

Chapter 8

PUBLIC WAYS AND PROPERTY

Article 2. Sidewalks

§8-201 SIDEWALKS; REGULATION OF SNOW, ICE AND OTHER ENCROACHMENTS.

(A) The Municipality shall have power to prevent and remove all encroachments, including snow, ice, mud or other obstructions, into and upon all sidewalks, streets, avenues, alleys, and other municipal property. *(Ref. 17-577 RS Neb.)*

(B) If the abutting property owner refuses or neglects, after five (5) days' notice by publication or, in place thereof, personal service of such notice, to remove all encroachments from sidewalks, as provided in division (A), the Municipality through the proper officers may cause such encroachments to be removed, and the cost of removal shall be paid out of the Street Fund. The Governing Body shall assess the cost of the notice and removal of the encroachment against the abutting property as a special assessment. The special assessment shall be known as a special sidewalk assessment and, together with the cost of notice, shall be levied and collected as a special assessment in addition to the general revenue taxes and shall be subject to the same penalties as other special assessments and shall draw interest from the date of the assessment. Upon payment of the assessment, the assessment shall be credited to the Street Fund. *(Ref. 17-577.01 RS Neb.)(Amended by Ord. No. 651, 12/8/15)*

§8-201.01 SIDEWALKS; REGULATION OF OBSTRUCTIONS.

(A) The Municipality shall have the power to remove all obstructions from the sidewalks, curbstones, gutters, and crosswalks at the expense of the person placing them there or at the expense of the municipality 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.

(B) The Municipality 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 Municipality. *(Ref. 17-555 RS Neb.)(Ord. No. 653, 12/8/15)*

§8-202 SIDEWALKS; MAINTENANCE. *(Repealed during 2006 S-8 Supplement)*

§8-203 SIDEWALKS; REPAIR.

(A) The Board of Trustees may construct and repair sidewalks, or cause the construction and repair of sidewalks in such manner as the Board of Trustees deems necessary and assess the expense thereof on the property in front of which such construction or repairs are made, after having given notice:

- (1) By publication in one (1) issue of a legal newspaper of general circulation in the village; and
- (2) By either causing a written notice to be served upon the occupant in possession of the property involved or to be posted upon the premises ten (10) days prior to the commencement of the repair or construction. *(Ref. 17-522 RS Neb.)*

(B) The notice shall:

- (1) State that the Board of Trustees has ordered repair of the sidewalk;

(2) Contain the Village's estimate of the cost of the repair;

(3) Notify the property owner that he or she may, within ten (10) days after the date of publication of the notice, notify the village that he or she will repair the sidewalk within thirty (30) days after the date of publication; and

(4) Notify the property owner that if he or she fails to so notify the Village within the ten (10) days, or having so notified the Village, fails to repair the sidewalk within the thirty (30) days, the Village will cause the sidewalk to be repaired and the expense thereof to be assess against the property.

(C)(1) Before the village imposes any special assessments for sidewalk repair, a copy of the notice that is required to be published shall be mailed to the last known address of all nonresident property owners as shown on the current tax rolls at the time the notice is first published. *(Ref. 13-310 RS Neb.)*

(2) The Municipal Clerk shall mail the notice by certified mail with return receipt requested. *(Ref. 13-312 RS Neb.)*

(3) For the purpose of this division (C), the following definition shall apply unless the context clearly indicates or requires a different meaning.

NONRESIDENT PROPERTY OWNER. Any person or corporation whose residence and mailing address as shown on the current tax rolls is outside the boundaries of the county in which the property subject to assessment is located and who is a record owner of the property. *(Ref. 13-314 RS Neb.)*

(D) All sidewalks shall be repaired in conformity with such plans and specifications as may be approved by the Board of Trustees.

(E) Assessments made under this section shall be made and assess in the manner provided in Neb. RS 17-524.

§8-204 SIDEWALKS; CONSTRUCTION BY OWNER. Any person desiring to construct, or cause to be constructed, any sidewalk shall do so only as herein provided. It shall be unlawful for any person to construct any sidewalk without first having obtained a permit.

Said owner shall make application in writing for a permit and file such application in the office of the Municipal Clerk. The permit shall give a description of the lot, or piece of land along which the sidewalk is to be constructed. The Utilities Superintendent shall issue the desired permit unless good cause shall appear why said permit should be denied; provided, if it is desired to construct the sidewalk at any other than the regularly prescribed location, grade, or elevation, the Utilities Superintend shall submit the application to the Governing Body who shall determine whether the permit should be granted or denied. It shall be unlawful for any person to construct, or cause to be constructed said sidewalk at any other location, grade, or elevation than so designated by the Municipality. All sidewalks shall be built and constructed on the established grade, or election, and if there is no established grade, then on the grade or elevation indicated by the Utilities Superintendent.

§8-205 SIDEWALKS; MUNICIPAL CONSTRUCTION. The Governing Body may, by resolution, order the construction of a sidewalk on any lot or piece of ground within the Municipality. Notice of the Governing Body's intention to construct said sidewalk shall be given by the Municipal Clerk by publication of notice one (1) time in a legal newspaper of general circulation in the Municipality.

A copy of said notice shall be personally served upon the occupant in possession of such property, or, when personal service is not possible, said notice shall be sent by first class mail to such premises ten

(10) days prior to the commencement of construction. The notice required in this section shall be prepared by the Municipal Attorney in accordance with the provisions of this section. Such service shall include a form of return evidencing personal service herein required.

Said notice shall notify the owner of the premise of the passage of the resolution ordering him to construct or cause to be constructed a sidewalk within thirty (30) days after the date of publication and further that if he fails to construct the sidewalk or cause the same to be done within the time allowed, the Municipality will cause the sidewalk to be constructed and the cost thereof shall be levied and assessed as a special tax against the premise; provided, the notice shall contain the official estimate of the cost of said construction and no special assessment in excess of this estimate shall be assessed against the property. In the event the property owner is a nonresident of the county in which the property lies, the Municipality shall, before levying any special assessment against the property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published. (*Ref. 17-522, 17-523 RS Neb.*)

§8-206 SIDEWALKS; CONSTRUCTION BIDS. Whenever the Municipality shall construct, widen, replace, or reconstruct any sidewalk, notice prepared by the Municipal Attorney, specifying the work to be done and calling for bids for such work and supplying the necessary materials and labor shall be published in at least one (1) issue of a legal newspaper of general circulation in the Municipality; provided, bids so invited shall be filed in the office of the Municipal Clerk within ten (10) days after the date of publication. Bids shall be opened at the next regular or special meeting of the Governing Body, and the Governing Body shall then award the work to the lowest responsible bidder. Upon approval of the work, the Governing Body may require the contractor to accept payment in certificates issued to him by the Municipal Clerk entitling him to all assessments or special taxes, against such real estate whenever such assessments or special taxes, shall be collected together with the interest or penalty collected thereon. Each certificate shall give the legal description of the lot, lots, or parcel of ground against which the assessments or special taxes are assessed. Such certificate or certificates may be assigned and transferred, entitling the holder to the same rights as if held by the original contractor. The County Treasurer shall pay over to such contractor or other holder of the certificate or certificates all assessments or special taxes against such real estate, together with the interest and penalty thereon, at any time upon presentation of such certificate or certificates after said assessments or special taxes against such real estate together with interest or penalty thereon shall have been collected.

§8-207 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 Governing Body to make the same, the Governing Body shall proceed in all things as though such construction had been ordered by it. Upon the petition of any freeholder who is an abutting owner in fee simple of property subject to assessment for sidewalk improvements, the Governing Body may order permanent sidewalks built in accordance with this Article upon the freeholder making, executing, and delivering to the Municipality 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 Municipality the right to assess and levy the costs of such construction against the freeholder'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. In the event the property owner is a nonresident of the county in which the property lies, the Municipality shall, before levying any special assessment against that property, send a copy of any notice required by law to be published by means of certified mail, return receipt requested to the last known address of the nonresident property owner. The last known address shall be that address listed on the current tax rolls at the time such required notice was first published.