

PUBLIC WAYS AND PROPERTY

Article 1. Streets Generally

[Editor's Note: For snow removal regulations see Chapter 5. Traffic Regulations)

§8-101 STREETS; NAMING STREETS AND ALLEYS.

All streets and alleys laid out in additions to this City, continuous with and corresponding in directions to the streets and alleys laid out in this City, shall take and be known by the names such streets and alleys heretofore laid out.

§8-102 STREETS; CROSSINGS.

The City Council may order and cause to be constructed, under the supervision of the Director of Public Works, such street, avenue, and alley crossings as the City Council shall deem necessary. When a petition for the construction of any such crossings is filed by an interested resident in the office of the City Clerk, said City Clerk shall refer such application to the Director of Public Works who shall investigate and make his recommendation to the City Council. Action by the City Council on such application, whether the application is approved or rejected, shall be considered final.

§8-103 STREETS; RAILROAD CROSSINGS.

Whenever within the City any railroad company for the construction, maintenance and permanent use of the railroad through, upon and across any of the streets, lanes, alleys and public grounds has now located, constructed and established its tracks, sidetracks, etc., or shall hereafter do the same, it shall construct and keep in good repair suitable crossings for the convenient and safe passage of persons and vehicles. Such street crossing shall be over all streets occupied by such railroad company and shall be for the whole width of the street.

§8-104 STREETS; CULVERT CONSTRUCTION.

It is hereby declared to be unlawful for any person to build or place a culvert or approach in any street in the City leading into the property contiguous to such street without the consent of the Director of Public Works and without such means of ingress and egress being provided for at such party's expense and under the direction of the Director of Public Works.

§8-105 STREETS; CULVERTS, CLEANING AND REMOVING.

The Director of Public Works is hereby authorized, empowered and directed to remove or clean out any obstruction in the street which interferes with the drainage thereof, including any approaches and culverts which have not been placed therein as provided for by Section 8-104.

§8-106 STREETS; BUILDING NUMBERING, SYSTEM.

Every building fronting upon any of the streets (including avenues) in the City shall be numbered, and the following system of numbering is hereby adopted:

All streets shall be numbered north and south from First (1st) Street, and east and west from Park Avenue. Streets running north from First (1st) Street shall be called north streets, and streets running south from First (1st) Street shall be called south streets, as North Main and South Main, etc. Streets running east from Park Avenue shall be called east streets and streets running west from Park Avenue shall be called west streets. All odd numbers shall be given to the buildings on the south side, and even numbers to the buildings on the north side of each street running east and west. On all streets running north and south, the odd numbers shall be on the west side, and the even numbers shall be on the east side of each street. Numbers shall commence on all

streets running north from First (1st) Street with one hundred (100) for the number in the first (1<sup>st</sup>) block, two hundred (200) for the second (2<sup>nd</sup>) block, three hundred (300) for the third (3<sup>rd</sup>) block and in the same manner to the City limits. Numbers shall commence on all streets running south from First (1<sup>st</sup>) Street with fifty-six (56) for the first number in the first (1<sup>st</sup>) block, two hundred (200) for the first (1<sup>st</sup>) number in the second (2<sup>nd</sup>) block, three hundred (300) in the third (3<sup>rd</sup>) block, and in the same manner to the City limits. Numbers shall commence on all streets running east from Park Avenue with one hundred (100) for the first (1<sup>st</sup>) number in the first (1<sup>st</sup>) block, two hundred (200) for the first (1<sup>st</sup>) number in the second block, and, in the same manner to the City limits. Numbers shall commence on all streets running west from Park Avenue with fifty-six (56) for the first (1<sup>st</sup>) number in the first (1<sup>st</sup>) block, two hundred (200) for the first (1<sup>st</sup>) number in the second (2<sup>nd</sup>) block, three hundred (300) for the first (1<sup>st</sup>) number in the third (3<sup>rd</sup>) block, and in the same manner to the City limits.

On any street where there is a long block directly opposite to two (2) blocks, the numbers in the long block shall be made to correspond with the blocks opposite.

The space allowed each number shall be ten (10') feet. To find a number, one shall measure from the corner of the block commencing with the first (1<sup>st</sup>) number of the block, counting one (1) number for each ten (10') feet until opposite the door, and the number for those ten (10') feet shall be the number for the door or building.

**§8-107      STREETS; BUILDING NUMBERING, OWNERS DUTY.**

It shall be the duty of each owner or occupant to place or cause to be placed and maintained upon the front of his building, in plain, distinct figures, in a conspicuous place near the front entrance, the number of the building. Any person failing to comply with the provisions of this Section shall be deemed guilty of a misdemeanor.

**§8-108      STREETS; BUILDING NUMBERING, NONCOMPLIANCE.**

In case of the refusal or neglect of any person to number his building as provided in this Article, the Building Inspector may order the proper number placed thereon, and charge the cost thereof against and collect the same from the property so numbered, in the manner provided by law for the levy and collection of special assessments.

**§8-109      STREETS; WIDENING OR OPENING.**

The City Council shall have the power to open or widen any street, alley, or lane within the limits of the City; 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.

**§8-110      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 Public Works Director.

**§8-111      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.

**§8-112      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.

**§8-113      STREETS; IMPROVEMENT DISTRICTS, PROPERTY INCLUDED, CREATION AND NOTICE, OBJECTIONS.**

The Mayor and Council shall have power to make improvements of any street, streets, alley, alleys, or part of any street, streets, alley, alleys, in said City, a street which divides the City corporate area and the area adjoining the City, or

within a county industrial area as defined in Section 19-2501 RS Neb. contiguous to such 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 Section 19-2501 RS Neb. contiguous to such Cities.

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 (1) continuous or extended street or more, except that the district may include a cul-de-sac, any street, alley, or portion thereof which is closed at one (1) end or which connects with only one (1) other existing street, alley or portion thereof. Any paving or other improvement district may include portions of different streets, or portions of different alleys, or portion 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 aforesaid improvements already laid.

The Mayor and Council shall first, by ordinance, create a paving, graveling or other improvement district or districts. The Mayor and Clerk shall, after the passage, approval, and publication of such ordinance, publish notice of the creation of such district or districts one (1) time each week for not less than twenty (20) days in a daily or weekly newspaper of general circulation published in the City.

If the owners of the record title representing more than fifty (50%) percent of the front footage of the property abutting or adjoining an continuous or extended street, cul-de-sac, or ally of the district, or portion thereof which is closed at one (1) end, and who were such owners at the time the ordinance creating the district was published, shall file with the City Clerk, within twenty (20) days from the first publication of said notice, written objections to the improvement of a district, said work shall not be done in said district under said ordinance, but said ordinance shall be repealed. If objections are not filed against any district in the time and manner aforesaid, the Mayor and Council shall forthwith proceed to construct such improvement.

#### **§8-114      STREETS; IMPROVEMENTS INCLUDED.**

As used in Sections 8-113 thru 8-115, improvements shall include, but shall not be limited to, paving, repaving, graveling, grading, curbing, guttering, and the construction and replacement of pedestrian walks, plazas, malls, landscaping, lighting systems and permanent facilities used in connection therewith.

#### **§8-115      STREETS; PETITION FOR IMPROVEMENTS.**

Whenever a petition signed by the owners of record title representing seventy-five (75%) percent of the front footage of the property directly abutting upon the street, streets, alley, alleys, public way, or the public grounds proposed to be improved, and such district makes up one (1) continuous or extended thoroughfare or more, shall be presented and filed with the City Clerk, petitioning therefor, the City Council shall by ordinance create a paving, graveling, or other improvement district or districts, and shall cause such work to be done or such improvement to be made, and shall contract therefor, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, streets, alley, or alleys, especially benefited thereby in such district in proportion to such benefits, to pay the cost of such improvement.

#### **§8-116      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 streets the Police are hereby authorized and empowered to choose the route over which the moving of such vehicles, structures, or machines will be permitted and allowed. Nothing in this Section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding five-sixteenths (5/16) of an inch in diameter inclusive in the stud-casting with an average protrusion beyond the tread surface of not more than seven-sixtyfourths (7/64) of an inch between October 1, and April 15; Provided, that school buses and emergency vehicles shall be

permitted to use metal or metal-type studs all year; it shall be permissible to use farm machinery with tires having protuberances which will not injure the streets. It shall be permissible to use a rubber tired crane with a fixed load when such vehicle will be transported on state highway or on any road within the corporate

limits of the City, the City in which the crane is intended to be transported has authorized a one-day (1) permit for the transportation of the crane and specified the route to be used and the hours during which the crane can be transported, such vehicle is escorted by another vehicle or vehicles assigned by the City, and such vehicle's gross weight does not exceed the limits set out in 39-6,180(10) RS Neb and it shall be permissible to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other condition tending to cause a vehicle to slide or skid.

## Article 2. POLES, WIRES, CABLES AND CONDUITS

### §8-201 POLES, WIRES AND CABLES; INFORMATION FOR DEPARTMENT OF UTILITIES.

Upon request of the Department of Utilities, the persons operating electric or other wires and cables upon, over or under any street shall furnish accurate lists of the location of their poles and the number of cross arms thereto affixed, and the number of wires and cables thereto attached; the location of subways, manholes and other information in relation to their methods, together with the location where service is rendered.

Upon request of the Department of Utilities, every person operating electric or other wires and cables within the City shall furnish information as to the kind, size and test strength of supporting wires, or service wires, the average volts charged and current used, together with such other information as may be, by the Department of Utilities, deemed necessary to the faithful and effectual discharge of its duties.

### §8-202 POLES, WIRES AND CABLES; IDENTIFICATION.

All poles carrying wires and cables within the City shall be designated by a marker with the name or appropriate symbol of the person owning the same, except those owned by the City.

### §8-203 POLES, WIRES AND CABLES; SAFETY DEVICES.

All persons exercising any privilege under this Chapter shall adopt, purchase and use, in their business, any device and safeguard which may from time to time be discovered, for the protection of persons or property, against injury growing out of the use of electric current. Whenever the laying of electric wires beneath the ground shall be deemed by the Mayor and City Council necessary for the purpose aforesaid, and so expressed by resolution and adopted by a majority of the Council, all persons maintaining or using wires or cables above ground shall, when required by the Mayor and Council, take down at their own expense all poles used for the support of such wires and cables, and place their mains and conducting wires and cables beneath the ground, and all authority to erect and maintain poles for the purpose aforesaid shall cease.

### §8-204 POLES, AND WIRES; ACCEPTANCE OF ARTICLE.

The erection by any person of any cables, wires, poles or other fixtures, in the City, for the purpose mentioned in this Article shall be held to be an agreement on the part of such person to all the requirements, rules and regulations and conditions contained in this Article.

### §8-205 POLES, WIRES AND CABLES; PRIVATE LINES.

Every person erecting, maintaining or using private poles or wires carrying electrical current or cables carrying television signals, shall, in case of loss or damage, indemnify and save harmless the Municipality, its officers, agents and servants from and against all lawful claims and demands for injuries to persons or property occasioned by the existence of such poles, wires or cables, or the transmission of electric currents by means thereof; and, the Mayor, City Council, its agents and servants exercising the powers given by this Chapter shall not be held liable by any such person on account thereof, by reason of any injury or damage caused thereby.

**§8-206**      **POLES, WIRES AND CABLES; RIGHTS.**

All wires and cables used over the streets or public places within the City for the purpose of carrying an electric current or television signals shall be subject to the following conditions:

No permanent rights shall be obtained in the streets or public grounds by reason of such use, and such wires and cables shall be subject to change of location or removal when deemed necessary for the public interest, or under order of the Mayor and Council, or in case of fire, if necessary, such wires and cables may be cut or removed by order of the Electrical Inspector without claim upon the City therefor.

**§8-207**      **POLES, WIRES AND CABLES; WIRES, AND CABLES, AREAS PROHIBITED.**

No person engaged or about to engage in the transaction of a telephone, telegraph, electric light, electric heat or electric power or television signal business in the City shall erect, construct or maintain in the City through, along, upon or over that portion of Main Street lying between the north line of Third (3rd) Street and the north line of Sixth (6th) Street, and that portion of Sixth (6th) Street between the west line of the first (1st) alley east of Main Street and the west line of Broad Street, any poles or overhead wires or cables, for the purpose of telegraphic or telephonic communication, television signals or transmitting electricity.

**§8-208**      **POLES, WIRES AND CABLES; POLES, AREAS PROHIBITED.**

No person engaged or about to engage in the transaction of a telephone, telegraph, electric light, electric heat, electric power or television signal business in the City shall erect, construct or maintain in the City along or upon the hereinafter described portions of streets any poles for the purpose of telegraphic or telephonic communication, television signals or transmitting electricity. Such streets or portions of streets are as follows:

- A. That portion of Fifth (5th) Street lying between the east line of Main Street and the west line of Broad Street.
- B. That portion of Fourth (4th) Street lying between the west line of the first (1st) alley east of Main Street and the west line of Broad Street.
- C. That portion of Park Avenue between the south line of the first (1st) vacated alley south of Fourth (4th) Street and the south line of Military Avenue.
- D. That portion of Broad Street between the north line of Fifth (5th) Street and the south line of Military Avenue.
- E. That portion of Main Street from the north margin of First (1st) Street to the north margin of Third (3rd) Street.

The City Council may grant special permission for the temporary placement of poles and overhead wires or cables on the portions of streets listed in Subsections 8-207 and 8-208 for a duration which the City Council may deem appropriate in order to provide necessary utilities to adjacent property owners when service cannot be provided down an alley due to an event beyond the control of the Department of Utilities.

**§8-209**      **POLES, WIRES AND CABLES; CONDUITS, CONSTRUCTION AND MAINTENANCE.**

Every person subject to the provisions of this Article shall construct all conduits so as not to interfere with the City water mains, hydrants, and pipes, sewers, and City light wires and appurtenances or with gas, water or sewer pipes already laid, and without unnecessary injury or inconvenience to the public and shall replace in good condition for travel, all streets, avenues and alleys disturbed. Such persons shall repair and replace all pavements, crossings, walks removed or damaged by them in the construction of conduits, and shall repair immediately from time to time such defects as may become apparent in the streets, pavements, crossings and walks, growing out of the construction and maintenance of conduits as required by Article 3 of this Chapter. Such persons shall pay all damages for personal and other injuries that may occur to private individuals or corporations, as well as the City, resulting from or growing out of the negligence or want of care of such persons in the construction of the work herein required.

Before constructing any conduit, such person shall submit to the Department of Utilities maps and plans showing proposed location of such conduits and the manner of the construction and receive the approval of the Department of Utilities as to the location and manner of construction of such conduits.

**§8-210**      **POLES, WIRES AND CABLES; ELECTRIC CONDUITS SEPARATE.**

No telephone or telegraph or cables carrying television signals, wires shall be placed in any conduit or enter any manhole containing wires which carry electric current for light, heat or power.

**§8-211**      **POLES, WIRES AND CABLES; DEFACING, POSTING.**

It shall be unlawful for any person to nail, tack, paste or otherwise post or fasten any sign, notice, advertisement, piece of wood, metal or other substance to or upon any utility pole or street light pole, or to drive any nail, tack, staple or piece of metal into such pole within the City; provided that the Board of Public Works may permit the posting of signs related to utility line location or utility hazard warning, and that nothing herein shall be so construed as to prevent the officers or employees of the City from installing street signs or names or posting any legal notices upon such poles.

**§8-212**      **POLES, WIRES AND CABLES; REGULATIONS AND VIOLATIONS.**

Nothing contained in this Article shall be construed to prevent the City from further regulating and prohibiting the erection and maintenance of poles, wires and cables, as the growth and necessities of the City may require. Any person who shall violate any provision of this Article or who shall erect, construct or maintain any poles, wires or conduit in the streets of the City in violation of any provision of this Article shall be deemed guilty of a misdemeanor, and all such poles, wires and conduits shall be removed by the Director of Public Works after thirty (30) days' notice in writing of such proposed action to the owner thereof, and the expense thereof shall be paid by such owner.

**§8-213**      **PERMISSION TO ENCROACH, OCCUPY OR USE A RIGHT OF WAY**

Any person, firm, or corporation, other than duly authorized employees of the City, must have a permit to make any opening, cut, trench, boring, excavation, or any overhead utility installation above, under, or in the surface of any street, alley, or other public space right-of way of the City.

The City Administrator may promulgate any and all reasonable administrative rules, regulations and policies necessary and proper to implement and enforce this Ordinance and related sections of the Fremont Municipal Code. All such rules and regulations shall be in writing and shall be available for public inspection in the office of the City Clerk

### Article 3. Excavations

#### §8-301 EXCAVATIONS; PERMIT REQUIRED, PROCEDURE.

It is hereby declared to be unlawful for any person, except those entities operating under a franchise agreement with the City or a contract with the City, to excavate the surface or the ground beneath the surface of any street, avenue or alley within the City without an excavation permit from the City.

The permit shall specify the location of the excavation to be done and the permit fee shall be set by resolution of the City Council and kept on file in the office of the City Clerk.

At the end of each month, the City shall send each permittee a bill for all such permits along with the minimum fee specified under Section 8-304 for the surface class of street being excavated. Said bill to be due and payable upon receipt. Any permittee who fails to pay their bill within thirty (30) days of the date of billing shall have their license automatically suspended until the bill is paid in full. Failure to pay within sixty (60) days of the original date of billing shall result in automatic revocation of their license. No excavation permits will be issued to any licensee who is not in compliance with the above requirement.

Any person desiring to excavate in connection with the water or sewer systems of the City shall also need to obtain a permit from the Fremont Department of Utilities.

Upon the compliance with the requirements of this Article, the City shall issue a permit for such excavation, subject to the provisions of this Article and the other applicable sections of this Code.

#### §8-302 EXCAVATIONS; PERMIT TERMS, TIME LIMIT.

Permits issued pursuant to this Article shall be numbered consecutively and shall be valid for a period of ten (10) days from their respective dates, and no work shall be done under any such permit after the expiration of such ten (10) days. Each permit shall contain the name of the party authorized to use the same, the time limit

within which the same may be used, and the location and nature of the work to be done.

**§8-303      EXCAVATIONS; PAVEMENT BREAKING BY SAWING.**

It is hereby declared to be unlawful for any person to break paving except by sawing to a depth of at least three (3) inches; Provided, however, sawing is not required if the paving is partially granite or if permission is obtained from the Director of Public Works to break by means other than sawing.

**§8-304      EXCAVATIONS; REFILLING BY CITY, CHARGES.**

Where any permit is issued for excavating in any street, avenue or alley (excluding that area commonly called the parkway, being that area between the curb line and the lot line) all work of replacing paving and filling trenches or holes and tamping same shall be done by the Public Works Department or its representatives.

The charges for replacing concrete or brick paving where cuts have been made for installing sewer, water, gas or conduits of any nature, whether they be telephone, electric or otherwise, and for filling in excavations in unpaved streets, avenue, and alleys and tamping the same with a mechanical tamper, shall be set by resolution of the City Council and kept on file in the office of the City Clerk.

Tunneling or under cutting is not permitted and if such does occur, the holder of the permit shall be penalized on a square foot basis on all tunneling or under cutting. When it is necessary to remove material unfit for filling trenches and substitute suitable material, there shall be an extra charge based on the time required for the removal and replacement of such material.

**§8-305      EXCAVATIONS; REFILLING MEASUREMENT.**

All excavations regulated by this Article shall be measured by the Director of Public Works before filling. Such measurements shall be reported to the City Clerk who shall check such figures with the minimum charge. Where excavations are larger than set forth according to the minimum charge, the City Clerk shall collect for such excavations according to the schedule as set forth in section 8-304.

At the end of each month, the City Clerk's office shall send each permittee a bill for all such charges as determined above. Said bill to be due and payable upon receipt by the permittee.

Any permittee who fails to pay his bill within thirty (30) days of the date of billing shall have his license automatically suspended until the bill is paid in full. Failure to pay within sixty (60) days of the original date of billing shall result in automatic revocation of his license.

**§8-306      EXCAVATIONS; REFILLING PARKWAY AREA.**

Where any permit is obtained for the excavating in any street, avenue or alley, which includes the parkway, (being that area between the curb line and the lot line) all work of replacing any paving or filling any trenches or holes, tamping and reseeding in such parkway shall be done by the plumber or other person having the permit to so excavate in such parkway. Replacement of the parkway excavation shall be done in a workmanlike manner, so that the area excavated shall be returned substantially to its previous condition. This shall include the repaving or replacing of sidewalk as may be necessary, reseeding or resodding as may be necessary to restore such parkway to its previous condition, and appropriate tamping.

Such parkway area between curb line and lot line is the property of the City and the plumber or other excavator when working in such area shall comply with all applicable provisions of this Code and all appropriate ordinances, resolutions and rules governing the use of streets, avenues and alleys and particularly shall comply with section 8-307.

**§8-307      EXCAVATIONS; PERMIT REQUIREMENTS, NOTICE.**

Permits pursuant to this Article shall be issued only to persons licensed to make excavations in any street, avenue or alley. Back charges shall be paid immediately and no permit shall be issued to anyone who has an unpaid charge hereunder. The holder of each permit shall notify the Public Works Department not later



than one (1:00) o'clock P.M. on each Friday of any excavations that have been inspected and are ready to fill. The holder of each permit shall light and maintain until the following Monday all excavations not reported by one (1:00) o'clock P.M. Friday. Any person licensed to do construction work in any street, avenue or alley shall provide, at his own expense, substantial barricades with his name clearly marked thereon. These barricades shall be Type II of the Federal Uniform And Traffic Control Devices for streets and highways. In addition to barricades, sufficient lights shall be used to protect the public.

**§8-308      EXCAVATIONS; INSPECTIONS.**

The Public Works Department shall make such inspections as are necessary to determine whether the work performed by the plumbers pursuant to this Article is in accordance with the requirements of this Article, and if the Department determines that the replacement of any parkway excavation is not performed in compliance hereof, it shall immediately notify the plumber to correct the deficiency. If the plumber shall fail to correct the deficiency, the Public Works Department shall make a report in writing to the Mayor and Council as to the whole occurrence, to be placed on the agenda for the consideration of the Council.

**§8-309      EXCAVATIONS; BOND REQUIRED.**

Every person engaged in excavating the streets, avenues, alleys or other public places of the City for the purpose of laying, removing or repairing gas mains or pipes is hereby required to file with the City Clerk and have approved by the Mayor and Council a bond, payable to the City, with two (2) or more good and sufficient sureties, or reputable surety company, as surety in the sum of five thousand (\$5,000.00) dollars, conditioned that such person will indemnify and keep harmless the City from any liability for damages or injuries to persons or property arising from any negligence or mismanagement in doing or protecting such work, and that such person will restore the streets, sidewalks and pavements over all pipes laid or repaired, and fill all excavations made by him so as to leave such streets, avenues, alleys and public places in their original condition so far as practicable, and keep and maintain the same in good order to the satisfaction of the Public Works Department for a period of ninety (90) days thereafter. Such bond shall be for the period ending on April first (1st) following, and shall be renewable annually on or before April first (1st). The regulations contained in this section are in addition to those contained elsewhere in this Chapter and shall not be construed to in any degree modify, alter, waive or repeal any other provision of this Chapter.

**§8-310      EXCAVATIONS; UNPROTECTED, DANGEROUS.**

No person shall excavate on any lot a part of a lot contiguous to any sidewalk and leave the same open and exposed in such a manner as to endanger the safety of any person passing along any street, avenue or sidewalk therein or adjacent thereto.

**§8-311      EXCAVATIONS; VIOLATIONS.**

Any person who shall fail, neglect or refuse to comply with or shall violate any requirements or provisions of this Article shall be deemed guilty of a misdemeanor; and shall be charged a double fee for the permit and the minimum fee for the type of pavement being replaced shall be doubled. If the same individual shall violate this Article twice within any six (6) month period, and the individual is a licensed plumber, his license shall be suspended automatically for a period of ninety (90) days.

**Article 4. Sidewalks and Curbing**

**§8-401      SIDEWALKS AND CURBS; LOCATION AND ELEVATION.**

The City Engineer, with the approval of the City Council, shall establish the elevation of all curbing hereinafter constructed on the streets and avenues of the City. The grade of sidewalks hereinafter constructed in the City shall be one-fourth (1/4") inch above the curb for every foot the sidewalk is located behind the curb. Sidewalks shall be located so that the inner edge is two (2') feet from the lot line; Provided, however that on streets with a right-of-way of less than sixty (60') feet, the inner edge of the sidewalk shall be six (6") inches from the lot line. Variances as to location and elevation of sidewalks may be granted by the Director of Public Works, as recommended by the City Engineer.

**§8-402      SIDEWALKS AND CURBS; WIDTH OF PAVING.**

The width of paving for all streets and avenues in the City paved henceforth shall be as required in the Subdivision Regulations of Chapter 11 of this Code. A variance may be obtained by approval of the City Council after recommendation of the City Engineer.

**§8-403      SIDEWALKS AND CURBS; PERMIT REQUIRED, FEE, TERM OF PERMIT.**

No sidewalk, driveway, or curbing shall be constructed or repaired on any street or avenue in the City unless a permit is first obtained from the Public Works Director. A property owner that is required to replace or repair a sidewalk may obtain a permit to place the new sidewalk, due to the location of a tree in the adjacent right-of-way, in a fashion to gradually meander around the right-of-way tree. A property owner requesting a permit to meander a sidewalk does expressly permit and allow others to use the sidewalk should the path of the permitted meandering sidewalk be placed beyond the dedicated right-of-way and cross onto the property owner's land. A fee of twenty (\$20.00) dollars shall be charged for each driveway permit and a fee of ten (\$10.00) dollars shall be charged for each seventy (70') feet or fractional part thereof of sidewalk or curbing to be constructed. A separate permit shall be obtained for each lot or parcel of ground where a sidewalk is to be constructed. A separate permit shall be obtained for each lot or parcel of ground where a sidewalk is to be constructed adjacent thereto. Such fees shall be paid to the City of Fremont by the applicant prior to the permit being issued. Permits for said sidewalk shall expire one hundred eighty (180) days after their date of issue unless a "Notice to construct or Repair sidewalk" has been issued for the property the permit is being acquired for. In such cases, the permit shall become void on the date specified on the sidewalk installation and/or repair notice issued by the Director of Public Works. All permits outstanding on the effective date of this Section will be considered to have been issued on the effective date of this Section and will become void in one hundred eighty (180) days.

Anyone desiring a time extension on an expired permit shall submit a written request to the Public Works Director, requesting the permit be renewed. The request shall be filed with the Public Works Director at least two (2) days prior to the expiration date of the permit. The applicant will be charged the original permit fee and only one (1) such time extension shall be allowed for the work to be completed.

Sidewalks, driveways, and curbing shall be constructed to the lines and grade established by the City Engineer.

[Editor's Note: see Chapter 10 for contractor licensing.]

**§8-404      SIDEWALKS AND CURBS; 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 City Council shall have power to cause any such sidewalks to be constructed or repaired and assess the costs thereof against such property.

**§8-405      SIDEWALKS AND CURBS; CONSTRUCTION OF NEW SIDEWALK.**

Whenever the City Council shall deem it necessary that a sidewalk should be constructed in front of any lot or piece of ground in the City in a place where there is no sidewalk, it shall so order and the Director of Public Works shall thereupon notify the owner of such lot or piece of ground of the work or improvement to be done, and such owner so notified shall be allowed thirty (30) days from the service of such notice in which to construct the same. Such notice shall be given by delivering the same to the owner in person or by leaving it at his usual place of residence in the City, or if he be a nonresident of the City, by publication of such notice for three (3) consecutive days in a daily paper of the City. Such notice shall notify such owner of the passage of such resolution and that he will have thirty (30) days from and after the service of notice, or from the last day of publication in the event of notice in that manner, within which to construct the sidewalk so ordered or cause the same to be done, and further notifying such owner that if he fails to construct such sidewalk, or cause the same to be done, within thirty (30) days after notice as aforesaid, the City will cause such sidewalk to be constructed and that the cost thereof will be levied and assessed thereafter by the Mayor and City Council as a special tax against such premises.

§8-406

SIDEWALKS AND CURBS; REPAIR OF SIDEWALK.

Whenever the City Council shall deem it necessary that any sidewalk shall be repaired, the City shall notify the owner of the lot or piece of land along and contiguous to which such sidewalk is situated, to repair the same within three (3) working days from and after giving of such notice. Oral notice to the owner shall be deemed sufficient. If the owner is not found by the Director of Public Works, than a written notice left in the house situated on such lot or piece of ground, or posted upon such premises, shall be sufficient and the twenty-four (24) hours shall begin to run from the leaving or posting of such notice, as the case shall be.

§8-407

SIDEWALKS AND CURBS; SIDEWALK WIDENING AND RECONSTRUCTION.

Whenever the Council shall deem it necessary that an old sidewalk shall be widened, replaced or reconstructed, it shall order the same to be done and the Director of Public Works shall give notice in the manner and form provided in Section 8-405 to widen, replace or reconstruct the same within thirty (30) days from and after such notice.

§8-408

SIDEWALKS AND CURBS; FAILURE TO COMPLY WITH NOTICE.

If any owner of a lot or piece of land in the City shall neglect or refuse, or shall have failed, after notice has been given as provided in this Article, to construct, repair, replace or reconstruct any sidewalk within the time limited in the notice given in such case, and whose duty it is made by this Article to construct, repair or rebuild and reconstruct such walk, the Director of Public Works shall proceed at once without further notice to such owner to have such sidewalk constructed, repaired, rebuilt or reconstructed, as the case may be, and the expense of such work shall be assessed to such lot or piece of land and collected as provided by law.

§8-409

SIDEWALKS AND CURBS; CONCRETE REQUIRED, WIIDTH.

All sidewalks on either side of the streets and avenues of the City of Fremont in front of or along any lot or land abutting upon the same, which shall be hereafter constructed, reconstructed or replaced, shall be of concrete, unless an alternate material is approved by resolution of the City Council. All sidewalks in front of or along any lots or parcels of land within the fire limits, where curbing is set or about to be set, shall be constructed not less than the width of the parking unless otherwise approved by the Council. All other sidewalks in the City shall be not less than four (4) feet in width. All sidewalks in the City shall be constructed per specifications by the Public Works Director; and constructed either by the property owner or their agent.

§8-410

SIDEWALKS AND CURBS; CONFORMANCE WITH PLANS AND SPECIFICATIONS.

All concrete sidewalks and all driveways hereafter laid, constructed or reconstructed along any street or avenue in the City shall be in conformity with such plans and specifications as may be prepared by the City Engineer and adopted and approved by the Mayor and Council.

§8-411

SIDEWALKS AND CURBS; UNLAWFUL CONSTRUCTIONS.

In case any lot owner or owner of a piece of land within the City under notice given or otherwise, constructs a sidewalk, driveway, or curb in violation of this Article, the City Engineer may stop the work of such construction and order the same to be made in accordance with this Article and the work already done to be changed, and on the failure of such owner to change any such work the Public Works Department shall forthwith change such work, and the expense of the same shall be assessed and taxed to such lot and collected as if taxed as provided by law.

In case the owner of property in front of which any unlawful sidewalk or driveway is constructed shall refuse or neglect to rebuild or relocate the same, within five (5) days after notice to do so, then the Council may order the same rebuilt or relocated and assess the costs thereof upon the abutting property upon the same notice, and in the same manner as provided by law for an assessment for new sidewalks.

§8-412

SIDEWALKS; CONSTRUCTION BY PETITION.

If the owners of the record title representing more than sixty percent (60%) of the front footage of the directly abutting property, subject to assessment for sidewalk improvements, petition the City Council to make the

same, the City Council shall proceed in all things as though such construction had been ordered by it. Upon the petition of any freeholder who is abutting owner in fee simple of property subject to assessment for sidewalk improvements, the City Council may order permanent sidewalks built in accordance with this Article upon the freeholder making, executing, and delivering to the City an agreement to the effect that the petitioning freeholder will pay the engineering service fee and all other incidental construction costs until paid shall be a perpetual lien upon the real estate along which the freeholder desires such sidewalk to be constructed and that the petitioner gives and grants to the City the right to assess and levy the costs of such construction against the freeholder's real estate abutting the sidewalk improvements and promises to pay such costs with interest. The total cost of such improvement shall be levied, allocated, financed, and specially assessed as provided by law. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt request 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.

#### **§8-413      SIDEWALKS; REQUIRED WITH NEW CONSTRUCTION.**

Sidewalks shall be constructed in accordance with the applicable sections of this Chapter along each public street adjoining any property in the City of Fremont concurrent with the completion of construction of a new principal building on said property. The City Council may grant a variance to this requirement upon request of the property owner if the City Council determines that sidewalks are not necessary at that location.

### **Article 5. Driveways**

#### **§8-501      DRIVEWAYS; PERMIT, REGULATION.**

It shall be unlawful for any person to construct a private drive from the roadway of any street or avenue in the City to his property without first making application to the Public Works Director for a permit therefore. Said permit shall be approved for a width of thirty-two feet (32') or less. If the design includes a width of greater than thirty-two feet (32'), approval must be obtained from the Public Works Director and the City Council to assure compliance with acceptable engineering and traffic design principles and standards. A fee of twenty dollars (\$20.00) shall accompany each application. On corner lots, it shall be unlawful for any curb to be removed or for any driveway to be constructed closer than ten feet (10') from the property lines of the adjoining streets. All drives shall have a minimum radius of five feet (5') on each side of the drive where it adjoins the street curb, unless approved by the Public Works Director and the City Council.

An application for a permit pursuant to this Article shall state the following:

The addition, block and lot which the driveway is to serve.

The location of the proposed driveway with reference to property lines.

The width of the driveway and the type of street surface to which the driveway will connect.

#### **§8-502      DRIVEWAYS; UNIMPROVED STREETS, CULVERTS, GRADING.**

If any driveway regulated by this Article is to connect to any unimproved street, a culvert of the kind, size and length recommended by the City Engineer shall be procured by the property owner at his expense, which will be installed by the City Street Department on the proper grade as determined by the City Engineer. The driveway from the culvert to the sidewalk (or, if no sidewalk exists, then to the sidewalk line) shall be graded to a uniform grade.

#### **§8-503      DRIVEWAYS; CONNECTING WITH CURBED STREET.**

If a driveway regulated by this Article is to connect to a paved street or avenue, said driveway shall be constructed in conformance with the requirements established by the City Engineer and approved by the City Council. All driveways constructed henceforth and connecting to a paved street or avenue shall be paved with concrete from the edge of the pavement to the property line, with allowances for public sidewalks. A drive approach may be constructed with a brick surface between the sidewalk line and the location where the

finished surface of the drive is at least three (3") inches above the street gutter grade, provided the brick portion is laid over concrete base and the City Council grants permission for the brick installation by resolution. An existing concrete driveway may be overlaid with asphalt per the requirements established by the City Engineer and approved by the City Council provided a permit is acquired by a Licensed Asphalt Worker. The permit fee to be as prescribed in Section 8-501. The Public Works Director may grant a property owner permission to gravel or asphalt surface (six (6") inch minimum depth) a new drive to a paved street without curb and gutter.

## Article 6. Obstructions

### §8-601 OBSTRUCTIONS; STATIONARY OBSTRUCTIONS GENERALLY.

It is hereby declared to be unlawful for any person to place or leave or permit to be placed or left with his consent, within or across any streets, alleys, avenues or sidewalks or across where one would be located if and when constructed, any wire, fence, refuse, rubbish, tree, bush, shrub, barricade or any other article or thing whatsoever which in any manner interferes or obstructs with the public use or travel of or on any such avenue, street, alley, sidewalk or pathway where a sidewalk would be located if and when constructed, or any part of the aforesaid: Provided, that any person may obstruct and interfere with the public uses or travel on such streets, alleys, sidewalks and pathways if the following conditions have been complied with by such person:

- A. Utility Purposes. If the sole purpose of the obstruction is excavation for utility purposes, then permits for excavation shall be obtained in accordance with Article 3 of this Chapter. The applicant for permission shall be licensed and bonded to do business in the City.
  
- B. Construction, etc., of Buildings. If the purpose of using the streets, avenues, alleys and sidewalks is temporary, to construct, destroy or repair premises, then a permit to use such public property shall be obtained from the City Clerk by making written application by the person intending to use such public property. Such application shall contain the following items:
  1. Signed consent to such application by the owners of property adjacent to the street, avenue, alley or sidewalk desired to be obstructed or barricaded.
  2. The general nature of the use of the public property, the length of such use and the extent of public property to be used.
  3. A statement of the precautions to be taken and maintained to warn and protect the public of the obstruction, which shall include warning lights at time of poor visibility.
  4. Approval by the Building Inspector or City Engineer, the terms of the application.
  5. A statement that an insurance policy or endorsement of a policy is provided protecting the City from all claims, damages and demands arising out of the use of such public property by the applicant or adjacent property owner. Such insurance policy or endorsement shall accompany the application and shall name the City as one of the assured and shall give the City all the protection found in the Nebraska Uniform Standards policy, so as to pay on behalf of the City any sums for which the City should be come obligated to pay by reason of liability imposed by law arising from the use by the applicant or adjacent property owner of such public property. If the endorsement on a policy was not originally issued in this state, then such endorsement shall contain provisions that the protection afforded by the endorsement includes all the provisions found in the Nebraska Standard Form Policy covering public liability and property damage risks. Such policy, endorsement or bond shall be in force during all times that the applicant or adjacent property owner is using public property as aforesaid. The amount of protection afforded the City shall be at a minimum of twenty-five thousand (\$25,000.00) dollars for each person, fifty thousand (\$50,000.00) dollars for each accident or occurrence and ten thousand (\$10,000.00) dollars for damage to property.

### §8-602 OBSTRUCTIONS; SIDEWALKS KEPT CLEAN.

It shall be unlawful for any occupant of any lot or the owner, any vacant lot to permit snow or mud to accumulate on the sidewalk contiguous thereto, or to permit any hard trodden snow, ice or mud to remain upon such sidewalk. Such sidewalk shall be cleaned within eight (8) hours after the cessation of any storm, unless the storm or fall of snow shall have taken place in the nighttime, in which case the sidewalk shall be cleaned before ten (10:00) o'clock A.M. the following day.

**§8-603      OBSTRUCTIONS; VIOLATIONS, ABATEMENT.**

It is hereby declared to be the duty of the Police Department whenever any violation of sections 8-601 and 8-602 shall come to its knowledge, to forthwith notify the person committing or permitting acts or conditions prohibited by such sections to at once abate or remove such nuisance, and if such person shall not within three (3) hours comply with such notice, the Police Department shall thereupon issue a citation and if convicted, such violator shall be fined as provided in Article 8, and further, in case of such neglect or refusal, the Police Department shall forthwith abate the same at the expense of the person chargeable therewith, to be collected before any court of competent jurisdiction; Provided, however, that any person who shall violate any of the provisions of section 8-602 who shall not forthwith remove prohibited accumulations from sidewalks or street crossing when notified by any citizen shall, on complaint of any citizen, be apprehended, and on conviction thereof, be fined as aforesaid.

**§8-604      OBSTRUCTIONS; DISPLAYS.**

- (1) It is hereby declared to be unlawful for any person to place for display purposes or for sale purposes, or for storage, on any sidewalk or in any street or avenue of the City, any fruit, vegetables, groceries or other goods, wares or merchandise, unless the same has been approved by the City Council.
- (2) It is also declared unlawful for any person to place any sign or other advertising material on any sidewalk or in any street or avenue of the City in violation of the zoning ordinance of the city, except that the City Council may permit Temporary Message Boards to be placed on the sidewalk in the Downtown Improvement and Parking District excluding Businesses on Broad Street provided that there is no display or merchandise placed in the right of way at the premises pursuant to Section (1) above.
- (3) The City Council shall promulgate rules and regulations regarding such displays, merchandise and message boards, may charge a fee for such permits, permissions or approvals, and may revoke any permit, permission or approval for such items, at any time, in the sole discretion of the City Council.

**§8-605      OBSTRUCTIONS; BARBED-WIRE FENCES PROHIBITED.**

It is unlawful for any person to erect or maintain any barbed-wire fence along and adjacent to anyone of the public streets or avenues of the City within the limits of the City; Provided, however, the Council, by resolution, may prescribe in a specific case a variation in the application of this section if it is found that said variation would not be injurious to the public health, safety and welfare of the City.

Any person who shall, after notice by the Police Department, refuse to remove any barbed- wire fence which is situated along and adjacent to any public street or avenue shall be deemed to be maintaining a nuisance and such fence shall be abated and removed as a nuisance in the manner provided by this Code.

**§8-606      OBSTRUCTIONS; FENCES REGULATED IN RESIDENTIAL DISTRICTS, PERMIT.**

In the residential districts of the City as set forth on the official Zoning District map, fences may be built to all lot lines, with no portion thereon extending over the line except as permitted in section 8-608. No portion of a fence shall be more than six feet, six inches (6'6") above the ground measured at the fence line.

No new fence shall be built, or existing fence reconstructed, without a permit being issued therefore by the City Building Inspector upon the application of the property owner. The fee for such permit shall be the same as provided in the Uniform Building Code Ordinance, section 9-604 of the Code, and shall be paid to the Director of Finance at the time the permit is issued.

No permit shall be issued by the Building Inspector for a fence which will be located in a public utility easement until approval is received from the General Manager of the City Department of utilities.

The City Council may grant permission for a fence to exceed six feet, six inches (6'6") in height if the Council determines it will not be detrimental to the general safety and welfare of the public.

**§8-607**      **OBSTRUCTIONS; FENCE REGULATION EXCEPTIONS.**

Except on corner lots a fence shall not exceed three (3') feet in height, thirty (30') feet each way from the corner of a lot where two (2) streets intersect; Provided, however, a forty-two (42") inch chain link fence or equivalent providing a clear vision upon which no vegetation will be permitted to grow is permissible under this section. A fence shall not exceed four (4') feet in height, fifteen (15') feet each way from the point on a lot line where an alley and/or driveway and street intersect; Provided, however, the Council, by resolution, may prescribe in a specific case a variation in the application of this section if it is found that said variation would not be injurious to the public health, safety and welfare of the City.

**§8-608**      **OBSTRUCTIONS; STRUCTURES GENERALLY; FENCES; VARIANCES.**

All persons are prohibited from erecting, placing or maintaining in any street, avenue or alley in the City any house, barn, stable, shed, building, structure, fence, fencing or other obstruction.

Where any obstruction such as prohibited by this section shall exist, it shall be the duty of the Director of Public Works to notify the owner or occupant of the lot nearest to such obstruction to remove the obstruction, if such lot be occupied, and, if not occupied, such notice shall be written and posted upon such lot, and immediately after the expiration of three (3)

days from the date of such notice or of such posting, if such obstruction still remains, the Public Works Department shall remove such obstruction by tearing down the same and placing the material thereof on the lot nearest thereto, owned or occupied by the person maintaining such obstruction, and it shall immediately report to the Council the expense of such removal.

The City Council may grant a variance to permit a fence to encroach into the public right-of-way in the residential zoning districts of the City as set forth on the Official zoning District Map, provided the following conditions are met:

1. The City Council shall determine that:
  - A. said fence will not be injurious to the public health, safety and welfare of the City;
  - B. the fence will not constitute a traffic hazard; and,
  - C. the fence does not violate any other provision of the Fremont Municipal Code.
2. The owner of the property provides public liability insurance coverage in the amount of five hundred thousand (\$500,000.00) dollars for the fence with the City as the named insured.
3. The encroachment cannot obstruct the sidewalk.
4. If the fence needs to be removed for any public improvement project or utility installation or maintenance, the adjacent lot owner must pay all expenses associated with removal and replacing said fence.
5. The City Council may, at any time, order the fence removed from the right-of-way. The owner shall comply within thirty (30) days from the date of the City Council order and pay all costs of said removal.
6. A copy of the resolution and condition of granting the variance must be recorded at the Dodge County Register Deeds office.

**§8-609**      **OBSTRUCTIONS; EXPENSE OF REMOVAL.**

The expense of removing obstructions under section 8-608 shall be levied upon the lot nearest to such obstruction, owned or occupied by the person maintaining such obstruction, as other special taxes are levied in the City. Such special taxes shall be a lien upon such lot from the date of such levy and shall be collected as other taxes of the City are collected.

**§8-610**      **OBSTRUCTIONS; NOTICE NOT NECESSARY FOR PROSECUTION.**

The notice provided for in section 8-608 is only necessary before removal of an obstruction by the Public Works Department, but not necessary as a basis for prosecution and conviction under this section.

**§8-611      OBSTRUCTIONS; LIABILITY OF OWNER OR OCCUPANT OF ADJACENT LOT.**

The owner or occupant of any lot in the City who suffers any obstruction, prohibited by section 8-608, to remain in the street, avenue or alley adjacent to such lot shall be deemed guilty of maintaining an obstruction prohibited by this section without regard to the length of time such obstruction is allowed to remain and without regard as to by whom such obstruction was erected.

This section shall not apply to any case of temporary obstruction under a permit from the Mayor and Council.

**§8-612      OBSTRUCTION; STREET AND AVENUE DEFINED.**

The word "street" and the word "avenue", as used in this section, shall mean and comprehend all the ground between lot boundaries, and include sidewalks and curbing grounds, up to the lot line on each side of the street or avenue.

**§8-613      OBSTRUCTIONS; SIGNS, AWNINGS, AND RAILS.**

All persons are hereby prohibited from erecting, placing or maintaining on any street, avenue or alley in the City any fabric or flexible awning unless the frame is at least seven (7') feet above the sidewalk immediately below it, and further that no part of the awning fabric extend lower than six and one half (6 ½ ') feet above the sidewalk immediately below it. Permanent rigid awnings or marquees may be placed only after obtaining the consent of the Mayor and Council and as directed in each case.

All persons are hereby prohibited from erecting, placing or maintaining on any street, avenue or alley in the City any awning post, sign post or private lighting post or rails.

All persons are hereby prohibited from erecting, placing or maintaining on the surface of any street, avenue or alley in the City any device for advertising, except as provided in section 8-615.

The rights and privileges conferred by or created in pursuance of sections 8-613 through 8-619 are a license merely and this section may be repealed or amended, and the licenses revoked at any time when in the judgment of the Mayor and City Council the public welfare requires such action to be taken.

**§8-614      OBSTRUCTIONS; SIGNS AND AWNINGS, ENFORCEMENT.**

Where any obstruction such as prohibited by sections 8-613 through 8-619 shall exist, it shall be the duty of the Public Works Department to notify the person erecting, placing or maintaining such obstruction, if known, to remove the obstruction. If such person be unknown, such notice shall be written and posted upon the lot or portion thereof nearest to such obstruction and immediately after the expiration of three (3) days from the day of service of such notice or of such posting up if such obstruction still remains, the Public Works Department shall remove such obstruction by tearing down the same and placing the material thereof on the lot nearest thereto, owned or occupied by the person maintaining such obstruction.

The notice provided for in this section is only necessary before removal of an obstruction by the Public Works Department but is not necessary as a basis for prosecution and conviction under this section.

**§8-615      OBSTRUCTIONS; SIGNS AND ADVERTISING WITHIN THE PUBLIC RIGHT-OF-WAY.**

All persons are hereby prohibited from erecting, placing or maintaining any sign or device for advertising, extending over and into any street, avenue or alley in the City from an adjacent building, structure or support and above the surface of such street, avenue or alley except as follows:

In the Central Business District as delineated on the official City Zoning District Map, and all of Blocks 171, 182, 183, 184, 185, 186, 187, 204 and 205, Original Town, City of Fremont, as platted and recorded at the



Dodge County Register of Deeds Office.

- A. Signs, etc., Extending Over etc., Street, etc., Less Than Six (6") Inches. Signs and advertising devices extending over and into any street, avenue or alley not more than six (6") inches may be placed and maintained at any height.
- B. Signs, etc., Extending Over etc., Street, etc., More Than Six (6") Inches. Signs and advertising devices extending over and into any street, avenue or alley in the City more than six (6") inches and not more than eighteen (18") inches may be erected, placed and maintained with the lowest part thereof not less than eight (8') feet above the average grade of the street, avenue or alley beneath.
- C. Signs, etc., Extending Over, etc., Street, More Than Eighteen (18") Inches and Less than Eight (8') Feet. Signs and advertising devices extending over and into any street, avenue or alley more than eighteen (18") and not more than eight (8') feet may be erected, placed and maintained with the lowest part thereof not less than ten (10') feet above the average grade of the street, avenue or alley beneath.
- D. Signs, etc., Extending Over, etc., Street, etc., More Than Eight (8') Feet. Signs and advertising signs extending over and into any street, avenue or alley more than eight (8') feet may be placed with the lowest point thereof not less than fourteen (14') feet above the average grade of the street, avenue or alley beneath such sign or advertising device only after first obtaining the consent of the Mayor and Council.

The City Council may grant a variance to permit a sign in a commercially or industrially zoned area which overhangs the right-of-way (outside the Central Business District, and all of Blocks 171, 182, 183, 184, 185, 186, 187, 204 and 205 Original Town, City of Fremont, as platted and recorded at the Dodge County Register of Deeds office) under the following conditions:

1. The City Council shall determine that:
  - a. Said sign will not be injurious to the public health, safety and welfare of the City.
  - b. The sign will not constitute a traffic hazard.
2. The owner of the property provides public liability insurance coverage in the amount of one million dollars (\$1,000,000.00) for the overhanging sign with the City as the named insured.
3. The City Council may, at any time, order any overhanging sign for which a variance was granted, relocated so that it does not overhang the right-of-way. The owner of such sign shall comply within thirty (30) days from the date of the City Council order and shall pay all expenses of relocating said sign.

The City Council may grant permission for a sign identifying a particular platted subdivision to be erected within the public right-of-way under the following conditions:

1. The sign may only contain the name of the subdivision;
2. The sign must be located so as to not constitute a traffic hazard;
3. Public liability insurance of at least one million dollars (\$1,000,000.00) with the City named as a named insured must be provided;
4. Provisions for ongoing maintenance of the sign must be presented to the City Council at the time the sign is requested;
5. The City Council, by separate Resolution, passed by a three fourths (3/4) majority vote of all members of the City Council, may, for any subdivision identification sign for which permission is granted to occupy the public right-of-way after January 1, 2009, reduce or delete the liability insurance requirement for said sign identifying a subdivision and may delete the requirement for ongoing maintenance for said sign identifying a subdivision; and,
6. The City Council may, at any time, order the sign removed in its sole discretion for failure to comply with Items 1-5 above, failure to maintain the sign, or as the Council may deem necessary.

§8-616 OBSTRUCTIONS; SIGNS, ANCHORING.

In no event shall any sign or advertising device be erected, placed or maintained as provided in sections 8-615 through 8-619 where the same impedes or obstructs or is a menace to traffic on any street, avenue or alley, or unless the same is securely and safely anchored, and if electrically illuminated or operated, the wiring thereof shall conform with the National Electrical Code of the National Board of Fire Underwriters.

§8-617 OBSTRUCTIONS; SIGNS, PERMIT AND APPROVAL REQUIRED.

The Building Inspector is hereby authorized and required to issue and the City Clerk is hereby authorized and required to collect the fees for permits for the building and erection of signs and advertising devices regulated by this Article and no sign or advertising device shall be constructed within the City unless a permit therefor has been issued by the Building Inspector nor unless such construction and erection is done in conformity with the provisions of this Article and Code section relating thereto. No sign or advertising device shall be erected, placed or maintained as provided by this Article unless the same shall have been approved by the Building Inspector.

§8-618 OBSTRUCTIONS; SIGNS, PERMIT, INVESTIGATION; FEE SCHEDULE.

The City Clerk is hereby authorized and directed to charge for permits issued pursuant to this section the following fees based on the estimated cost of the sign or advertising device:

Less than fifty dollars.....	\$5.00
Over fifty dollars to two hundred dollars.....	\$10.00
Over two hundred dollars to one thousand dollars.....	\$15.00
Over one thousand dollars to five thousand dollars. . . . .	\$20.00
Over five thousand dollars .....	\$30.00

The fees collected for such permits shall be paid into the General Fund of the City.

Investigation Fees: Whenever any work for which a permit is required by this section has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.

An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this code; however, the minimum investigation fee shall be fifty dollars (\$50.00). The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this Code nor from any penalty prescribed by law.

§8-619 OBSTRUCTIONS; TEMPORARY SIGNS.

1. Residential Districts. Temporary signs may be erected in residential districts provided the signs are nonilluminated and are under nine (9) square feet in area.

Temporary signs displaying the name of a contractor working on the property where the sign is posted shall be limited in duration to sixty (60) days for all construction work except a new dwelling unit which may be up to one hundred fifty (150) days on the property where a new building is being erected. In no case shall a contractor's sign be located on a property where there is not a current building permit issued. The City Council may grant permission to exceed the time limits or the size requirements noted above.

Temporary signs for the sale of property may be located on the property which is for sale. Said signs may be in place for up to ninety (90) days and shall be removed within seven (7) days after the disposition of the premises.

Temporary signs for campaign purposes may be located on private property or in the area between the sidewalk and the curb provided said signs are at least two feet (2') back of the curb and does not obstruct traffic. Said signs may be in place for up to sixty (60) days. The City Council may by resolution grant a variance to the provisions stated above to permit temporary signs at a construction site to be larger in area and in place for a longer duration than specified above.

2. Commercial and Industrial Districts. Temporary signs for campaign purposes which are under nine (9) square feet in area may be erected on private property or in the area between the sidewalk and the curb provided said signs are at least two feet (2') back of the curb and do not obstruct traffic. Said signs may be in place for up to sixty (60) days.

Temporary signs for campaign purposes over nine (9) square feet in area and under thirty-two (32) square feet in area maybe located on private property if located so as not to obstruct traffic and for a period of time not to exceed sixty (60) days.

### §8-620 OBSTRUCTION; VEGETATION.

It is hereby the duty of the Police Department or its duly authorized agent to view and inspect the sidewalk space within the corporate limits for growing vegetation during the growing season, and if rank and noxious vegetation is found growing thereon, it shall notify the owner or occupant thereof, to cut down such vegetation as close to the ground as can be practicably done and keep the vegetation cut thereon in like manner during the growing season for vegetation; provided, any vegetation growing in excess of fourteen inches (14") on any sidewalk space (that portion of street between curb lines and adjacent property lines) shall be considered a violation of this section. In the event that the owner of the lot or parcel of land abutting said sidewalk space within the City is a non-resident of the City 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 City to whom notice can be given, it shall be the duty of the Police Department or its agent to post a copy of the notice on the premise and then to cut or cause the vegetation thereon to be cut as therein provided and report the cost thereof in writing to the City Council. The cost shall then be audited and paid by the City 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 City or may be recovered by civil suit brought by the City 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 City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the 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.

### §8-621 AIRPORT SAFETY ZONE.

The City of Fremont hereby creates an Airport Safety Zone to protect the Fremont Municipal Airport. The Airport Safety Zone shall include all property within two thousand feet (2000') of the centerline of existing runways and two thousand feet (2000') of the runway thresholds extended along the runway centerline. Within said Safety Zone, the following regulations shall apply.

- (a) It shall be unlawful for an owner or occupant of real property within the Airport Safety Zone to erect or construct or permit the erection or construction of any structure more than sixty-five feet (65') above ground level.
- (b) It shall be the responsibility of an owner or occupant of real property within the Airport Safety Zone to trim all trees to a maximum of sixty-five feet (65') above ground level.
- (c) A violation of this section shall be a misdemeanor. The penalty, upon conviction, will be a fine in the maximum amount of five hundred dollars (\$500.00). Each day of violation shall constitute a separate offense.

## Article 7. Trees and Shrubs

[Editor's Note: See Chapter 10 for "Forester's License" Requirements.]

### §8-701 TREES AND SHRUBS; DEFINITIONS.

For the purpose of this Article the following words and phrases shall have the meanings respectively ascribed to them by this section:

Bush. Shrubs maintained individually or in irregular groupings, maintained in either a trimmed or natural condition.

Formal Hedge. A hedge maintained in a clipped, sheared or trimmed condition.

Informal Hedge. A hedge maintained in its natural state, growth and condition.

Shrub. A general botanical classification used in this Article as an inclusive term for all bushes and hedges.

### §8-702 TREES AND SHRUBS; AUTHORITY OF PARK AND RECREATION BOARD.

The Park and Recreation Board is hereby authorized to regulate and direct the cultivation and planting of trees, shrubs and vines on all streets, avenues and parkways in the City.

### §8-703 TREES AND SHRUBS; PROHIBITED ACTS.

A. Topping.

It is hereby declared unlawful, except for employees of the City in lawful performance of his or her duties, top or cut off the up per part of branches of, or to dehorn, any tree on public property in the City without first having obtained written consent from the Department of Parks and Recreation. Such consent shall specify what cutting may be made and will be given only upon proper proof that same is necessary.

Nothing contained in the foregoing paragraph shall be construed as prohibiting the proper cutting back and pruning of any tree at the time of setting out and planting such tree.

B. It is hereby declared unlawful to deviate from accepted methods of good forestry practice or to perform any of the acts herein set forth:

1. To use dull or improper tools or otherwise to make rough, jagged or unnecessarily large wounds.
2. To split the wood into or around wounds.
3. To tear, split or otherwise damage the bark around wounds.
4. To chop, hack or mutilate in any manner any live tree, or any limb, branch or root thereof except for and at the time of felling and removing such tree.
5. To cut down any tree, bush or shrub or any portion or any part of any tree, bush or shrub so that same or any part thereof shall fall or lie upon any street, alley or other public property without first having obtained permission from the City department having jurisdiction over such property. When such permission has been obtained, if such work will seriously obstruct any street, alley or other thoroughfare, the applicant shall first notify the Fire and Police Departments of the City of the time when such obstruction will be maintained.
6. To fell any tree so that it, or any part or portion thereof will fall across or into any street, alley or other thoroughfare without first having posted flagmen with red flags, or barricading the street at such points that all traffic may be stopped and all traffic in affected areas shall be stopped before the tree is felled.
7. To permit any tree, bush or shrub or any portion or part thereof or any debris resulting from its removal to remain upon or in any street, alley or other public property later than one (1) hour before sunset without placing sufficient red lanterns, flares or barricades to properly warn all users of such

street, alley or other public property.

8. To drop any tree or any part of any tree, or to drop any shrub or bush or any part thereof upon any private property of another without first having obtained the written consent of such property owner or his agent.
9. To leave, remain or to abandon a felled tree or any portion thereof or any cut shrub or bush or any portion thereof upon, across or in any street, alley or other public thoroughfare or any public or private property of others. All such obstruction together with all debris resulting from such cutting shall forthwith be removed and the premises made broom clean of all rubbish resulting from such operation without delay or interruption.

C. The use of climbing irons is strictly prohibited.

D. Shoes with rubber heels and rubber soles shall be worn at all times by persons when climbing any tree.

#### **§8-704      TREES AND SHRUBS; ACTS DECLARED NUISANCES.**

- A. It is hereby declared unlawful for any property owner to maintain or permit to stand upon his property, any dead tree or dead part of a tree, a stump, or any diseased or damaged tree or any diseased or damaged part of a tree, or any healthy tree or part of such tree which is a menace to public safety or which endangers any building or other property. The property owner or agent shall grind the tree stump to not less than 14" below grade.
- B. It is hereby declared unlawful for any property owner, or any lessee or occupant of any property to permit the limbs, branches or foliage of any tree or shrub upon such property to project into or extend over any street, lane or alley in such a manner that there shall be a clearance of less than eight (8') feet between the surface of such lane, alley or sidewalk and such limbs, branches or foliage and thirteen and one half (13 1/2') feet between the surface of a street or alley and such limbs, branches or foliage.

#### **§8-705      TREES AND SHRUBS; EXAMINATIONS, NOTICE TO ABATE NUISANCE.**

- (1) The Right of Examination. The Director of Parks and Recreation or his designees shall have the right to examine all trees, alive or dead, standing or fallen, and wood piles, for the purpose of determining whether the same are contagiously diseased, and may enter upon any private property where necessary to conduct the examination. Such examinations shall include the right to take samples from such trees and wood piles for laboratory testing purposes.
- (2) Notification to Remove Nuisance. The Director of Parks and Recreation shall notify the owner or owners or the agent of such owner or owners of any land in the City whereon there are situated any trees or shrubs, or any tree or shrub conditions existing, found by such examination to be a nuisance as defined in section 8-704 of this Code. The notice herein provided for shall require the owner to abate such nuisance within ten (10) days from the date thereof.
- (3) Noncompliance and Hazard Abatement. The Director of Parks and Recreation shall have the power and is hereby authorized and instructed, after the expiration often (10) days from the date of notice, and noncompliance therewith, to abate such nuisance by causing such trees or shrubs, which are deemed to be a nuisance under this section to be removed, pruned or sprayed and the cost plus an administration fee of one hundred dollars (\$100.00) charged to the property owner. If the owner fails to reimburse the City after being properly billed, the City Council shall order the costs to be assessed against the property and certified by the City Clerk to the County Treasurer to be collected in the manner prescribed by law. In the event the property owner is a nonresident of the county in which the property lies, the City shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the 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. Failure to abate said nuisance shall be deemed to be a misdemeanor. The Director of Parks and Recreation shall have the power to enter the property and to direct the immediate abatement of eminent danger created by a tree or trees on private or public property

when the owner does not or cannot immediately abate the hazard. Cost of the abatement will be billed to the property owner.

§8-706 TREES AND SHRUBS; DUTY OF LAND OWNER, REGULATIONS BY PARK DEPARTMENT.

- A. The owner or agent of any land abutting a street shall keep the trees located within the section of the street so abutting, dedicated as right-of-way, trimmed, pruned and sprayed in such a manner as will remove any hazard to life or property, preserve or promote health, vigor and a pleasing outline of the trees and shall water, fertilize and otherwise care for the tree to maintain it in a healthy vigorous growing condition. Any landowner or authorized agent so desiring may, at the owner's sole expense and liability, remove trees located on the owner's property, within the City right of way, provided that they first obtain a permit from the City. Prior to the being issued a permit for right of way tree removal, the owner or agent shall submit a description of the tree and its location on the property. The owner or agent shall also present proof of liability insurance naming the City of Fremont as an additional insured. The City shall issue the permit for a specified and agreed upon time period in order to ensure public safety through the use of barricades etc., as described in §8-703. The owner or agent shall grind the tree stump to not less than 14" below grade. Any tree which has been inspected by the City and determined to be dead or diseased and is located in a dedicated right-of-way shall be removed by the City or agent authorized to do so by the City.
- B. It is hereby declared unlawful for any person other than an employee of the City in the regular discharge of his duties to plant, grow, keep or maintain or cause to be planted, grown, kept or maintained any tree or shrub upon property belonging to the City, until such person has obtained a permit therefor from the City. This permit will also show the location and kind of tree or shrub proposed to be planted.
- C. It is hereby declared unlawful for any person, other than an employee of the City in the regular discharge of his duties to cut down and remove any tree from upon the property of the City until such person has obtained a permit therefor from the City.

§8-707 TREES AND SHRUBS; INTERSECTING STREETS AND LOT LINES, PROHIBITED ACTS.

A. Shrubbery Near Street Intersections.

1. It is hereby declared unlawful for any person to plant, grow, keep or maintain, or cause to be planted, grown, kept or maintained, any hedge, bush or shrubbery of any kind or nature, more than two and one half (2 1/2') feet in height above the roadway within a triangle formed by the adjacent side lines of two (2) intersecting streets and the line joining points at a distance of thirty (30') feet on each side line from their point of intersection.

For the purpose of this section, "side line" of street shall mean the property line.

- B. It is hereby declared unlawful for any person to plant any formal hedge upon, adjacent to or closer than two (2') feet to any side or back lot line.
- C. It is hereby declared unlawful for any person to plant any informal hedge upon, adjacent to or closer than three (3') feet to any side lot line.
- D. It is hereby declared unlawful for any person to plant any tree closer than five (5') feet to any side lot line.
- E. In the space between the projection of the front and rear building lines, any shrubbery shall be no more in height than one-third (1/3) the distance to the other building.
- F. It is further declared unlawful for any property owner, any lessee or occupant of any property to plant and maintain any shrubbery or cluster of foliage upon or adjacent to a lot line abutting upon any street or other public thoroughfare except an alley, in such a manner that such hedge or shrubbery shall extend to a height of more than three and one half (3 1/2') feet above the surrounding ground, nor shall the outer face of such shrubbery be less than two (2') feet from the adjacent edge of a sidewalk.

**§8-708      TREES AND SHRUBS: ENFORCEMENT OF ARTICLE.**

It shall be the duty of the Director of Parks and Recreation or such of his assistants or designees as he may designate from time to time, to enforce the provisions of this Article.

**§8-709      TREES AND SHRUBS: EMERGENCY REMOVAL.**

Where an emergency exists endangering life or property, any person may top, trim or remove any tree, shrub or vine from the streets, avenues and parkways of the City, but shall, within twenty-four (24) hours, make out a written report to the Director of Parks and Recreation, and this report shall describe the location, the work done and the right to classify such work as an emergency.

**§8-710      TREES AND SHRUBS: PLANTING VEGETATION.**

It shall be unlawful for any person to plant or cause to be planted any living vegetation except turf grass or such ground cover or trees as approved by the Parks and Recreation Department on the streets, avenues and parkways in the City.

**§8-711      TREES AND SHRUBS: VIOLATION OF ARTICLE, PENALTY; ABATEMENT OF NUISANCE.**

- (1) Any person violating any provision of this Article shall be deemed guilty of a misdemeanor and shall, upon conviction be fined not less than five (\$5.00) dollars, nor more than one hundred (\$100.00) dollars for each and every offense, and each day that any violation shall continue, shall be deemed a separate offense. (Ref 26-68.1, Code 1972)
- (2) Whenever a nuisance exists as defined in this Chapter, in addition to any other remedies which may exist, the City may proceed by a suit in equity to enjoin and abate the same, in the manner provided by law. Whenever, in any action, it is established that a nuisance exists, the court may together with the fine or penalty imposed, enter an order of abatement as apart of the judgment in the case.

**Article 8. Municipal Property**

**§8-801      MUNICIPAL PROPERTY; ACQUISITION OF REAL PROPERTY; ACCESS FOR RECREATIONAL USE.**

- (1) The City shall acquire an interest in real property by purchase or eminent domain only after the Governing Body has authorized the acquisition by action taken in a public meeting after notice and public hearing.
- (2) The City shall provide to the public a right of access recreational use to real property acquired for public recreational purposes. Such access shall be at designated access points and shall be equal to the right of access for recreational use held by adjacent landowners. The right of access granted to the public for recreational use shall meet or exceed such right held by a private landowners adjacent to the real property.

**§8-802      MUNICIPAL PROPERTY; ACQUISITION OF PROPERTY; APPRAISAL.**

The Municipality shall not purchase, lease-purchase, or acquire for consideration real property having estimated value of one hundred thousand dollars (\$100,000.00) more unless an appraisal of such property has been performed by a certified real estate appraiser.

**§8-803      MUNICIPAL PROPERTY; SALE AND CONVEYANCE.**

- (1) The Municipality may sell and convey any real or personal property owned by the Municipality, including park land, in such manner and upon such terms and conditions as may be deemed in the best interests of the Municipality, except that real estate 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, shall be conveyed in the manner strictly as provided in section 18-1001 to 18-1006 RS Neb.

- (2) The power to sell and convey any real estate owned by Municipality, including park land, except real estate used in operation of public utilities and except real estate for state armory sites for the use of the State of Nebraska as expressly provided in subsection (l) of this section, shall be exercised by ordinance directing the conveyance of such real estate and the manner and terms thereof. Notice of such sale and the terms thereof shall be published for three (3) consecutive weeks in a legal newspaper published in or of general circulation in the Municipality immediately after the passage and publication of such ordinance.
- (3) If within thirty (30) days after the passage and publication of such ordinance a remonstrance against such sale is signed by registered voters of the Municipality equal in number to thirty percent (30%) of the registered voters of the Municipality voting at the last regular municipal election held therein and is filed with the Governing Body, the 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-day period, but the filing shall be considered timely if filed or postmarked on or before the next business day.
- (4) Upon the receipt of the remonstrance, the Governing Body, with the aid and assistance of the Election Commissioner or County Clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The Governing Body shall deliver the remonstrance to the Election Commissioner or County Clerk by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Upon receipt of the remonstrance, the Election Commissioner or County Clerk shall issue to the Governing Body a written receipt that the remonstrance is in the custody of the Election Commissioner or County Clerk. The Election Commissioner or County Clerk shall compare the signature of each person signing the remonstrance with the voter registration records to determine if each signer was a registered voter on or before the date on which the remonstrance was filed with the Governing Body. The Election Commissioner or County Clerk shall also compare the signer's printed name, street and number or voting precinct, and municipal or post office address with the voter registration records to determine whether the signer was a registered voter. The signature and address shall be presumed to be valid only if the Election Commissioner or County Clerk determines that the printed name, street and number or voting precinct, and municipal or post office address matches the registration records and that the registration was received on or before the date which the remonstrance was filed with the Governing Body. The determinations of the Election Commissioner or County Clerk may be rebutted by any credible evidence which the Governing Body finds sufficient. The express purpose of the comparison of names and addresses with the voter registration records, in addition to helping determine the validity of the remonstrance, the sufficiency of remonstrance, and the qualifications of the signer, shall be to prevent fraud, deception, and misrepresentation in the remonstrance process. Upon completion of the comparison of names and addresses with voter registration records, the Election Commissioner or County Clerk shall prepare in writing a certification under seal setting forth name and address of each signer found not to be a registered voter and the signature page number and line number where the name is found and if the reason for the invalidity of the signature or address is other than the nonregistration of the signer, the Election Commissioner or County Clerk shall set forth the reason for the invalidity of signature. If the Election Commissioner or County Clerk determines that a signer has affixed his or her signature more than once to remonstrance and that only one person is registered by that name, Election Commissioner or County Clerk shall prepare in writing certification under seal setting forth the name of the duplicate signature and shall count only the earliest dated signature. The Election Commissioner or County Clerk shall certify to the Governing Body the number of valid signatures necessary to constitute a valid remonstrance. The Election Commissioner or County Clerk shall deliver the remonstrance and the certifications to the Governing Body within forty (40) days after the receipt of the remonstrance from the Governing Body. The delivery shall be by hand carrier, by use of law enforcement officials, or by certified mail, return receipt requested. Not more than twenty (20) signatures on one signature page shall be counted.
- (5) The Governing Body shall, within thirty (30) days after the receipt of the remonstrance and certifications from the Election Commissioner or County Clerk, hold a public hearing to review the remonstrance and



certifications and receive testimony regarding them. The Governing Body shall, following the hearing, vote on whether or not the remonstrance is valid and shall uphold the remonstrance if sufficient valid signatures have been received.

**§8-804 MUNICIPAL PROPERTY; PUBLIC WORKS INVOLVING ARCHITECTURE OR ENGINEERING REQUIREMENTS.**

(A) Except as provided in division (B) of this section, the Municipality 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, professional engineer, or those under the direct supervision of an architect or professional engineer.

(B) Division (A) of this section shall not apply to the following activities:

- (1) Any public works project with contemplated expenditures for the completed project that do not exceed \$86,000;
- (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 by the municipality of professional services for itself if the Municipality appoints a Municipal 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 municipality that is not subject to a permit from the Department of Natural Resources;
- (6) The work of employees and agents of the Municipality performing, in accordance with other requirements of law, the 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;
- (7) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engine power plant operating engineers, or manufacturers who supervise operation of or operate machinery or equipment or who supervise construction within their own plant;
- (8) The construction of water wells as defined in section 46-1212 R8 Neb., the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by Municipality to be designed or supervised by an engineer or unless legal requirements are imposed upon the municipality as a part of public water supply; and
- (9) Any other activities described in sections 81-3449 81-3453 RS Neb.

**Article 9. Penal Provision**

**§8-901 VIOLATION; PENALTY.**

Any person who violates any of the prohibitions or provisions of any Article or section this Chapter shall be deemed guilty of a misdemeanor. Unless otherwise specified in the particular Article or section for which the person stands convicted of violating, the penalty for such violation shall be in any amount not to exceed one thousand (\$1,000.00) dollars and/or imprisonment for any length of time not to exceed three (3) months, in the discretion of the court.