

CHAPTER 8
Public Ways and Property
Article 1. Municipal Property

§8-101 DEFINITIONS.

The following definitions shall be applied throughout this Chapter. When no definition is specified, the normal dictionary usage of the word shall apply.

- (1) "Public right-of-way" means all land between property lines that is dedicated to use by the general public.
- (2) "Sidewalk café" means that portion of the public right-of-way kept, used, maintained, and held out to the public as a place where food or drink is served for consumption on the premises or which is used directly in conjunction with a pedestrian pick-up window.
- (3) "Sidewalk right-of-way" or "sidewalk space" means that portion of the public right-of-way between the curb line and the adjacent property line.
- (4) "Street right-of-way" or "street space" means that portion of the public right-of-way between curb lines.

(Ord. 2110 (2020))

§8-102 MUNICIPAL PROPERTY; CONTROL.

The Municipality shall have the power to sell and convey, exchange, or lease 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; provided, that real estate owned by the Municipality may be conveyed without consideration to the State of Nebraska or to the Nebraska Armory Board for State Armory sites; to make all contracts and do all other acts in relation to the property and concerns of the Municipality as may be necessary in the exercise of its corporate powers.

§8-102.01 MUNICIPAL PROPERTY, SALE OF REAL PROPERTY; PROCEDURE.

The power to sell and convey any real estate owned by the city, including park land, except real estate used in the operation of public utilities and except real estate for state armory sites for the use of the State of Nebraska as expressly provided in section 16-201 Neb RRS, shall be exercised by ordinance directing the conveyance of such sale and the terms thereof shall be published for three consecutive weeks in a legal newspaper published in or of general circulation in such city immediately after the passage and publication of such ordinance. If within thirty days after the passage and publication of such ordinance a remonstrance against such sale is signed by registered voters of the city equal in number to thirty percent of the registered voters of the city voting at the last regular municipal election held therein and is

CHAPTER 8
Public Ways and Property
Article 1. Municipal Property

filed with the governing body of such city, the property shall not then, nor within one 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 post marked on or before the next business day. Upon the receipt of the remonstrance, the governing body of such city, with the aid and assistance of the election commission or county clerk, shall determine the validity and sufficiency of signatures on the remonstrance. The governing body of such city shall deliver the remonstrance to the election commissioner or county clerk by hand carrier, by use of law enforcement official, 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 city, village, 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 city, or post office address matches the registration records and the registration was received on or before the date on which the remonstrance was filed with the voter registration records, in addition to helping to determine the validity of the remonstrance, the sufficiency of the 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 address with the voter registration records, the election commissioner or county clerk shall prepare in writing a certification under seal setting forth the 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 non-registration of the signer, the election commissioner or county clerk shall set forth the reason for the invalidity of the signature. If the election commissioner or county clerk determines that a signer has affixed his or her signature more than once to the remonstrance and that only one person is registered by that name, the election commissioner or county clerk

CHAPTER 8
Public Ways and Property
Article 1. Municipal Property

shall prepare in writing a certification under seal setting forth the name of the duplicate signature and shall count only the earliest date 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 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 signatures on one signature page shall be counted.

The governing body shall, within thirty 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.

(Ord. 1809 (2011))

§8-102.02 MUNICIPAL PROPERTY, SALE AND CONVEYANCE OF PERSONAL PROPERTY.

The City may sell and convey, exchange, or lease any personal property owned by the City in such manner and upon such terms and conditions as may be deemed in the best interests of the City.

(Ord. 1809 (2011))

§8-103 MUNICIPAL PROPERTY; OBSTRUCTIONS.

- (1) It shall be unlawful for any person, persons, firm, or corporation to obstruct or encumber, by fences, gates, buildings, structures, or otherwise, any of the streets, alleys, or sidewalks, except as expressly provided for by this code.
- (2) Trees and shrubs growing upon or near the property line or upon the public right-of-way and interfering with the use or construction of any public right-of-way or improvements shall be deemed an obstruction under this Article. Such trees and shrubs and their roots may be removed by the City at the expense of the owner of the property upon which the tree or shrub is located should the owner, after proper notice, fail or neglect to do so.

(Ord. 2110 (2020))

CHAPTER 8
Public Ways and Property
Article 1. Municipal Property

§8-104 MUNICIPAL PROPERTY; PERMITTED OBSTRUCTIONS.

Persons engaged in the erection, construction, reconstruction, wrecking, or repairing of any building, or the construction, or repair, of a sidewalk along any street, may occupy the public street space with such building material and equipment as long as is necessary if such persons shall make application to and receive a permit in writing from the Public Works Director to do so; provided, no permit for the occupancy of the sidewalk space, and more than one-third (1/3) of the roadway of the public space adjacent to the real estate on which said building is to be constructed, erected, reconstructed, wrecked, or repaired shall be granted; and provided further, a suitable passageway for pedestrians shall be maintained within the public space included in the permit which shall be protected and lighted in the manner required by the Public Works Director.

§8-105 MUNICIPAL PROPERTY; WEEDS.

It is hereby the duty of the Public Works Director or his duly authorized agent to view and inspect the sidewalk space within the corporate limits for growing weeds during the growing season, and if rank and noxious weeds are found growing thereon, he shall notify the owner or occupant thereof, to cut down such weeds as close to the ground as can be practicably done and keep the weeds cut thereon in like manner during the growing season for weeds. In the event that the owner of any lot or parcel of land within the Municipality is a non-resident of the Municipality or cannot be found therein the notice may be given to any person having the care, custody, or control of such lot or parcel of land. In the event that there can be found no one within the Municipality to whom notice can be given, it shall be the duty of the Public Works Director or his agent to post a copy of the notice on the premise and then to cut or cause the weeds thereon to be cut as therein provided and report the cost thereof in writing to the Governing Body. The cost shall then be audited and paid by the Municipality and the amount thereof shall be assessed against the lot or parcel of land as a special tax thereon and shall be collected as are other taxes of the Municipality or may be recovered by civil suit brought by the Municipality against the owner of the parcel of land. In the event the property owner is a non-resident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the non-resident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.

CHAPTER 8
Public Ways and Property
Article 1. Municipal Property

§8-106 MUNICIPAL PROPERTY; AWNINGS IN SIDEWALK SPACE.

All awnings hereafter erected or suffered to remain in the sidewalk space shall be elevated at least seven feet (7') at the lowest part from the top of the public sidewalk and shall not project over said sidewalk to exceed three-fourths (3/4) of the width thereof. Except as allowed by permit from the City, all awnings shall be supported without posts by iron brackets or by any iron framework attached firmly to the building so as to leave the sidewalk wholly unobstructed.

(Ord. 2110 (2020))

§8-107 MUNICIPAL PROPERTY; CURB PUMPS, FILLING STATIONS.

No curb pump or filling station used for the storage and sale of petroleum products shall be constructed or suffered to remain within the limits of any street between lot line and lot line. All such curb pumps or filling stations now erected or hereafter constructed in the streets of the City are hereby declared to be a nuisance and, regardless of any permit heretofore granted by the Mayor and Council, the Mayor and Council are hereby empowered at any time the public good demands, to order the removal of such curb pump or filling station. Before any curb pump or filling station now located within the limits of any street shall be removed, the Chief of Police shall serve a notice on the owner and tenant or user of such pump or station, if there be any, to remove said pump or filling station beyond the limits of the street. The Chief of Police shall not serve such order of removal until the Council by resolution shall direct the same upon a vote of a majority of the members of the Council. If the owner or lessee of said curb pump or filling station shall refuse or neglect to comply with the notice of removal, then the Chief of Police shall remove said obstruction from the street in which it is situated, shall restore the street to a condition safe for public travel thereon, shall notify the owner or lessee that the salvage from said curb pump or filling station is located at a definite place within the corporate limits at the expense or risk of said owner or lessee, shall report the expense of such removal to the Mayor and Council, and, if the expense incident to the removal thereof be approved by the Council, then a warrant shall be drawn on the General Fund to reimburse the Chief of Police for the money expended by him in abating said nuisance. The City shall thereupon recover the sum so expended by civil suit brought against the owner or lessee of the pump or filling station in any court of competent jurisdiction.

CHAPTER 8
Public Ways and Property
Article 1. Municipal Property

**§8-108 MUNICIPAL PROPERTY; SPECIAL IMPROVEMENT DISTRICT;
ASSESSMENT AND CREATION PROCEDURE.**

The Municipality Governing Body may, by ordinance, create a special improvement district for the purpose of replacing, reconstructing, or repairing an existing street, alley, water line, sewer line, or any other such improvement.

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

§8-109 MUNICIPAL PROPERTY; ACQUISITION OF REAL PROPERTY.

When acquiring an interest in real property by purchase or eminent domain, the Municipality shall do so only after the Governing Body has authorized the acquisition by action taken in a public meeting after notice and public hearing.

§8-109.01 MUNICIPAL PROPERTY; TOPPING OF TREES.

It shall be unlawful as a normal practice for any person, firm, or city department to top any street tree, park tree, or other tree on public property. Topping is defined as severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempt from this ordinance at the determination of the City Arborist or Public Works Director.

(Ord. 1596 (2003))

§8-110 MUNICIPAL PROPERTY; ACQUISITION OF PROPERTY; APPRAISAL.

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

CHAPTER 8
Public Ways and Property
Article 1. Municipal Property

**§8-111 MUNICIPAL PROPERTY; STREET AND ALLEY RIGHT-OF-WAY;
PERMITTED OBSTRUCTIONS; PERMITS FOR CONSTRUCTION; REMOVAL UPON
REQUEST.**

- (1) Persons desiring to place any above ground or below ground structures are permitted to occupy the public right of way provided a permit is applied for and granted by the Public Works Director and the following requirements, at a minimum, are met, to-wit:
 - (a) Such structures shall not pose a hazard to pedestrians or vehicular traffic.
 - (b) Such structures shall not hinder the view of pedestrians or vehicular traffic.
 - (c) Below ground structures shall not interfere with or hinder operation of any utilities or right of way functions for any present or future public use.
- (2) Any person who places a structure in the right of way shall be required to remove or repair such structure, at that their expense, should it be required to be removed or repair by the City for construction or improvements of any public use in the right of way. The City of Crete or its agents are not responsible for removal, relocation or repair of any obstruction placed in the right of way.

(Ord. 1476 (2000))