(C) This notice shall notify the owner of the premises of the passage of the resolution ordering him or her to construct or cause to be constructed a sidewalk within 30 days after the date of publication and, further, that if he or she fails to construct the sidewalk or cause the construction to be done within the time allowed, the city will cause the sidewalk to be constructed; and the cost shall be levied and assessed as a special tax against the premises. The notice shall contain the official estimate of the cost of construction and no special assessment in excess of this estimate shall be assessed against the property. (2002 Code, § 70-49)

Statutory reference:

Related provisions, see Neb. RS 16-661, 16-662

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§ 91.032 CONSTRUCTION BY PETITION.

Upon the petition of any owner of abutting property who requests sidewalk improvements, the Council may order the sidewalk to be built; and the cost of the construction until paid shall be a perpetual lien upon the real estate upon which the owner desires such sidewalk to be constructed; and the Council may assess and levy the cost of the construction against such real estate. Upon the filing of the petition, the Council shall require an agreement from the petitioning owner that the owner will pay the engineering fees and the cost of the construction of the sidewalk; that the cost of such construction, including engineering fees, and all other incidental construction costs, shall be a perpetual lien upon the real estate; and that the Council shall have the right to assess and levy the cost of such construction, including engineering fees, against such real estate. The total cost of such improvements shall be levied, allocated, financed and specially assessed as provided by law.

(2002 Code, § 70-50)

Statutory reference:

Related provisions, see Neb. RS 16-664

§ 91.033 IMPROVEMENT DISTRICTS.

(A) The Council shall have the power to construct, replace, repair or otherwise improve sidewalks within the city by sidewalk improvement districts. The Council shall, by resolution passed by a three-fourths vote of Council members, determine the necessity for sidewalk improvements. The Council shall, by ordinance, create a sidewalk improvement district and cause such improvements to be made, contracted for, levied, allocated, financed and specialty assessed as provided by law.

(B) The Mayor and City Clerk shall, after the passage, approval and publication of such ordinance, publish notice of the creation of such districts one time each week for not less than 20 days in a daily or weekly newspaper of general circulation published in the city.

(C) If the owners of the record title representing more than 50% of the front footage on the lots and parcels of property abutting on or adjacent to the property to be improved in such district, and who are such owners at the time the ordinance creating the district was published, shall file with the City Clerk, within 20 days from the first publication of the notice, written objections to the improvement of a district, the work shall not be done in the district under the ordinance, but the ordinance shall be repealed. If objections are not filed against any district in such time and manner, the Council shall forthwith proceed to construct such improvement.

(2002 Code, § 70-51)

§ 91.034 CONSTRUCTION SPECIFICATIONS.

All sidewalks shall be constructed in accordance with the rules and regulations of the Council prescribing the dimensions and the materials to be used. Such rules and regulations shall be on file in the office of the City Clerk.

(2002 Code, § 70-52)

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Statutory reference:

Related provisions, see Neb. RS 16-661

§ 91.035 CERTIFICATION.

The Building Official shall certify to the Council a detailed schedule of all sidewalks laid, widened or rebuilt and the cost, from which the Council may be aided in determining the amount to be assessed as a special assessment against each lot or piece of ground. The Building Official shall certify such other facts as may be necessary to enable the Council to make the proper special assessment. He or she shall also certify to the Council the acceptance of any sidewalk so improved or what other action he or she has taken with reference to the sidewalk. The Building Official shall allocate the cost of sidewalk improvements to the adjoining lots or parcels of land and prepare all necessary data for assessment sheets. The cost of improvements provided for in this section shall be assessed by the Council meeting as a board of equalization, following notice of such sitting at least ten days prior thereto by publication in a newspaper having general circulation in the city; and the assessments shall be equalized and levy made in the manner provided by law.

(2002 Code, § 70-53)

Statutory reference:

Related provisions, see Neb. RS 16-707

§ 91.036 NEW CONSTRUCTION.

All new principal residential, business or commercial construction within any and all residential, business and commercial zoning districts, excluding additions, changes, remodeling and accessory additions to existing structures, shall have sidewalks provided and constructed in front and adjacent to the streets upon the property with the construction. All building permits shall contain the location for the construction of new sidewalks. If the owner or contractor fails to construct a sidewalk within one year from the date of the issuance of the building permit, the City Council may, by resolution, order the construction of a sidewalk in accordance with § 91.031.

(2002 Code, § 70-54)

§ 91.037 MAXIMUM VEHICLE WEIGHT.

No vehicle with a weight in excess of 700 pounds, not including the operator, will be permitted to drive on any portion of the Main Street sidewalks, including the brick inlay portion of the intersections, in that area of Main Street between a point 100 feet north of Fourth Street and Clark Street.

(2002 Code, § 70-55) (Ord. 2006-26, passed 11-28-2006) Penalty, see § 91.999

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§ 91.050 NUMBERS.

(A) It shall be the duty of the Building Official to assign all house or building numbers and to see that all houses or buildings now erected and all new buildings to be erected shall be supplied with the numbers to which they shall be entitled by the owners. In all such cases, the figures shall correspond with the plan or system contained in this subchapter. If any owner or occupant shall refuse or neglect to number his or her building, the Building Official may order the proper number placed on the building and charge against and collect the cost from the owner of the property so numbered. Buildings shall be numbered under the direction of the Council as follows:

(1) First Street (including First Street extended to the east) and Main Street shall constitute the base lines from which the numbering of the buildings fronting or situated on streets extending from that line shall commence.

(2) All those portions of any and all streets (including such streets as extended) intersecting Main Street which lie east of Main Street shall be known and designated by the prefix AEast@, and those which lie west of Main Street by the prefix AWest@, the odd numbers being placed on the buildings situated on the south side and the even numbers on buildings situated on the north side of such streets.

(3) All those portions of any and all streets (including such streets as extended) intersecting First Street (including First Street extended to the east) which lie north of First Street shall be known and designated by the prefix ANorth@, and those which lie south of First Street shall be known and designated by the prefix ASouth@.

(4) The even numbers shall be placed on the buildings situated on the west side and the odd numbers on all buildings situated on the east side of all streets north and south of First Street.

(5) The numbering shall commence on each street with the number 100 at the base line and progress successively through the first block, then commencing on the second block from the base line with number 200, the third block with the number 300 and so on throughout the entire length of each street, commencing each block with even hundreds.

(6) Each block shall be divided into the numbering so that there shall be one number allowed, so far as practicable, for each 25 feet of ground fronting on the several streets.

(7) The numbers so assigned to the several buildings in the city shall be so arranged that even numbers shall run progressively on one side of the street and odd numbers on the other, the proper provisions made in the assignment of the numbers to vacant places so that all numbers run progressively.

(B) All numbers on houses or buildings shall be conspicuously placed on the portion of the building facing toward the street on which the number applies, and the figures used to number any house or building shall not be less than two and one-half inches in height and shall be so marked so as to be conspicuous from the street. Each owner or occupant of any house or building situated on any street shall cause to be displayed and placed and maintained the figures required in this division (B). Any person

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who shall fail to place the required figures on any house or building; or who shall take down, alter, deface, destroy or obliterate any number upon any house or building; or who shall substitute or permit to be substituted an erroneous number upon any house or building; or who shall retain or permit to be retained any erroneous or improper number from any house or building after receiving due notice of that fact from the City Clerk shall be guilty of an offense, punishable pursuant to § 10.99.

(2002 Code, § 70-92) Penalty, see § 91.999

Statutory reference:

Authority to require the numbering of houses, see Neb. RS 16-614

§ 91.051 NAMES.

The streets and avenues in the city shall be designated as follows: The City Administrator or his or her designee shall install in some convenient place, at the intersections of all streets, a sign that complies with federal standards, with the names or numbers of the respective streets printed on the sign, in accordance with the directive of the Council in legible letters. All street names shall be approved by the Council.

(2002 Code, § 70-93)

§ 91.052 DRIVEWAYS.

(A) It shall be unlawful for any person to construct or cause to be constructed any driveway or other parking area in the right-of-way of the city without acquiring a written Right-of-Way permit from the Street Superintendent. Before any person shall obtain such permit, such person shall inform the Street Superintendent of the place where the driveway is to be located, and it shall be the Street Superintendent's duty to cause an inspection of the place of entry into the streets and avenues. When the construction of a driveway or other parking area is permitted, it shall be the duty of the party so constructing or causing to be constructed such driveway or other parking area to do the work in such a manner and under such rules and regulations as may be prescribed by the City Council. Before any permit is issued by the Street Superintendent, the applicant shall submit a surety bond or a cash deposit along with a certificate of insurance naming the City as an additional insured to the City Clerk in an amount set by the Council and on file in the office of the City Clerk. The deposit shall be retained by the City Clerk until construction is completed to the satisfaction of the Street Superintendent. City employees performing their duties as public employees and contractors hired by the City shall be exempt from obtaining a Right-of-Way permit for City projects.

(B) The applicant shall obey all of the laws of the city and the requirements under which the permit is issued in doing such work and will save the city harmless from any damages which may occur as a result of such construction.

(2002 Code, § 70-94; Ord. 2018-11, passed 5-15-2018) Penalty, see § 91.999

§ 91.053 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 Street Superintendent.

(2002 Code, § 70-95) Penalty, see § 91.999

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It shall be unlawful for any person to mix any concrete or plastering material directly on the street pavement for any reason whatsoever.

(2002 Code, § 70-96) Penalty, see § 91.999

§ 91.055 KEPT CLEAN.

It shall be unlawful for any person to place or permit to leak in the gutter of any street, dirt, rock, gravel, leaves, grass, trash, waste gasoline, kerosene or high lubricating oils.

(2002 Code, § 70-97) Penalty, see § 91.999

§ 91.056 EAVE AND GUTTER SPOUTS.

It is unlawful for any person to erect or maintain any dwelling house or business building within the limits of the city where the dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the rainwater. 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 the eave spouts into the alley.

(2002 Code, § 70-98) Penalty, see § 91.999

§ 91.057 IMPROVEMENTS; DISTRICTS, PROPERTY INCLUDED, OBJECTIONS.

(A) The Council shall have the power to open, control, name, rename, extend, widen, narrow, vacate, grade, curb, gutter, park and pave or otherwise to improve and control and keep in good repair and condition, in any manner it may deem proper, any street, avenue or alley, public parks or square, or part of either, within or without the limits of the city. It may grade, park or otherwise improve any width or part of any such street, avenue or alley.

(2002 Code, § 70-99)

(B) The Council shall have the power to improve any street or part of a street which divides the corporate area and the area adjoining the city. When creating an improvement district, including land adjacent to the city, the Council shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefitted.

(2002 Code, § 70-100)

(C) (1) The Council shall have power to make improvements of any streets or alleys, or part of any streets or alleys, in the city, a street which divides the city corporate area and the area adjoining the city, or within a county industrial area, as defined in Neb. RS 19-2501, contiguous to the city, and for that purpose to create suitable improvement districts, which shall be consecutively numbered; and such work shall be done under contract. Such districts may include properties within the corporate limits, adjoining the corporate limits, and within county industrial areas, as defined in Neb. RS 19-2501, contiguous to

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the city.

(2) Any paving district or other improvement district shall include only portions of different streets, or portions of town alleys, or portions of each, which abut or adjoin so that such district, when created, makes up one continuous or extended street or more; except that, the district may include a cul-de-sac on any street or alley which is closed at one end or which connects with only one other existing street or alley. Any paving or other improvement district may include portions of different streets, or portions of different alleys, or portions of each; provided, they abut or connect with each other, or provided the several portions abut on pavement or gravel already laid, or any other improvements already laid.

(3) The Council shall first, by ordinance, create a paving, graveling or other improvement district. The Clerk shall, after the passage, approval and publication of such ordinance, publish notice of the creation of such district one time each week for not less than 20 days in a daily or weekly newspaper of general circulation published in the city.

(4) If the owners of the record title representing more than 50% of the front footage of the property abutting or adjoining any continuous or extended street, cul-de-sac or alley of the district, or portion which is closed at one end, and who were such owners at the time the ordinance creating the district was published, shall file with the City Clerk, within 20 days from the first publication of the notice, written objections to the improvement of a district, the work shall not be done in the district under the ordinance; but the ordinance shall be repealed. If objections are not filed against any district in such time and manner, the Council shall forthwith proceed to construct such improvement.

(Code 1974, § 70-101)

(D) As used in §§ 91.050 through 91.056 of this chapter and divisions (A) through (C) above, **IMPROVEMENTS** shall include, but shall not be limited to, paving, repaving, graveling, grading, curbing, guttering and connected construction and replacement of pedestrian walks, plazas, malls, landscaping, lighting systems and permanent facilities.

(Code 1974, § 70-102)

Statutory reference:

Related provisions, see Neb. RS 16-609, 16-617.01, 16-617 through 16-620

§ 91.058 PETITION FOR IMPROVEMENTS.

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Owners of lots or lands abutting upon any street, avenue or alley within the city representing three-fourths of the front footage on such street, avenue or alley may petition the Council to create an improvement district, so that such district when created will make up one continuous or extended thoroughfare or more without cost to the city. The Council 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. It shall be the duty of the Council to create the proper improvement district, which shall be consecutively numbered, and to improve the district and to proceed in the same manner and form as provided for in other paving and improvement districts. The Council 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, their intersections and spaces opposite alleys. If the assessments provided for shall fail, or for any reason shall be invalid, the Council shall make other and further assessments upon such lots or lands as may be required to collect from the owner the cost of any improvements properly chargeable. The Council shall have the discretion to deny the formation of the proposed district when the area to be improved has not previously been unproved with a water system, sewerage system and grading of streets. If the Council should deny a requested improvement district formation, it shall state its grounds for such denial in a written letter to interested parties.

(2002 Code, § 70-103)

Statutory reference:

Related provisions, see Neb. RS 16-624

§ 91.059 PAVED TERRACES.

(A) The Street Superintendent may require the owner of property served by a paved terrace to repair or replace any such paved terrace 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.

(B) (1) The City Clerk shall give the property owner notice by registered letter or certified mail, directed to the last known address of such owner or the agent of such owner, directing the repair or replacement of such paved terrace.

(2) If, within 30 days of mailing such notice, the property owner fails or neglects to cause such repairs or replacements to be made, the Street Superintendent may cause such work to be done and assess the cost upon the property served by such terrace.

(2002 Code, § 70-104)

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§ 91.060 SPECIAL IMPROVEMENT DISTRICT; ASSESSMENT AND CREATION PROCEDURE.

(A) The Council may, by ordinance, create a special improvement district for the purpose of replacing, reconstructing or repairing an existing water line, sewer line or any other such improvement.

(B) Except as provided in Neb. RS 19-2428 through 19-2431, the Council shall have power to assess, to the extent of such benefits, the costs of such improvements upon the properties found especially benefitted, whether or not such properties were previously assessed for the same general purpose. In creating such special improvement district, the Council shall follow procedures applicable to the creation and assessment of the same type of improvement district as otherwise provided by law.

(2002 Code, § 70-105)

Statutory reference:

Related provisions, see Neb. RS 18-1751

§ 91.061 LAND ADJACENT TO AN IMPROVEMENT DISTRICT.

Supplemental to any existing law on the subject, the city may include land adjacent to the city when creating an improvement as a sewer, water, water extension or sanitary sewer extension district. The Council shall have power to assess, to the extent of special benefits, the costs of such improvements upon the properties found especially benefitted.

(2002 Code, § 70-106)

Statutory reference:

Related provisions, see Neb. RS 19-2427

EXCAVATIONS

§ 91.075 COMPLIANCE REQUIRED.

It shall be unlawful for any person to excavate in any public street, alley or right-of-way; to cut through or into any pavement; to cut, break or remove any curbing or combined curb and gutter; or to in any manner willfully damage or deface any pavement, curbing or gutter on any public street, right-of-way or alley within the city, except in accordance with the provisions of this subchapter.

(2002 Code, § 70-143) Penalty, see § 91.999

§ 91.076 PERMIT REQUIRED.

(A) Should it become necessary for any purpose to excavate in any right-of-way, street or alley; to cut through or into any street pavement; or to break, cut or remove any curbing or gutter on any public street or alley in the city for whatever purpose, the person by whom such excavation, cutting or breaking is desired shall secure a Right-of-Way permit for such work from the Street Superintendent. If the work

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involves an emergency repair of an underground utility, the work shall proceed until the repair is completed. At that time, work shall cease until the Right-of-Way permit is obtained and the previous work is approved by the City. City employees performing their duties as public employees and contractors hired by the City shall be exempt from obtaining a Right-of-Way permit for city projects.

(B) The Street Superintendent shall require that applicants for such permits shall furnish the following information:

- (1) Name of street or avenue on which work is to be commenced;
- (2) The street address of the property for which such work is required;
- (3) The purpose for which such work is required;
- (4) A statement of the area to be impacted.

(C) Before any permit is issued by the Street Superintendent, the applicant shall submit a surety bond or a cash deposit, along with a certificate of insurance naming the City as an additional insured to the City Clerk in an amount set by the Council and on file in the office of the City Clerk. The deposit shall be retained by the City Clerk until construction is completed to the satisfaction of the Street Superintendent.

(2002 Code, § 70-144; Ord. 2018-12, passed 5-15-2018) Penalty, see § 91.999

§ 91.077 OBSTRUCTIONS AND EXCAVATIONS IN STREETS.

It shall be unlawful for any person within the city to obstruct any street or alley or public right-of-way by placing or permitting to remain any substance or thing interfering with the public use of such locations; or to dig or to make any ditch or excavation in any street, alley or right-of-way except for public purposes and temporary uses; or permit any such excavation to remain open for a longer time than is actually necessary; and all such excavations shall be carefully guarded while being made or used.

(2002 Code, § 70-145) Penalty, see § 91.999

§ 91.078 DIGGING IN STREET.

(A) It shall be unlawful for any person to dig up, excavate or remove any dirt in any street, alley or other public right-of-way within the city or in any part of such street, alley or public right-of-way or in any manner to obstruct or injure any such street, alley or public right-of-way without first having obtained a Right-of-Way permit. It shall further be unlawful for any officer or employee of the City, or for any other person, either to give away or receive any dirt given away for any street, alley or right-of-way within the city; and it shall be unlawful for any officer or employee of the City, or for any other person, to sell or purchase any dirt from any street, alley or public right-of-way within the City, except by direction and authorization of the Council. City employees performing their duties as public employees and

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contractors hired by the City shall be exempt from obtaining a Right-of-Way permit for City projects. If the work involves an emergency repair of an underground utility, the work shall proceed until the repair is completed. At that time, work shall cease until a Right-of-Way permit is obtained and the previous work is approved by the City.

(B) Anyone installing, in conformance with City Ordinances, mailboxes, lawn sprinkler systems, plants, and landscaping materials shall be exempt from obtaining a Right-of-Way permit. If landscaping activities include the removal or addition of more than one foot of dirt or other material, the work shall require a Right-of-Way permit and require approval of the City Council. (2002 Code, § 70-146; Ord. 2018-13, passed 5-15-2018) Penalty, see § 91.999

§ 91.079 EXCEPTIONS.

This subchapter shall not affect the right of the Water or Sewer Department to excavate under any pavement for the purpose of installing, repairing, extending or changing any public sewer, water main, pipe or other underground construction of either Department; however, any and all cutting of pavement or tearing out of curbing or gutter shall be done in the same manner by the city as would have been done had a permit been issued to a private individual. (2002 Code, § 70-147)

§ 91.080 SURETY BOND.

The applicant for each Right-of-Way permit required by this subchapter, except for permits to only construct sidewalks, shall file with the City Clerk a performance bond, with sureties to be approved by the City Administrator in the sum of the currently required amount, to be in the form as required by the City Administrator. The bond shall be conditioned upon the proper indemnifying and holding the city harmless from any suits, damage, claims, liens or other actions that may arise from, grow out of or, in any way, be connected with the work covered by such permit with any corporate surety, to be in the currently required amount. In lieu of bond, applicant may provide a cash deposit in an amount set by the Council and on file in the office of the City Clerk. The deposit shall be retained by the City Clerk until construction is completed to the satisfaction of the Street Superintendent. (2002 Code, § 70-148; Ord. 2018-14, passed 5-15-2018)

§ 91.081 BACKFILL AND INSPECTION.

All backfilling in streets, alleys or rights-of-way shall be done in accordance with the minimum standard of specifications for backfill as adopted by the city; and a copy of such specifications shall be on file for inspection. All inspection shall occur in accordance with the standard specifications and regulations, a copy of which shall be on file for inspection. (2002 Code, § 70-149)

§ 91.082 RULES FOR PROPER PERFORMANCE OF WORK.

The following rules regarding the proper performance of work covered by this subchapter are set

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forth and shall be observed by all persons performing any such work.

(A) No tunneling or undercutting of banks in any trenches or openings in pavement will be permitted. All banks shall be cut straight down vertically from the surface of pavement so that the hole or trench may be properly backfilled and tamped.

(B) Small tunnels will be permitted for the installation of service pipes or other construction passing under the curbing or under curb and gutter, but the natural earth shall not be removed nor disturbed for a depth of not less than three feet immediately below the lower edge of such curb or gutter; and the person to whom such permit is issued shall be held responsible for any subsequent settlement or damage to the curb or gutter when caused by his or her work.

(C) No excavation shall be permitted at any time for any purpose within one foot of the back of any curbing or of any combined curb and gutter.

(D) After a permit is issued, the contractor or plumber must proceed with his or her work as rapidly as possible, in order that traffic may not be unnecessarily inconvenienced. If, in the opinion of the Street Superintendent, the contractor is unnecessarily delaying his or her work, the City Clerk shall be notified and he or she will give the contractor notice to proceed within 24 hours. If he or she fails to do so, the Street Department may then backfill the hole and charge for a new permit, and collect all incident costs and expenses from the applicant, contractor or owner.

(2002 Code, § 70-150) Penalty, see § 91.999

§ 91.083 INTERFERENCE WITH OTHER REGULATIONS.

(A) (1) Nothing in this subchapter shall interfere or conflict with any city regulations pertaining to the responsibility of plumbers and their liability for property damage, worker's compensation and public liability.

(2) Each person to whom is issued a permit shall be responsible for all work connected with such permit from the time the permit is issued until the final replacement of paving, curbing or gutter and the removal of all obstructions or obstacles to uninterrupted traffic. All openings in public streets, alleys or rights-of-way shall be barricaded and protected by amber lights throughout the entire period; except when the hole or opening has been refilled or tamped, the barricades and amber lights may be removed.

(B) Nothing in this subchapter shall interfere with any city regulation pertaining to the time of year in which cuts may be made in streets or pavements. Cuts in brick, concrete or asphalt pavements shall not be permitted, except in emergencies, from November 1 to April 1.

(2002 Code, § 70-151) Penalty, see § 91.999

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§ 91.084 ENFORCEMENT.

The proper execution and enforcement of the provisions of this subchapter are made the duty of the Street Superintendent and City Administrator, who shall be made responsible to the Council for the proper carrying out of such duties.

(2002 Code, § 70-152)

§ 91.999 PENALTY.

(A) Any person violating any provision of this chapter for which no specific penalty is prescribed shall be subject to § 10.99 of this code.

(B) Any person violating any of the provisions of §§ 91.075 through 91.084 of this chapter shall be guilty of a misdemeanor and shall, upon conviction, be punished in accordance with § 10.99 of this code. Further, nothing contained in this division (B) shall prevent the city from taking such other action as is necessary to prevent or remedy any violation.

(2002 Code, § 70-153)

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