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CHAPTER 6 – PUBLIC WAYS AND PROPERTY

Article 1 – Municipal Property

SECTION 6-101: DEFINITIONS

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

"Sidewalk space" as used herein shall mean that portion of a street between curb lines and adjacent property lines.

SECTION 6-102: GENERAL AUTHORITY

A. The City Council shall have the care, supervision, and control of all public highways, bridges, streets, alleys, public squares, and commons within the city and shall cause the same to be kept open, in repair, and free from nuisances.

B. The city shall have the power to prevent and remove all encroachments, including snow, ice, and other similar obstructions upon all sidewalks and other city property.

C. The city shall have the power to remove all obstructions from the sidewalks, curbs, gutters, and crosswalks at the expense of the person placing them there or at the expense of the city and to require and regulate the planting and protection of shade trees in and along the streets and the trimming and removing of such trees.

D. The city shall have the power to regulate the building of bulkheads, cellar and basement ways, stairways, railways, windows, doorways, awnings, hitching posts and rails, lampposts, awning posts, all other structures projecting upon or over and adjoining and all other excavations through and under the sidewalks in the city.

(Neb. Rev. Stat. §§17-555, 17-557, 17-557.01, 17-558, 17-567)

SECTION 6-103: NAMING OF PROPERTY; APPLICATION

Upon an application for the naming or renaming of city property, to include a street, park property, or library property, a committee shall be appointed to review and provide a recommendation on the application for the same. Such committee will have one representative from each of the following: Planning Commission, Park Board, and Enhancement Committee. In addition, the committee shall have two City Council members. The committee will recommend either approval or denial of such application to the full City Council.

(Ord. No. 724, 5/28/17)

SECTION 6-104: NAMING OF PROPERTY; RECOMMENDATION

The recommendation for approval or denial of an application for the naming or renaming of city property shall be based on the following criteria:

A. In naming or renaming city property, consideration shall be primarily given to the following purposes:

1. To celebrate local history, places, events or culture;
2. To strengthen neighborhood identity;
3. To recognize native wildlife, flora, fauna or natural features related to the community and the city; and
4. To honor and commemorate noteworthy persons associated with the city.

B. If an application is made to name or rename city property after an individual, this person shall have:

1. Demonstrated excellence of contributions to the city's development, community service, personal sacrifice for public service or national defense, or efforts to foster equality among the citizens of the city; or
2. Historical significance locally, nationally or globally with significant local or regional ties.

(Ord. No. 724, 5/28/17)

SECTION 6-105: NAMING OF PROPERTY; PROHIBITIONS; EXCEPTIONS

A. Denial of an application may be appropriate if the proposed naming or renaming may tend to bring disrepute upon the community for any reason or would not be looked upon favorably by a majority of city residents.

B. Religious designations shall not be allowed on city property named or renamed for an individual.

C. A nickname shall not be allowed unless such person is best known by such nickname.

D. In the case of naming or renaming city property after any person, such naming or renaming will generally be prohibited until the person has been deceased for a period of at least three years. As an exception to this provision, the name of such person may be approved if such person shall have provided contributions directly or through a foundation to a city facility when that facility would not exist without those contributions and if such naming or renaming receives a unanimous vote of approval by the Planning Commission and the City Council.
(Ord. No. 724, 5/28/17)

SECTION 6-106: SIDEWALK SPACE; TREES; PERMIT

A. It shall be unlawful to plant, or allow to grow, any tree within the sidewalk space without first making a written or verbal application and receiving a written permit from the Tree Board. No fee shall be charged for said permit

B. Any tree planted within the sidewalk space shall be deemed to be unlawfully planted and growing and shall, at the discretion of the Tree Board, be deemed to be a nuisance. When any such tree is declared to be a nuisance, the board shall order, with proper notice, the tree removed at the expense of the owner of the property adjacent to the sidewalk space upon which the tree has been unlawfully planted.

C. If the property owner fails or neglects to remove or cause to be removed the said tree, the Tree Board shall order the same removed and assess the expense of such removal against the property adjacent to the sidewalk space wherein the tree is planted and growing.

D. 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, which shall be that address listed on the current tax rolls at the time such required notice was first published.

E. Nothing in this section shall be construed to apply to any existing trees growing within the sidewalk space.
(Neb. Rev. Stat. §§17-557.01, 18-1720)

SECTION 6-107: OBSTRUCTIONS

A. Trees and shrubs growing upon or near the lot line or upon public ground and interfering with the use or construction of any public improvements shall be deemed an obstruction under this article. Shrubbery located near a traffic intersection or pedestrian crosswalk must be trimmed and not exceed 3½ feet in height and must be located 20 feet back from said intersection or crosswalk. Said trees, shrubs and their roots may be removed by order of the City Council or the maintenance supervisor at the expense of the owner of the property upon which the tree or shrub is located, should the owner fail or neglect, after notice, to do so. It shall be unlawful for any person, firm or corporation to obstruct or encumber by fences, gates, buildings, structures or otherwise any of the streets, alleys or sidewalks.

B. Whenever any such obstruction is allowed contrary to the provisions of this section, the City Council may order the owner or occupant to remove such obstruction within five days after having been served with notice stating that the city will remove the obstruction and charge the costs to the owner or occupant as a special assessment for improvements as herein provided or shall collect the same by civil suit brought in the name of the city against the said owner or occupant.

C. Said obstruction may be removed by the city at the expense of the owner of the property upon which the obstruction is located should the owner fail or neglect, after notice, to do so. 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, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §§17-555, 17-557.01) (Am. Ord. No. 677, 1/20/12)

SECTION 6-108: OVERHANGING BRANCHES; OBSTRUCTING GROWTH

A. The owner or occupant of any lot, piece or parcel of ground abutting or adjacent to any street or sidewalk over which the branches of trees extend shall at all times keep the branches or limbs thereof trimmed to a height of at least 8 feet above the surface of said walk and at least 14 feet above the surface of said street. No tree, shrubbery or hedge shall be permitted closer than 18 inches to the sidewalk or which obstructs the view for a distance of 10 feet from such intersection.

B. Whenever the limbs or branches of any tree or trees extend over streets or sidewalks contrary to the provisions herein so as to interfere with the lighting of the street from street lights or with the convenience of the public using said street or sidewalk, the City Council may order the owner or occupant to cut or remove said obstructions within five days after having been served with notice stating that the city will remove said branches and charge the costs to the owner or occupant as a special assessment for improvements as herein provided if said notice is not complied with.

C. Any such occupant or owner who fails to remove the overhanging branches and limbs or other encroachments within five days after receiving written notice to do so shall be fined upon conviction as provided in this chapter's penal provision and shall pay the costs of prosecution and the removal of such encroachments.

D. 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, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-557.01)

SECTION 6-109: CONSTRUCTION MATERIALS; PERMIT REQUIRED

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 so long as is necessary if such persons shall make application to and receive a permit in writing from the maintenance supervisor to do so; provided, no permit for the occupancy of the sidewalk space and more than one-third 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 maintenance supervisor.

SECTION 6-110: BARRICADES AND LIGHTS

Whenever any excavation on any public property, including without limitation parking sites, sidewalks, curbs and streets, occurs within the zoning jurisdiction of the city, the

party responsible for the excavation shall provide adequate barricades around the excavation and shall install sufficient warning lights and signs around the excavation to protect the public. (Neb. Rev. Stat. §17-505) (Am. Ord. No. 677, 1/20/12)

SECTION 6-111: EAVE AND GUTTER SPOUTS

It is hereby declared unlawful for any person to erect or maintain any dwelling or business building within the limits of the city where the said dwelling or building abuts on any sidewalk or street without providing proper guttering and eave spouts to receive the wastewaters that collect on the said sidewalks and streets. All eave spouts erected on any dwelling or business building shall be constructed to drain into the alleys or shall be buried beneath the sidewalks and drain into the streets where it is found to be impossible to drain said eave spouts into the alley.

SECTION 6-112: DAMAGE

It shall be unlawful for any person to willfully, maliciously, or carelessly injure, change, deface, or destroy any street, sidewalk, building, ditch, drain, or grade within the corporate limits. No person shall cause or permit any offensive or corrosive material to be discharged or thrown out upon any street, sidewalk, alley, or public ground.

SECTION 6-113: CUTTING CURB; PERMIT, DEPOSIT

A. It shall be unlawful for any person to cut, break, remove or alter any curbing, alley, sidewalk or any vehicular access on any public right of way in the city. Permits shall be issued by the city clerk after receiving approval of the designated city official and payment of fees as provided. Driveway approaches shall be governed as provided in Article 4 of this chapter.

B. Before any permit for curb cutting is issued:

1. The applicant for such permit shall deposit with the city treasurer a sum set by resolution of the City Council for all paving, curb, or sidewalk to be cut. Such sum shall be set on a per-square-foot cost of construction basis. The deposit shall be retained by the city for the purpose of replacing the paving, curb, or sidewalk in the event the work is done by the city. In the event the city elects to require the applicant to replace the paving, curb, or sidewalk, the deposit shall be retained by the city until the work is completed to the satisfaction of the maintenance supervisor.
2. The applicant shall inform the city clerk of the place where such cutting is to be done and it shall be the maintenance supervisor's duty to inspect the place of entry into the paving, sidewalk, or curb before the same is cut.

C. Upon approval of said permit by the City Council, the applicant shall be required to complete said curb cut to the city's specifications, including size and type of materials. When the applicant is ready to close the opening made, he or she shall inform the maintenance supervisor, who shall supervise and inspect the materials used and work done in closing the opening.

D. It shall be discretionary with the City Council to order the maintenance supervisor, under the supervision and inspection of the city engineer or the committee of the council on streets and alleys, to do the work of cutting and closing the paving and charge the costs thereof to the party who obtained such permit.
(Neb. Rev. Stat. §17-567) (Am. Ord. No. 677, 1/20/12)

SECTION 6-114: HEAVY EQUIPMENT

A. 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 structure with heavy plank sufficient in strength to warrant against the breakage or damage of the same. Hereafter, it shall be unlawful to 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; or with wheels having lugs, 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.

B. Where heavy vehicles, structures, and machines move along paved or unpaved streets, the City Council is hereby authorized and empowered to choose the route over which such moving will be permitted and allowed.

C. Nothing in this section shall be construed to apply to pneumatic tires with metal or metal-type studs not exceeding 5/16 inch in diameter, inclusive of the stud-casting, with an average protrusion beyond the tread surface of not more than 7/64 inch between November 1 and April 1; provided, it shall be permissible (1) for school buses and emergency vehicles to use metal or metal-type studs any time of the year; (2) to use farm machinery with tires having protuberances which will not damage the streets; and (3) to use tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to slide or skid.

(Neb. Rev. Stat. §60-6,250)

SECTION 6-115: REAL PROPERTY; ACQUISITION; AUTHORIZATION

When acquiring an interest in real property by purchase or eminent domain, the city shall do so only after the City Council has authorized the acquisition by action taken in a public meeting after notice and public hearing. (Neb. Rev. Stat. §18-1755)

SECTION 6-116: REAL PROPERTY; ACQUISITION; APPRAISAL

The city shall not purchase, lease-purchase or acquire for consideration real property having an estimated value of \$100,000.00 or more unless an appraisal of such property has been performed by a certified real estate appraiser. (Neb. Rev. Stat. §13-403)

SECTION 6-117: REAL PROPERTY; ACQUISITION; CONSTRUCTION; ELECTIONS, WHEN REQUIRED

A. The city is authorized and empowered to purchase, accept by gift or devise, purchase real estate upon which to erect, and erect a building or buildings for an auditorium, fire station, city building, or community house for housing city enterprises and social and recreation purposes and other public buildings and maintain, manage, and operate the same for the benefit of the inhabitants of the city.

B. Except as provided below, before any such purchase can be made or building erected, the question shall be submitted to the electors of the city at a general election or at an election duly called for that purpose, or as set forth in Neb. Rev. Stat. §17-954, and be adopted by a majority of the electors voting on such question.

C. If the funds to be used to finance the purchase or construction of a building pursuant to this section are available other than through a bond issue, then either:

1. Notice of the proposed purchase or construction shall be published in a newspaper of general circulation in the city and no election shall be required to approve the purchase or construction unless within 30 days after the publication of the notice a remonstrance against the purchase or construction is

signed by electors of the city equal in number to 15% of the registered voters of the city voting at the last regular city election held therein and is filed with the City Council. If the date for filing the remonstrance falls upon a Saturday, Sunday, or legal holiday, the signatures shall be considered timely if filed or postmarked on or before the next business day. If a remonstrance with the necessary number of qualified signatures is timely filed, the question shall be submitted to the voters of the city at a general city election or a special election duly called for that purpose. If the purchase or construction is not approved, the property involved shall not then nor within one year following the election be purchased or constructed; or

2. The City Council may proceed without providing the notice and right of remonstrance required in subdivision (1) of this subsection if the property can be purchased below the fair market value as determined by an appraisal, there is a willing seller, and the purchase price is less than \$25,000.00. The purchase shall be approved by the council after notice and public hearing as provided in Neb. Rev. Stat. §18-1755.

(Neb. Rev. Stat. §§17-953, 17-953.01)

SECTION 6-118: REAL PROPERTY; SALE AND CONVEYANCE

A. Except as provided in Neb. Rev. Stat. §17-503.01, the power of the city to convey any real property owned by it, including land used for park purposes and public squares, except real property used in the operation of public utilities, shall be exercised by resolution directing the sale of such real property.

B. After the passage of the resolution directing the sale, notice of all proposed sales of property described in subsection (A) of this section and the terms thereof shall be published once each week for three consecutive weeks in a legal newspaper published in or of general circulation in the city.

C. If within 30 days after the third publication of the notice a remonstrance against such sale is signed by registered voters of the city equal in number to 30 percent of the registered voters of the city voting at the last regular municipal election held therein and is filed with the City Council, such property shall not then, nor within one year thereafter, be sold. The procedure for determining the validity of the said remonstrance shall be as provided in Neb. Rev. Stat. §17-503(3).

D. Real property now owned or hereafter owned by the city may be conveyed without consideration to the State of Nebraska for state armory sites or, if acquired for state armory sites, shall be conveyed strictly in accordance with the conditions of Neb. Rev. Stat. §§18-1001 to 18-1006.

E. Following (1) passage of the resolution directing a sale, (2) publishing of the notice of the proposed sale, and (3) passing of the 30-day right-of-remonstrance period, the property shall then be sold. Such sale shall be confirmed by passage of an ordinance stating the name of the purchaser and terms of the sale.

F. Notwithstanding the procedures in subsections (A) through (E) of this section, real property owned by the city may be conveyed when such property:

1. Is sold in compliance with the requirements of federal or state grants or programs;
2. Is conveyed to another public agency; or
3. Consists of streets and alleys.

G. Subsections (A) to (F) of this section shall not apply to the sale of real property

if the authorizing resolution directs the sale of an item or items of real property having a total fair market value of less than \$5,000.00. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the city for a period of not less than seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. Confirmation of the sale by passage of an ordinance may be required. (Neb. Rev. Stat. §§17-503, 17-503.01)

SECTION 6-119: PERSONAL PROPERTY; SALE AND CONVEYANCE

In order to sell personal property owned by the city, the City Council shall adopt a resolution directing the sale and the manner and terms of the sale. Following passage of the resolution directing the sale of the property, notice of the sale shall be posted in three prominent places within the city for a period of not less than seven days prior to the sale of the property. If the fair market value of the property is greater than \$5,000.00, notice of the sale shall also be published once in a legal newspaper in or of general circulation in such city at least seven days prior to the sale of the property. The notice shall give a general description of the property offered for sale and state the terms and conditions of sale. When such personal property is being sold in compliance with the requirements of federal or state grants or programs or conveyed to another public agency, the notice procedure set forth above may be dispensed with. (Neb. Rev. Stat. §17-503.02) (Ord. No. 587, 10/15/07)

SECTION 6-120: PUBLIC WORKS; SPECIAL ASSESSMENTS; NOTICE

A. Before the city or special taxing district for public works or public improvements shall be formed and before the city or special taxing district may impose any special assessment for public works or public improvements, a copy of any notice required to be published by law shall be mailed to the last known addresses of all nonresident property owners as shown on the current tax rolls at the time such notice is first published.

B. The city clerk or any other person upon whom the duty is imposed by law to publish notice required by law in regard to the formation of a special taxing district for public works or public improvements shall mail by certified mail with return receipt requested a copy of the published notice in regard to the formation of any special taxing district within the city to the last known address as shown on the current tax rolls of each nonresident property owner.

C. The city clerk or any other person upon whom the duty is imposed by law to publish notice required by law in regard to any special assessment by a special taxing district shall mail by certified mail with return receipt requested a copy of such notice to be published to the last known address as shown on the current tax rolls of each nonresident property owner.

D. The failure of the city clerk or any other person upon whom the duty is imposed by law to mail a copy of a published notice as provided in this section shall invalidate the assessment against the property involved while permitting all other assessments and procedures to be lawful.

E. "Nonresident property owner" shall mean any person or corporation whose residence and mailing address as shown on the current tax rolls is outside the boundaries of the county and who is a record owner of property within the boundaries of the city, special assessment district, or taxing district involved.

(Neb. Rev. Stat. §§13-310 through 13-314)

SECTION 6-121: EMINENT DOMAIN

The city shall have the power:

A. To create, open, widen, or extend any street, avenue, alley, off-street parking area, or other public way or annul, vacate, or discontinue the same; to take private property for public use for the purpose of erecting or establishing market houses; market places; parks; swimming pools; airports; gas systems, including distribution facilities; water systems; power plants, including electrical distribution facilities; sewer systems; or for any other needed public purpose; and to exercise the power of eminent domain within or without the city limits for the purpose of establishing and operating power plants, including electrical distribution facilities, to supply such city with public utility service and for sewerage purposes, water supply systems, or airports.

B. The procedure to condemn property shall be exercised in the manner set forth in Neb. Rev. Stat. §§76-704 to 76-724, except as to property specifically excluded by Neb. Rev. Stat. §76-703 and as to which Neb. Rev. Stat. §§19-701 to 19-707 or the Municipal Natural Gas System Condemnation Act is applicable. For purposes of this section, electrical distribution facilities shall be located within the retail service area of such city as approved by and on file with the Nebraska Power Review Board, pursuant to Neb. Rev. Stat. Chapter 70, Article 10.
(Neb. Rev. Stat. §17-559)

Article 2 – Streets

SECTION 6-201: DEDICATION TO PUBLIC USE

No street or alley which shall hereafter be dedicated to public use by the proprietor of ground in the city shall be deemed a public street or alley or be under the use or control of the City Council unless the dedication shall be accepted and confirmed by an ordinance especially passed for such purpose. (Neb. Rev. Stat. §17-567)

SECTION 6-202: NAMES AND NUMBERS

A. It is hereby made the duty of the owner, agent, lessee or occupant of any principal building in the city to place or cause to be installed and maintained on all buildings and premises which are used for residential, commercial or industrial purposes a proper number in a conspicuous place as near as possible to the main entrance thereto so that it is plainly visible from the street extending in front of said building. In the case of a building or premises that is occupied by multiple parties and is served by separate or individual exterior doors, the apartment or unit number or range of numbers must also be installed and maintained on the building along with the assigned address number so that both are plainly visible from the street extending in front of said building and placed in a conspicuous place as near as possible to the appropriate entrance thereto. Each number shall be at least 3 inches in height. Each figure shall be plain, legible and of a contrasting color with the background upon which it appears and shall be maintained in such condition at all times. (Am. Ord. No. 599, 1/21/08)

B. The City Council may at any time by ordinance rename any street or provide a name for any new street. Buildings used for residence or business purposes and located along such streets shall retain such numbers as the council may require. Upon the erection of any new building, it shall be the duty of the maintenance supervisor to assign the proper number to said building and give notice to the owner(s) and occupant(s) of the same.

SECTION 6-203: CROSSINGS

The City Council may order and cause street, avenue, and alley crossings to be constructed under the supervision of the city engineer and/or designated city official, as each specific case would require, and the same shall be constructed of such materials as the

engineer shall deem necessary. When a petition for the construction of any such crossing is filed by an interested resident in the office of the city clerk, he or she shall refer such application to the city engineer, who shall investigate and recommend to the council allowance or rejection as final action by the council on such application. (Am. Ord. No. 677, 1/20/12)

SECTION 6-204: EXCAVATION

It shall be unlawful for any person to make an excavation in any street for any purpose whatsoever unless a written permit is issued by the maintenance supervisor, authorizing such excavation. Such permit shall not be issued until a designated city official has investigated the application and determined that such excavation shall be done in a workman-like manner so as to minimize the inconvenience of the residents and motoring public in the area of the excavation. Excavation in streets and alleys shall be made in such a manner as to impede travel as little as possible. Warning lights shall be maintained on all unfinished work at night from sunset until sunrise and sufficient barricades shall be in place at all times until the work is completed to prevent any persons from injury in coming upon or crossing such work. After completion of any job or work, all surplus material must be removed at once from the streets and alleys. (Neb. Rev. Stat. §17-567) (Am. Ord. No. 677, 1/20/12)

SECTION 6-205: SNOW, DEBRIS, ETC.

It shall be unlawful to place, push, or deposit snow, sleet, ice, mud, or any lawn debris, including leaves, grass, and branches, from private property onto the streets of the city. (Neb. Rev. Stat. §17-557)

SECTION 6-206: 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 authorization from the maintenance supervisor. (Neb. Rev. Stat. §17-567) (Am. Ord. No. 677, 1/20/12)

SECTION 6-207: 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. (Neb. Rev. Stat. §17-567)

SECTION 6-208: HARMFUL LIQUIDS

It shall be unlawful for any person to place or permit to leak in the gutter of any street any waste gasoline, kerosene, or high lubricating oils, which damage or act as a solvent upon said streets. (Neb. Rev. Stat. §17-567)

SECTION 6-209: UTILITY POLES, WIRES, MAINS

A. Poles, wires, gas mains, pipelines, and other appurtenances of public service companies shall be located or erected over, upon, or under the streets, alleys, and common grounds after a proper written application has been made to the city clerk and permission in writing given by the City Council. When requested by the council, public service companies heretofore or hereafter granted right of way for the erection and maintenance of appurtenances for the purpose of transacting their business upon, under, or over the streets, alleys, and public grounds shall at all times erect, locate, or relocate their said appurtenances to such places and in such manner as shall be designated by said council.

B. Such poles, wires, gas mains, pipelines, and other appurtenances shall be removed or relocated by said companies at their own expense when requested to do so by the City Council. Whenever it becomes necessary for the council to request such

relocation for public safety and convenience, it shall order said relocation by resolution and the city clerk shall notify any company or companies affected. Said companies shall, within 24 hours after receiving notice, at their own expense cause the said appurtenances to be removed or relocated. The City Council shall designate another location where said appurtenances may be reset or placed. All appurtenances shall be reset, placed, or erected in such manner that they will not interfere with the water system, sewer system, poles, wires, or mains of any public utility located on the same street or alley or with travel or buildings constructed or hereafter to be constructed. Whenever possible, all said appurtenances shall be confined to the alleys of the city.

C. No water pipe, underground electric line or telephone conduit shall be laid in the same trench with sewer pipe in any street, alley or public grounds in the city or nearer than 3 feet to any sewer pipe. No underground electric line shall be laid in the same trench with any water pipe, sewer pipe or telephone conduit in any street, alley or public grounds or nearer than 3 feet to any such pipes or conduit.

SECTION 6-210: POWER TO IMPROVE, VACATE, ETC.; IMPROVEMENT DISTRICTS; SPECIAL ASSESSMENTS

A. The City Council may grade, partially or to an established grade, change grade, curb, recurb, gutter, regutter, pave, gravel, regravels, widen or narrow streets or roadways, resurface or relay existing pavement, or otherwise improve any streets, alleys, public grounds, or public ways, entirely or partially, and streets which divide the city corporate area and the area adjoining the city; construct or reconstruct pedestrian walks, plazas, malls, landscaping, outdoor sprinkler systems, fountains, decorative water ponds, lighting systems, and permanent facilities; and construct sidewalks and improve the sidewalk space. These projects may be funded at public cost or by the levy of special assessments on the property especially benefited in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431.

B. The City Council may by ordinance create paving, repaving, grading, curbing, recurbing, resurfacing, graveling, or improvement districts, to be consecutively numbered, which may include two or more connecting or intersecting streets, alleys, or public ways, and may include two or more of the improvements in one proceeding. All of the improvements which are to be funded by a levy of special assessment on the property especially benefited shall be ordered as provided in Neb. Rev. Stat. §§17-510 to 17-512 unless the council improves a street which divides the city corporate area and the area adjoining the city as provided in Section 6-212 (Petition for Improvements).
(Neb. Rev. Stat. §17-509)

SECTION 6-211: IMPROVEMENT OF STREETS ON CORPORATE LIMITS

A. Whenever the City Council improves any street which divides the city corporate area and the area adjoining the city, the council shall determine the sufficiency of petition as set forth in Section 6-212 by the owners of the record title representing more than 60% of the front footage of the property directly abutting upon the street to be improved, rather than 60% of the resident owners.

B. Whenever the council shall deem it necessary to make any of the improvements allowed by statute on a street which divides the city corporate area and the area adjoining the city, the City Council shall by ordinance create the improvement district pursuant to Section 6-213 (Improvement Districts) and the right of remonstrance shall be limited to owners of record title, rather than resident owners.
(Neb. Rev. Stat. §17-509)

SECTION 6-212: PETITION FOR IMPROVEMENTS

Whenever a petition signed by the owners of record title representing more than 60% 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 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. The council 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, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431, to pay the cost of such improvement. The council shall have the discretion to deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the council should deny a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties. (Neb. Rev. Stat. §17-510)

SECTION 6-213: IMPROVEMENT DISTRICTS; OBJECTIONS

A. Whenever the City Council deems it necessary to make any improvements as allowed by statute which are to be funded by a levy of special assessment on the property especially benefited, the council shall by ordinance create a paving, graveling, or other improvement district and after the passage, approval, and publication or posting of such ordinance shall publish notice of the creation of any such district for six days in a legal newspaper of the city, if a daily newspaper, or for two consecutive weeks if a weekly newspaper. If no legal newspaper is published in the city, the publication shall be in a legal newspaper of general circulation in the city.

B. If the owners of the record title representing more than 50% of the front footage of the property directly abutting on the street or alley to be improved file with the city clerk within 20 days after the first publication of such notice written objections to the creation of such district, such improvement shall not be made as provided in such ordinance but the ordinance shall be repealed. If objections are not filed against the district in the time and manner prescribed in this section, the City Council shall immediately cause such work to be done or such improvement to be made, shall contract for the work or improvement, and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street or alley especially benefited in such district in proportion to such benefits to pay the cost of such improvement. (Neb. Rev. Stat. §17-511)

SECTION 6-214: IMPROVEMENT OF MAIN THOROUGHFARES

The City Council shall have power by a three-fourths vote to enact an ordinance creating a paving, graveling or other improvement district and to order such work to be done without petition upon any federal or state highways in the city or upon a street or route designated by the council as a main thoroughfare, connecting to either a federal or state highway or a county road. The council shall contract therefor and shall levy assessments on the lots and parcels of land abutting on or adjacent to such street, alley or alleys especially benefited thereby in such district in proportion to such benefits to pay the cost of such improvement. (Neb. Rev. Stat. §17-512)

SECTION 6-215: IMPROVEMENT; PROTESTS OR PETITIONS

Before proceeding with any improvement under Section 6-210, the sufficiency of protests or petitions or of the existence of the required facts and conditions shall be determined by the City Council at a hearing of which notice shall be given to all persons who may become liable for assessments by one publication in each of two successive weeks in a legal newspaper in or of general circulation in the city. Appeal from the action of the council may be made to the District Court. The sufficiency of the protests or petitions referred to

in Sections 6-212 and 6-213 as to the ownership of the property shall be determined by the record in the office of the county clerk or register of deeds at the time of the adoption of such ordinance. In determining the sufficiency of the petitions or objections, intersections shall be disregarded, and any lot or ground owned by the city shall not be counted for or against such improvement. (Neb. Rev. Stat. §17-513)

SECTION 6-216: IMPROVEMENTS; ASSESSMENT AND COLLECTION

Assessments for improvements made under the provisions herein shall be made and assessed in the following manner:

A. Such assessments shall be made by the City Council at a special meeting, by a resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements, and the amount charged against the same, which, with the vote thereon by “yeas” and “nays,” shall be spread at length upon the minutes. Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a newspaper published or of general circulation in said city at least four weeks before the same shall be held or, in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed.

B. All such assessments shall be known as “special assessments for improvements” and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax roll for collection, subject to the same penalties and collected in like manner as other city taxes.

C. 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, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-524) (Ord. No. 630, 2/15/10)

SECTION 6-217: IMPROVEMENTS WITHOUT PETITION OR CREATION OF DISTRICT

A. The city may, without petition or creating a street improvement district, grade, curb, gutter, and pave:

1. Any portion of a street otherwise paved so as to make one continuous paved street, but the portion to be so improved shall not exceed two blocks, including intersections, or 1,325 feet, whichever is the lesser;
2. Any unpaved street or alley which intersects a paved street for a distance of not to exceed one block on either side of such paved street; and
3. Any side street or alley within its corporate limits connecting with a major traffic street for a distance not to exceed one block from such major traffic street.

B. Those improvements may be performed upon any portion of a street or alley or any unpaved street or alley not previously improved to meet or exceed the minimum standards for pavement set by the city for its paved streets.

C. In order to defray the costs and expenses of these improvements, the mayor and City Council may levy and collect special taxes and assessments or issue paving bonds as provided in Neb. Rev. Stat. §18-2003.

(Neb. Rev. Stat. §§18-2001 through 18-2004)

SECTION 6-218: CONTRACT FOR IMPROVEMENTS; BIDS; ADVERTISEMENT

No contract for any of the improvements provided by Neb. Rev. Stat. §§14-384 to 14-3,127 shall be let unless first the city shall have made a detailed estimate of the costs of the contemplated improvement; nor shall any such contract be let until after the city has advertised for and received bids for the performance of such work. If no bid is received within the estimate, no award shall be made upon any bids received until after 15 days after the time for receiving bids under such advertisement shall have expired. Within such time, anyone desiring to do so may file a bid within the estimate and award may be made thereon in like manner as if said bid had been received in pursuance to the advertisement calling for bids. All improvements authorized by Neb. Rev. Stat. §§14-384 to 14-3,127 shall be done under contract with the lowest responsible bidder, except that when bids are called for by advertisement for grading in a street or alley and no bid is received within the estimate, the city may enter into a contract to do such grading without further advertisement for bids if the contract price is within the estimate and the contract is entered into within 30 days after the time for receiving bids under the advertisement calling therefor. (Neb. Rev. Stat. §14-3,111)

SECTION 6-219: VACATING PUBLIC WAYS

The city shall have power to open, widen, or otherwise improve or vacate any street, avenue, alley, or lane within the limits of the city or village and also to create, open, and improve any new street, avenue, alley, or lane. All damages sustained by the citizens or by the owners of the property therein shall be ascertained in such manner as shall be provided herein.

A. *Title; All of Street Vacated.* Whenever any street, avenue, alley, or lane is vacated, the same shall revert to the owners of the abutting real estate, one-half on each side thereof, and become a part of such property unless the city reserves title in the ordinance vacating such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.

B. *Title; Portion of Street Vacated.* When a portion of a street, avenue, alley, or lane is vacated only on one side of the center thereof, the title to such land shall vest in the owner of the abutting property and become a part of such property unless the city reserves title in the ordinance vacating a portion of such street or alley. If title is retained by the city, such property may be sold, conveyed, exchanged, or leased upon such terms and conditions as shall be deemed in the best interests of the city.

C. *Filing of Certified Copy.* When the city vacates all or any portion of a street, avenue, alley, or lane, the city shall, within 30 days after the effective date of the vacation, file a certified copy of the vacating ordinance with the county register of deeds to be indexed against all affected lots.

D. *Conditions.* The title to property vacated pursuant to this section shall be subject to the following:

1. There is reserved to the city the right to maintain, operate, repair, and renew public utilities existing at the time title to the property is vacated there; and
2. There is reserved to the city, any public utilities, and any cable television systems the right to maintain, repair, renew, and operate water mains, gas mains, pole lines, conduits, electrical transmission lines, sound and signal transmission lines, and other similar services and equipment and appurtenances, including lateral connections or branch lines, above, on, or below the surface of the ground that are existing as valid easements at the time title to the

property is vacated for the purposes of serving the general public or the abutting properties and to enter upon the premises to accomplish such purposes at any and all reasonable times.

(Neb. Rev. Stat. §17-558) (Am. Ord. No. 550, 12/19/05)

Article 3 – Sidewalks

SECTION 6-301: DUTY TO KEEP CLEAN; WINTER AND SUMMER

A. It shall be unlawful for the occupant of any lot or lots or the owner of any vacant lot or lots within the corporate limits to allow snow, sleet, mud, ice, or other substance to accumulate on any sidewalk or to permit any snow, sleet, ice, mud, or other substance to remain upon said sidewalk. In the event that the mayor or his or her representative declares that emergency conditions exist and prohibits parking along snow emergency routes, property owners or occupants of lots abutting such snow emergency routes or within the business district may scoop the snow from the sidewalks under their control into the street. All sidewalks within the business district shall be cleaned within five hours after the cessation of a storm unless the storm or fall of snow shall have taken place during the night, in which case the sidewalk shall be cleaned before 9:00 a.m. the following day. Sidewalks within the residential areas of the city shall be cleaned within 24 hours after the cessation of the storm.

B. It is hereby determined a nuisance to fail to remove accumulated snow from any sidewalk within the city and such failure to remove accumulated snow within the time set herein shall be punished as a misdemeanor.

C. Maintenance of sidewalks shall include removing the weeds in the sidewalk and weeds encroaching thereon and needing edging.

(Neb. Rev. Stat. §§17-557, 17-557.01) (Ord. Nos. 611, 9/15/08; 630, 2/15/10)

SECTION 6-302: DUTY OF PROPERTY OWNERS; LIABILITY

Every owner of any lot, lots or piece of land within the limits of this city shall at all times keep and maintain the sidewalks within the frontage right-of-way of said lot, lots or piece of land in good and proper repair and in a condition reasonably safe for all travelers thereon. In case the owner or owners of any lot, lots or land abutting on any street or avenue or part thereof shall fail to construct, maintain or repair any sidewalk within the frontage right-of-way of his, her, or their lot, lots or land within the time and in the manner as directed and required by this article after having received due notice to do so, he, she, or they shall be liable for all damages and injury occasioned by reason of the defective or dangerous condition of any sidewalk; and the mayor and City Council shall have power to cause such side-walks to be constructed, repaired, or maintained and assess the cost thereof against such property. Further, maintenance of sidewalks will include removing the weeds in the sidewalk and weeds encroaching thereon and needing edging. (Neb. Rev. Stat. §17-557.01) (Am. Ord. Nos. 611, 9/15/08; 630, 2/15/10)

SECTION 6-303: REPAIRING OR MAINTAINING

Whenever the City Council shall deem it necessary that a sidewalk within a frontage right of way is in need of repair, the owner of the lot, lots or piece of land along and continuous to which such sidewalk is situated shall be notified in writing by the city clerk to make arrangements within five days to repair the same. Said repairs shall be completed within 30 days after issuance of said notice. If the owner cannot be found, then a written notice left at the house situated on such lot, lots or piece of land or posted upon said premises shall be sufficient and the five days shall begin to run from the leaving or posting of such notice. (Am. Ord. Nos. 611, 9/15/08; 630, 2/15/10; 677, 1/20/12)

SECTION 6-304: RECONSTRUCTING; NOTICE

Whenever the City Council shall deem it necessary that an old sidewalk within a frontage right of way be replaced or reconstructed, it shall order the same to be done by resolution and the City Clerk shall give notice, in the same manner and form as provided in Section 6-303 herein, to replace or reconstruct the same within 30 days from and after such notice. (Am. Ord. Nos. 630, 2/15/10; 677, 1/20/12)

SECTION 6-305: MANNER OF CONSTRUCTION

All sidewalk construction shall be done strictly in accordance with and pursuant to the instructions and directions of the city engineer or designated city official according to standards adopted periodically by the city. (Am. Ord. Nos. 630, 2/15/10; 677, 1/20/12)

SECTION 6-306: CONSTRUCTION OR REPAIR; ORDERED BY CITY

A. Whenever the City Council shall deem it necessary, in accordance with written city sidewalk construction policy, that a new sidewalk should be constructed within the frontage right of way of any lot, lots or piece of land abutting any street or avenue or part thereof or piece of land in the city in a place where there is no sidewalk, taking into account the benefits derived or injuries sustained in consequence of such improvement, it shall so order the same by resolution. Thereafter, the city clerk shall notify the owner of such lot, lots or piece of land, or his or her agent, of the work or improvements to be done and such owner or person so notified shall be allowed 30 days from the date of said notice in which to construct the same.

B. The mayor and council may construct and repair sidewalks or cause the construction and repair of sidewalks in such manner as they deem necessary and assess the expense of such construction or repairs on the property in front of which such construction or repairs are made, after having given notice:

1. By publication in one issue of a legal newspaper in or of general circulation in such city; and
2. By either (a) causing a written notice to be served upon the occupant in possession of the property involved or (b) to be posted upon such premises ten days prior to the commencement of such construction or repair.

C. If any such owner shall neglect or refuse or shall have failed, after notice has been given as provided in this article, to construct, repair, maintain, replace or reconstruct any sidewalk within the time limit in the notice given, in such case and whose duty it is made by this article to construct, repair, maintain or rebuild such walks, city officials are empowered, without further notice, to have such sidewalks constructed, repaired, maintained, 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. The owner shall be liable for all damages or injury occasioned by reason of the defective or dangerous condition of any sidewalk.

D. 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, which shall be that address listed on the current tax rolls at the time such required notice was first published.

E. The powers conferred under this section are in addition to those provided in Neb. Rev. Stat. §§17-509 to 17-521 and may be exercised without creating an improvement

district.

(Neb. Rev. Stat. §§17-509, 17-522) (Am. Ord. Nos. 611, 9/15/08; 630, 2/15/10; 677, 1/20/12)

SECTION 6-307: CONSTRUCTION BY OWNER; APPLICATION, PERMIT

A. Any person desiring to construct or cause to be constructed any sidewalk shall do so only as provided herein. It shall be unlawful for any person to construct any sidewalk without first having made application with the city clerk and obtaining a permit. The city clerk's office shall issue the desired permit unless good cause shall appear why said permit should be denied. The permit shall give a description of the lot or piece of land along which the sidewalk is to be constructed.

B. All sidewalks shall be built and constructed on the established grade or elevation, and if there is no established grade, then on the grade or elevation indicated by the city engineer. If it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, elevation, and thickness, the maintenance supervisor shall submit the application to the Planning Commission, which shall determine whether the permit should be granted or denied. Said sidewalk shall be constructed in conformance with Section 6-305.

(Am. Ord. No. 677, 1/20/12)

SECTION 6-308: CONSTRUCTION BY PETITION; IMPROVEMENT DISTRICT; SPECIAL ASSESSMENTS; ABUTTING OWNER

A. If the owners of record title representing more than 60% of the front footage of the properties directly abutting upon the street proposed to be improved with a sidewalk shall sign a petition and present it to the city clerk for filing, petitioning therefor, the City Council shall by ordinance create a paving or other improvement district, cause such work to be done or such improvement to be made, contract therefor, and levy special assessments on the lots and parcels of land abutting on or adjacent to such streets or alleys specially benefited thereby in such district in proportion to such benefits, except as provided in Neb. Rev. Stat. §§19-2428 to 19-2431, to pay the cost of such improvement. The City Council may deny the formation of the proposed district when the area has not previously been improved with a water system, sewer system, and grading of streets. If the council denies a requested improvement district formation, it shall state the grounds for such denial in a written letter to interested parties.

B. Upon the petition of any property owner who is an 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 owner 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 which until paid shall be a perpetual lien upon the real estate along which the owner 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 owner's real estate abutting the sidewalk improvement 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.

C. 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, which shall be that address listed on the current tax rolls at the time such required notice was first published.

(Neb. Rev. Stat. §17-510) (Am. Ord. No. 630, 2/15/10)

SECTION 6-309: IMPROVEMENTS; PETITIONS AND PROTESTS

Before proceeding with sidewalk improvements, the sufficiency of the protests or petitions or the existence of the required facts and conditions shall be determined by the City Council at a hearing of which notice shall be given to all persons who may become liable for assessments by one publication in each of two successive weeks in a newspaper having general circulation in the city. Appeal from the actions of the council may be made to the district court of Washington County, Nebraska. The sufficiency of protests or petitions as to ownership of the property shall be determined by the records in the office of the county clerk or register of deeds at the time of the adoption of said ordinance. In determining the sufficiency of the petition or objections, intersections shall be disregarded and any lot, lots or piece of land owned by the city shall not be counted for or against such work or sidewalk improvement. (Neb. Rev. Stat. §17-513) (Ord. No. 630, 2/15/10)

SECTION 6-310: IMPROVEMENTS; ASSESSMENTS; HOW MADE; COLLECTION

Assessments made under the provisions of this article shall be made and assessed in the following manner:

A. Said assessment shall be made by the City Council at a special meeting, by resolution, taking into account the benefits derived or injuries sustained in consequence of such improvements and the amount charged against the same, which shall be spread at length upon minutes with the vote thereon by “yeas” and “nays.” Notice of the time of holding such meeting and the purpose for which it is to be held shall be published in a newspaper published or of general circulation in the City at least four weeks before the same shall be held or, in lieu thereof, personal service may be had upon persons owning or occupying property to be assessed.

B. All such assessments shall be known as “Special Assessments For Improvements” and shall be levied and collected as a separate tax, in addition to the taxes for general revenue purposes, and shall be placed on the tax rolls for collection, subject to the same penalties and collected in the same manner as other city taxes.
(Ref. Neb. Rev. Stat. §17-524) (Ord. No. 630, 2/15/10)

SECTION 6-311: CONSTRUCTION BIDS

Bids for construction of sidewalks shall conform to the provisions of Section 6-218.

Article 4 – Driveway Approaches

SECTION 6-401: DEFINITIONS

"Driveway approach" as used herein shall mean the area between the roadways of public streets or highways and private property intended to provide access for vehicles from the roadway of a public street or highway to private property.

"Roadway" as used herein shall mean that portion of a street or highway improved, designed or ordinarily used for vehicular traffic.

SECTION 6-402: PERMIT REQUIRED

It shall be unlawful for any person, firm or corporation, without first having obtained a permit or, after a permit has been canceled pursuant to these driveway regulations, to construct, reconstruct, use or allow to exist any driveway approach, whether or not any part of the street or highway roadway is unpaved, curbed or otherwise paved. It shall be unlawful for any person to cut, deface, break out or remove any curbing or gutter of any

street or highway without first having obtained a permit therefor. It shall be unlawful for any person making a change in land use to any property, the scope of which requires a certificate of occupancy, whether or not served by an existing driveway approach, to utilize any driveway approach thereto without first obtaining a permit therefor related to such new use.

SECTION 6-403: APPLICATION REQUIREMENTS

Any person desiring a permit required herein shall first make application to the city upon the written form provided for that purpose. Such form shall require as much information in as much detail as is necessary to show that the work will be carried out in conformity with this article and the regulations adopted pursuant to such sections.

SECTION 6-404: PERMIT FEE; TRAFFIC STUDIES

Before any permit shall be issued, the applicant shall pay a fee as set by resolution of the City Council and kept on file at the office of the city clerk, per lineal foot of driveway approach as determined at its greatest width; provided, credit shall be given at the same rate per lineal foot for existing lawful driveway approaches where the permit is for a change in such approach. Any traffic impact studies required by virtue of an application for a driveway approach permit, any related or comparable studies involving signage or speed limits, or other costs payable or reimbursable to the city engineer or other provider to study or investigate such applications shall be at the sole expense of the permit applicant. (Am. Ord. No. 677, 1/20/12)

SECTION 6-405: STANDARDS

A. The following are permit terms and all driveway approaches which are required to have driveway approach permits shall comply with these standards. The driveway approaches shall be designed so that under the circumstances for the property:

1. Reasonable access from the roadway to the property is afforded;
2. The separation between the driveway approach and other driveway approaches and intersections is the minimum allowable as prescribed by the design criteria referred to in Section 6-406;
3. The area and number of points where conflicts can occur between vehicles using the driveway approach and through vehicles on the roadway and pedestrians on the public right of way is kept to a minimum;
4. The differential in speeds between the vehicles using the driveway approach and through vehicles on the roadway is kept as low as practical;
5. The driver of a vehicle entering or leaving the roadway from a driveway has the maximum unobstructed view of other vehicles using the roadway;
6. The optimum safety and efficiency of right- and left-turning vehicles using the driveway is afforded;
7. The frequency of vehicles which must stop or substantially reduce their speed on the roadway because of the actions of vehicles entering or leaving the driveway approach is considered;
8. The safety, efficiency and capacity of the roadway are promoted.

B. "Designed" as used in this section shall include but is not limited to the number,

size and location of the driveway approach.

SECTION 6-406: DESIGN CRITERIA

The city engineer is authorized to establish guidelines and regulations for the design, location and construction of driveway approaches which provide access from any public street or highway to any private property. When such regulations and amendments thereto have been adopted by resolution of the City Council, they shall be the official regulations for driveway approach design, construction and location. In addition to the standards set forth in Section 6-405, driveway approaches shall also comply with the driveway approach standards as set forth in these regulations.

SECTION 6-407: INSPECTION AND APPROVAL

A. Before any permit can be issued, the application therefor shall be investigated and approved by the city, which may employ the city engineer or other experts for that purpose.

B. All driveway permits issued for property located outside the city limits but within its extraterritorial jurisdiction may also be reviewed and approved by the city engineer or the Washington County road superintendent, as each specific case would require.

SECTION 6-408: PERMIT; TERMS

The terms and conditions for issuance of a driveway approach permit are the municipal code, this article, the site plan and design approved by the city and other such terms which are placed in writing on the site plan or permit by the city. It shall be unlawful to use, construct, reconstruct, relocate or alter a driveway approach in any manner not authorized by the permit terms.

SECTION 6-409: RIGHT OF WAY; RESTORATION

When any permit for constructing a driveway approach has been canceled, surrendered or terminated or where no permit has been granted for the driveway approach, the permit holder or the owner of the affected property shall be responsible for the cost necessary to replace or restore the curb, sidewalk and other parts of the right of way. This obligation shall be a condition upon which permits shall be issued under these regulations. It shall be unlawful to refuse or neglect to replace or restore the curb, sidewalk and other parts of the right of way as provided in this section.

SECTION 6-410: COMPLIANCE

It shall be unlawful for any person to do any of the acts described in these driveway regulations except to the extent and in the manner authorized by the permit so obtained and by the provisions of such sections.

SECTION 6-411: TIME LIMIT; EXTENSION

Any person receiving a permit under the provisions of these regulations shall proceed within six months, at his or her own expense, to construct, reconstruct, use or allow to exist any driveway approach, and/or cut, deface, break out or remove any curbing or gutter of any street or highway. If the work is not substantially complete at the end of the six-month period, the permit shall be void unless an extension is granted in writing by the city.

SECTION 6-412: MAINTENANCE

The city engineer, when employed by the city for this purpose, is authorized to order and

effect the removal, reconstruction, relocation or repair of any driveway approach which is causing damage to, or is likely to cause damage to, or interfere with, any street structures, including pavement or sidewalks. Such order shall be sent to the last known address of the abutting property owner by registered letter or certified mail and shall set out the reasons why it is given and the method and materials to be utilized in making the removal, reconstruction, relocation or repair so ordered. If, within 30 days of mailing such notice, the property owner fails or neglects to cause such repairs or replacements to be made, the city engineer or maintenance supervisor may cause such work to be done, the cost of which shall be assessed upon the property served by such approach.

SECTION 6-413: PERMIT; REVOCATION

A driveway approach permit is temporary in nature, revocable and modifiable by the city. The city may cancel any permit at any time when the continuation of the right under the permit constitutes a traffic hazard or any condition not beneficial to the public welfare or where the property served has undergone a change in land use requiring a different construction or design of the driveway approach or approaches.

SECTION 6-414: APPEAL

Any person aggrieved by the issuance, denial or cancellation of any permit or other order issued herein may appeal from such issuance, denial or cancellation or order to the Board of Adjustment by complying with all of the provisions of law pertinent to the same.

Article 5 – Penal Provision

SECTION 6-501: VIOLATION; PENALTY

Any person who shall violate or refuse to comply with the enforcement of any of the provisions of this chapter, set forth at full length herein or incorporated by reference, shall be deemed guilty of an offense and upon conviction thereof shall be fined not more than \$500.00 for each offense. A new violation shall be deemed to have been committed every 24 hours of such failure to comply.